

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03A-484G

IN THE MATTER OF THE JOINT APPLICATION OF ATMOS ENERGY CORPORATION AND COMFURT GAS, INC., FOR THE APPROVAL OF THE TRANSFER OF CERTAIN FACILITIES AND PROPERTIES FROM COMFURT GAS, INC., TO ATMOS ENERGY CORPORATION AND AUTHORIZING THE TRANSFER OF ALL CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY ISSUED TO COMFURT GAS, INC., FOR SAID NATURAL GAS FACILITIES AND PROPERTIES ON AN EXPEDITED BASIS PURSUANT TO THE COMMISSION'S MODIFIED PROCEDURES.

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
SETTING OUT QUESTIONS
REGARDING STIPULATION**

Mailed Date: January 30, 2004

I. STATEMENT

1. On November 4, 2003, Atmos Energy Corporation (Atmos) and ComFurT Gas, Inc. (ComFurT) (collectively, Applicants), filed their Verified Joint Application (Application) for the approval of the transfer of certain facilities and properties and of all certificates of public convenience and necessity associated with those facilities and properties from ComFurT to Atmos. The Application commenced this proceeding.

2. On November 24, 2003, Staff of the Commission (Staff) intervened of right and requested a hearing in this matter. Staff is the only intervenor in this matter.

3. On January 27, 2004, Applicants and Staff filed a Joint Motion to Approve Stipulation and Agreement in Resolution of Proceeding. A Stipulation accompanied the filing.

4. Pursuant to Decision No. R04-0063-I, the hearing on the Stipulation is scheduled for February 3, 2004.

5. After review of the Stipulation, the undersigned Administrative Law Judge (ALJ) would like the parties to address the following:

a. Paragraph 19 refers to “Local Distribution Company (LDC) rates (sometimes referred to as base rates).” Using Attachment 2 to the Stipulation (Attachment 2) as a reference point, does paragraph 19 mean that the rates shown under the columns “Monthly” and “LDC” would not change until January 1, 2006, at the earliest?

b. On Attachment 2, should the row labeled “Industrial” be labeled “Interruptible” as ComFurT has no industrial rate class? *See* ComFurT’s Colorado PUC No. 1 Gas Tariff, tariff sheet no. 3.1.

c. Please explain why ComFurT has a noticeably higher upstream pipeline cost for Residential and Commercial customers when compared to the equivalent Atmos customers. *See* Attachment 2.

d. Paragraph 19 provides that the customers of ComFurT will have their base rates “frozen” until January 1, 2006, and perhaps longer. Paragraph 20 provides that Atmos may file a rate case at any time so long as the customers of ComFurT receive the rate protection set out in paragraph 19. Paragraph 21 provides that Atmos will include the ComFurT customers in the Northwest/Central rate division. Please explain the interaction of these provisions in the event Atmos were to file a rate case involving the Northwest/Central rate division before January 1, 2006 (*e.g.*, would the revenue, expenses, and rate base components related to serving

the ComFurT customers be included or excluded in the test year figures? How would Atmos ensure that its present customers were not subsidizing the ComFurT customers or *vice versa*?).

e. Paragraph 21 addresses the treatment of the Gas Cost Adjustment (GCA).

(1) Please provide the most recent figures available for the current balances of each company's 191 Account. (2) Please explain whether (and, if so, how and when) Atmos' and ComFurT's existing 191 Accounts will be blended together after the asset transfer. (3) Please explain how possible inequities (*e.g.*, one company's set of customers absorbing the Account 191 over- or under-recoveries of the other company) will be handled in the first GCA filing following the asset transfer.

f. At present, does ComFurT have long-term gas purchase contracts that extend beyond the Gas Purchase Plan now on file with the Commission? *See* Docket No. 03P-249G. If it does, are those long-term gas purchase contracts being transferred to, or being picked up by, Atmos?

g. Paragraph 22 states that Atmos will adopt the tariff of rates, charges, rules, and regulations in ComFurT's Colorado PUC No. 1 Gas Tariff. After adoption, the tariff will remain in effect until changed in accordance with the statute and Commission rules. (1) Will those adopted tariffs apply only to ComFurT's existing customers? (2) Are the charges, rules, and regulations governing provision of service, customer rights, construction allowances, and so forth similar to the parallel provisions in Atmos' present tariff of charges, rules, and regulations? (3) Could Atmos file to change the construction allowance, for example, before January 1, 2006, and still be in compliance with the Stipulation? (4) At present, does Atmos have any intention of making a filing in order to establish a uniform set of charges, rules, and regulations, applicable to

both its present customers and ComFurT's customers; and, if so, when does Atmos anticipate making such a filing? (5) Does Atmos anticipate any difficulties in administering two different tariffs for persons within the same customer class (*e.g.*, residential customers) in the same rate division? (6) Does Atmos anticipate increased costs associated with the administration and implementation of dual tariffs; and, if so, how would Atmos characterize the magnitude of those increased costs?

h. In the calculations shown on the second page of Attachment 1, under the Average Monthly Total Customer Bill section, it appears that an average residential customer bill for ComFurT is \$56.13 ($(94 * \$0.5407) + \5.30), rather than the \$58.04 shown. (1) Is this calculation correct? (2) If the calculation is correct, does that mean that a ComFurT residential customer may experience a rate increase on the order of \$7.03 ($\$63.04 - \56.13), or 12.5 percent, when the current ComFurT customers are merged into the Atmos Northwest/Central rate class and pay the same rates sometime after January 1, 2006? (3) Similarly, might a ComFurT commercial customer experience a rate increase on the order of \$113.38 ($\$278.44 - \165.64), or 68.5 percent, when the current ComFurT customers are merged into Atmos' Northwest/Central rate class and pay the same rates sometime after January 1, 2006? (4) Assuming the calculations are correct and the identified rate classes might experience rate increases of the magnitudes shown, would the parties consider keeping the ComFurT customers as a subset of customers under the Northwest/Central rate class in order to avoid rate shock? (5) Assuming the calculations are correct and the identified rate classes might experience rate increases of the magnitudes shown, would the parties consider some type of rate mitigation plan (*e.g.*, spreading the base rate increase over three years) if a customer class receives a rate increase greater than 45 percent (three years of 15 percent increases)?

i. With respect to Attachment 2, should the “Total Commodity” amount shown under “Industrial Total Commodity” for ComFurT be 0.6132? (Attachment 1 at 2 derives a “Total Commodity” cost of 0.6132 for Interruptible customers.) If so, does that change the calculation of the “% change” shown and, if so, what is the correct calculation?

6. The ALJ requests the parties to present testimony addressing the questions and issues stated in this Order.

7. The ALJ may have additional questions at hearing.

II. ORDER

A. It Is Ordered That:

1. At the scheduled hearing, the parties should be prepared to provide testimony regarding, and to explain, the matters set out above.

2. This Order is effective immediately.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge