

Decision No. C14-1141

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0846FG

IN THE MATTER OF THE APPLICATION OF ATMOS ENERGY CORPORATION FOR AN ORDER GRANTING TO IT A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXERCISE FRANCHISE RIGHTS IN THE TOWN OF ROCKVALE, COLORADO.

**DECISION DEEMING APPLICATION COMPLETE
AND GRANTING THE APPLICATION**

Mailed Date: September 18, 2014
Adopted Date: September 17, 2014

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of an application filed by Atmos Energy Corporation (Atmos or Company) on August 12, 2014, for a Certificate of Public Convenience and Necessity (CPCN) to exercise franchise rights in the Town of Rockvale, Fremont County, Colorado (Rockvale or Town).

2. Atmos also, requests a waiver of Commission Rules 4002(b)(IX) of the Rules Regulating Gas Utilities and Pipeline Operators, 4 *Code of Colorado Regulation* (CCR) 723-4.

3. The Commission provided notice of this application on August 13, 2014, to all interested persons, firms, and corporations. No petition to intervene or notice of intervention has been filed, and thus the application is uncontested. Accordingly, the application will be determined without a formal hearing in accordance with § 40-6-109(5), C.R.S., and Rule 1403, 4 CCR 723-1 of the Commission's Rules of Practice and Procedure.

4. Atmos is engaged in, *inter alia*, the transmission, purchase, distribution, and sale of natural gas service in its certificated areas in the State of Colorado. The Town is located within such certificated areas.

5. Atmos requests the Commission issue a Decision granting it a CPCN to exercise franchise rights in Rockvale. Pursuant to Ordinance No. 2014-1, adopted July 9, 2014, the Town granted Atmos a 25-year franchise to provide natural gas service within Rockvale, that took affect September 1, 2014 and expires August 31, 2039.

6. On July 25, 1989, Rockvale passed and adopted Ordinance No. 3, Series of 1989, granting Atmos' predecessor, Greeley Gas Company, a franchise to provide natural gas service within Rockvale. On February 7, 1990, the Commission, in Decision No. C90-208, Proceeding No. 90A-017F, granted Greeley Gas Company a CPCN to exercise franchise rights as described in Ordinance No. 3, Series of 1989.

7. A utility wishing to exercise any franchise agreement or privileges entered into with a municipality must obtain a CPCN from the Commission pursuant to § 40-5-102, C.R.S. When the municipality and utility enter into a franchise agreement, that agreement must be submitted to the Commission for approval. *See* § 40-5-102, C.R.S. Such applications allow the Commission to review franchise agreements to ensure that the terms are reasonable and in the public interest.

8. The Commission understands the utility and the municipality may want to revise the terms established in a franchise agreement at some point in the future and that existing franchise agreements have scheduled expiration dates. Upon negotiation of a new or amended franchise agreement, the utility shall return to the Commission in a timely manner to obtain authorization to implement the provisions of the new franchise agreement. In the event that this

franchise is not renewed at the expiration of its term or is terminated for any reason, the Company is directed to notify the Commission in a timely manner.

9. According to the franchise agreement, as consideration for the franchise rights granted and in recognition of Atmos' right to use the Town streets, the Town requires Atmos to collect and remit to the Town a franchise fee equal to 5 percent of all revenues received from the sale of natural gas service within the Town, excluding revenues received from the Town for the sale of natural gas service to the Town. Collection of this increased fee can begin on the effective date of this Decision.

10. No other utility is authorized to provide natural gas utility service within the areas for which Atmos seeks a certificate in this application.

11. We find the franchise is required by public convenience and necessity and the terms of the franchise agreement are just, reasonable, and in the public interest. However, in the event that issues of revenue requirement, cost allocation, and rate design are implicated by any provision of the franchise agreement, those issues will be analyzed in an appropriate Commission Proceeding. Approval of the franchise agreement does not constitute approval of, or precedent regarding any principle or issue in revenue requirement, cost allocation, or rate design in any natural gas adjustment, refund, or rate case Proceedings.

12. Atmos or its predecessors have provided gas service in the Town since 1989, subject to relevant franchise agreements. Because the areas encompassed by the above-referenced franchises are currently served by Atmos, the Company is not required to provide a feasibility study for each area as set forth in Rule 4100(b)(VI), 4 CCR 723-4.

13. Atmos does not have Colorado-specific audited financial statements as described in Rule 4002(b)(IX), 4 CCR 723-4. Atmos requests a waiver of this Rule, stating the cost to

obtain such audited financial statements would constitute an extreme financial burden to Atmos and ultimately to its customers. The Company also states that it is a financially strong, Fortune 500 company, with a long standing presence and track-record relative to its Colorado utility operations.

14. We find that Atmos has the financial ability and is qualified and competent to conduct the utility operations sought under its applications.

15. Atmos' natural gas service tariffs, currently on file with the Commission, will be used for service under this application.

16. Providing uninterrupted service to the residents of Rockvale is in the public interest. Therefore, the Commission finds that the application is in the public interest and should be granted.

II. ORDER

A. The Commission Orders That:

1. The application filed by Atmos Energy Corporation (Atmos), for a Certificate of Public Convenience and Necessity (CPCN) to exercise franchise rights pursuant to Ordinance No. 2014-1 in the Town of Rockvale is deemed complete and granted.

2. The grant of the CPCN to operate under the terms of this franchise agreement is in the public interest and in accordance with the terms of § 40-5-102, C.R.S.

3. The franchise fee of 5 percent is approved by the Commission as of the effective date of this Decision.

4. The franchise agreement between Atmos and the Town of Rockvale and the rights and obligations associated therewith is scheduled to expire on August 1, 2039.

5. The request by Atmos to waive Rule 4002(b)(IX), 4 *Code of Colorado Regulations* 723-4, due to a financial burden on Atmos and its customers is granted.

6. The 20-day time period provided by § 40-6-114(1), C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the Commission mails this Decision.

7. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
September 17, 2014.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

PAMELA J. PATTON

GLENN A. VAAD

Commissioners