

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04L-522G

IN THE MATTER OF THE APPLICATION OF ATMOS ENERGY CORPORATION FOR AN ORDER AUTHORIZING IT TO EFFECT CERTAIN REVISIONS IN GAS RATES UPON LESS THAN STATUTORY NOTICE.

**COMMISSION ORDER AUTHORIZING
UPWARD REVISIONS OF GAS RATES**

Mailed Date: October 27, 2004
Adopted Date: October 27, 2004

I. BY THE COMMISSION

A. Statement

1. On October 15, 2004, Atmos Energy Corporation (Applicant) filed a verified application. Applicant seeks a Commission order authorizing it, without formal hearing and on less-than-statutory notice, to place into effect on November 1, 2004, tariffs resulting in an increase to its existing natural gas rates now on file with the Commission.

2. On October 20, 2004, Applicant filed an amendment to update Exhibit Nos. 2 and 11. On October 25, 2004, Applicant supplemented the application with discussion about the addition of the former ComFurT Gas, Inc. customers into Applicant's Northwest/Central rate area for the purpose of GCA and the effect of differences in pressure base on rates. In addition, Applicant discussed why it had not fully complied with provisions of a stipulation entered into in Docket Nos. 02S-411G and 02S-442 to update the calculation for Transportation Gas Cost Adjustments. On October 26, 2004, Applicant further amended its supplement on October 25, 2004 to correct the total annual increase amount which was inadvertently changed.

3. The proposed tariffs are attached to the application, and affect Applicant's customers in the towns and communities in the following areas in the State of Colorado: Canon City, Florence, Penrose, Portland and contiguous areas in Fremont County, Eads, Holly, Lamar, Springfield and adjacent towns and communities (Southeast Colorado Division); various towns and communities in Weld County (Northeast Colorado); Salida, Poncha Springs, Nathrop, Buena Vista, Crested Butte, Mt. Crested Butte, Gunnison and surrounding areas; the cities and surrounding areas of Craig, Meeker, Steamboat Springs, Hayden and Milner (Northwest/Central Colorado Division); and Cortez, Dolores, Mancos, Dove Creek, Cahone, Egnar, Durango, and surrounding areas (Southwest Colorado Division).

4. This application for authority to increase rates is made pursuant to § 40-3-104(2), C.R.S., and Rule 41(e)(1), *Commission's Rules of Practice and Procedure*, 4 *Code of Colorado Regulations* (CCR) 723-1.

B. Findings of Fact and Conclusions

5. Applicant is an operating public utility subject to the jurisdiction of this Commission and is engaged in the purchase, gathering, transportation, distribution, and resale of natural gas for domestic, mechanical, or public uses in various certificated areas within the State of Colorado.

6. Applicant's natural gas requirements are obtained from a mix of sources. Each of the divisions is connected to a pipeline supplier for delivery of its gas requirements through purchases or transport. Southeast Colorado Division is connected to Colorado Interstate Gas Company. Southwest Colorado Division is connected to Northwest Pipeline Corporation. Both are natural gas companies under the provisions of the Natural Gas Act, as amended, and the rates

and charges incident to the provision of the various pipeline delivery services to Applicant are subject to the jurisdiction of the Federal Energy Regulatory Commission. The Northeast and Northwest/Central Colorado Divisions are connected to Public Service Company of Colorado. Public Service Company of Colorado is an intrastate gas transmission company subject to the jurisdiction of this Commission. In addition to the pipeline supplies, all of the divisions are supplied by local gas supplies purchased from producers in the area.

7. The Commission expects Applicant to negotiate the lowest prices for supplies of natural gas that are consistent with the provisions of the Natural Gas Policy Act of 1978, 15 U.S.C. §§ 3301-3432 (Public Law 95-621), and applicable federal regulations or determinations made under applicable federal regulations.

8. The Commission's Gas Cost Adjustment (GCA) Rules require that Applicant revise its GCA rates to be effective on November 1 of each year. *See* 4 CCR 723-8-2.2. The instant filing is intended to comply with this requirement.

9. The purpose of the upward revision of Applicant's gas rates is to reflect an increase in the level of natural gas costs charged Applicant based on rates to be in effect November 1, 2004, applied to normalized purchase and sales volumes during the test period, and to adjust for previous over- or under- collections of purchase gas costs as of June 30, 2004. The revision of Applicant's gas rates apply to Transportation Gas Cost Adjustments as well.

10. This application is the first time that former customers of ComFurT Gas, Inc. (ComFurT) are included in Applicant's Northwest/Central rate area for the purpose of calculating the GCA. Although Applicant has adopted ComFurT's tariffs on file with the Commission, pursuant to the Stipulation and Agreement in Docket No. 03A-484G that was approved by the

Commission in Decision No. R04-0141, except for the amount that was in the deferred gas cost accounts, effective November 1, 2004 customers of former ComFurT will be rolled into Applicant's Northwest/Central rate for the purpose of the GCA. Therefore, the GCAs on the basis of standard pressure base are the same for former customers of ComFurT and Applicant's customers in Northwest/Central. However, former customers of ComFurT will continue to be billed at local pressure base instead of at standard pressure base, i.e., 14.65 psia, as the rest of Applicant's customers.

11. In the Transportation Gas Cost Adjustment Stipulation & Agreement (S&A) entered into and approved by the Commission in Decision No. R03-0698 (Docket Nos. 02S-411G and 02S-442G), the parties had agreed to update the methodology for calculating the transportation gas cost adjustment (TGCA) to be effective with the November 1, 2004 annual GCA filing. Specifically, the S&A provided that Applicant shall utilize the maximum actual daily imbalance percent information obtained from the Automated Meter Reading (AMR) readings taken by the Company during the period beginning November 1, 2003, and ending no later than September 30, 2004. Applicant has represented to Staff that the AMR equipment was not installed by the deadline contemplated by the S&A. Additionally, the programming effort to properly bill monthly AMR transportation volume and cash-out aggregated volumes proved to be more intensive than Applicant first contemplated. Thus, according to Applicant it does not feel that data through September 2004 is in reasonable enough condition to be utilized as per the S&A. As such, Applicant has not changed the TGCA using actual data for the period beginning November 1, 2003 and ending no later than September 30, 2004.

12. Applicant's failure to comply with an S&A after months of negotiations and hearings raises concerns with the Commission. Specifically, why an update of the situation was not or could not have been provided to the Commission any sooner. In lieu of waiting for Staff to come before the Commission for an order to show cause, as a condition of approving this LSN application, we find it more expedient to re-open Docket Nos. 02S-411G and 02S-442G and direct Applicant to file a response in those dockets as to why Applicant failed to comply with the terms of S&A. The Commission reminds the Applicant to set up proper accounts to book prospective GCA costs as the proceeding can result in a re-allocation of cost responsibility among customer classes and possibly cost disallowance to Applicant.

13. The effect of the revisions is an annualized increase of \$7,865,097 to Applicant's customers in Colorado. Specifically, the effect of the revisions is an increase of \$2,508,482 to customers in the Northeast Colorado Division; an increase of \$2,837,255 to customers in the Northwest/Central Colorado Division; an increase of \$767,439 to customers in the Southeast Colorado Division; and an increase of \$1,751,921 to Applicant's customers in the Southwest Colorado Division.

14. The proposed tariffs, attached as Appendix A, will increase total annual revenues by \$7,865,097, which is an increase of 7.81 percent.

15. Applicant anticipates that the adjustment in the GCAs requested here will bring future gas cost recovery amounts more closely in line with the predicted future price of gas.

16. Applicant's last authorized rate of return on rate base was 10.67 percent and its last authorized rate of return on equity was 11.25 percent. Without the GCA rate revision to pass on increased gas cost, Applicant's rate of return on rate base would be 2.12 percent and its rate of

return on equity would be (2.73) percent. If this increase is approved, Applicant's rate of return on rate base will be 8.14 percent and its rate of return on equity will be 9.26 percent. Although Applicant is not allowed to earn a return on any GCA costs, Applicant has shown good cause for expedited passthrough of increases in GCA costs in light of the significant impact of these costs on its financial integrity.

17. Applicant shall arrange for notice of publication of the proposed rate in conformance with Rule 41(e) of the Commission's Rules of Practice and Procedure, 4 CCR 723-1 within three days after the filing of this application. The filing of this application has been or will be brought to the attention of Applicant's affected customers by publication in *The Daily Record*, Canon City; *Craig Daily Press*, Craig; *The Durango Herald*, Durango; *Greeley Daily Tribune*, Greeley; *Lamar Daily News*, Lamar; *The Gunnison Country Times*, Gunnison; *The Mountain Mail*, Salida; *Steamboat Pilot*, *Steamboat Today*, Steamboat, and *The Chaffee County Times*, Buena Vista, newspapers of general circulation in the areas affected.

18. The proposed increase in rates will substantially recover only Applicant's increased cost of gas.

19. Good cause exists for the Commission to allow the proposed increases to become effective on less-than-statutory notice.

II. ORDER

A. The Commission Orders That:

1. The application filed by Atmos Energy Corporation for authority to change tariffs on less-than-statutory notice is granted.

2. The Commission hereby re-opens Docket Nos. 02S-411G and 02S-442G and directs Atmos Energy Corporation to file a response, within 30 days of the effective date of this Order as to why Atmos Energy Corporation failed to comply with the Transportation Gas Cost Agreement in Docket Nos. 02S-411G and 02S-442G. The Commission reminds the Applicant to set up proper accounts to book prospective GCA costs as a proceeding can result in a re-allocation of cost responsibility among customer classes and possibly cost disallowance to Applicant.

3. Atmos Energy Corporation is authorized to file, on not less than one day's notice, the tariffs attached as Appendix A and made a part of this Order. These tariffs shall be effective for actual gas sales on or after their effective date of November 1, 2004.

4. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
October 27, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

CHAIRMAN GREGORY E. SOPKIN
RECUSED HIMSELF.

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