

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-387G

IN THE MATTER OF THE JOINT APPLICATION OF ATMOS ENERGY CORPORATION
AND THE COLORADO OFFICE OF CONSUMER COUNSEL FOR AN ORDER
APPROVING EARNINGS AGREEMENT.

ORDER APPROVING EARNINGS AGREEMENT

Mailed Date: September 20, 2004

Adopted Date: September 8, 2004

I. BY THE COMMISSION

A. Statement

1. On July 26, 2004, Atmos Energy Corporation (Atmos) and the Colorado Office of Consumer Counsel (OCC) filed a joint application for approval of the Earnings Agreement filed with the application. The Earnings Agreement was entered into by Atmos and OCC, as well as Staff of the Commission. Collectively we refer to these three signatories as "Parties."

2. As stated in the application, the company's Commission authorized rate of return of 11.25 percent was exceeded in 2002 and 2003. The Parties negotiated a settlement which addresses excess earnings for years 2002, 2003, and 2004. For years 2002 and 2003, Atmos agrees to credit \$1,850,000; \$1,628,000 as a bill credit to qualifying customers in January of 2005; and \$222,000 to Energy Outreach Colorado (EOC). For 2004, Atmos agrees to credit 50 percent of earnings in excess of a 10.75 percent return on equity, of which 12 percent would be paid to EOC. The agreement does not address potential excess earnings after 2004.

B. Findings of Fact

3. In the Commissioners' Weekly Meeting of September 10, 2004, the application was deemed complete.

4. The Parties state that Atmos earned amounts in excess of its authorized rate of return in 2002 and 2003. Though the Commission could not order Atmos to retroactively reduce rates to customers for a prior period, the Earnings Agreement achieves a reasonable resolution to the issue without the expense of a litigated complaint case.

5. Though the Commission does not have the authority to divert ratepayer funds to organizations such as EOC simply to support such organizations, we agree that 12 percent is a reasonable representation of the amounts that would likely flow to EOC through unclaimed refunds, if refunds were made instead of bill credits. As stated in the application, the Commission recently addressed this issue in Docket No. 03A-286G. By flowing 12 percent of the potential refund to EOC, bill credits can be used -- eliminating the administration costs associated with refunds.

6. The Parties adequately represent the interests of large and small customers, as well as the utility. Further, the negotiated settlement appears to strike a reasonable balance between all interests. Therefore, we find that the Earnings Agreement is just and reasonable.

II. ORDER**A. The Commission Orders That:**

1. The Joint Application filed by Atmos Energy Corporation and the Colorado Office of Consumer Counsel is deemed complete.

2. The Joint Application is granted.

3. The Earnings Agreement attached as Exhibit No. 1, including provisions for refunding is approved.

4. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
September 8, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners