

Decision No. R14-0322-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0153G

IN THE MATTER OF THE APPLICATION OF ATMOS ENERGY CORPORATION FOR AN ORDER GRANTING IT A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO IMPLEMENT THE GREELEY BUILDING PROJECT.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
SCHEDULING HEARING AND
ESTABLISHING DEADLINES**

Mailed Date: March 24, 2014

I. STATEMENT, FINDINGS, AND CONCLUSIONS

1. On February 19, 2014, Atmos Energy Corporation (Applicant) filed an Application for an Order Granting It a Certificate of Public Convenience and Necessity to Implement the Greeley Building Project (Application). Among other items, the Application also seeks an order granting a presumption of prudence of the estimated costs of the Greeley Building Project and that the Commission waive the requirements of Rule 4002(b)(IX) of the Commission's Rules Regulating Gas Utilities and Pipeline Operators, 4 *Code of Colorado Regulations* (CCR) 723-4, to provide specific audited financial information.

2. On February 26, 2014, the Commission granted Applicant's request for a shortened notice period, requiring that all interventions be filed by March 10, 2014. Decision No. C14-0206-I.

3. On March 10, 2014, the Colorado Office of Consumer Counsel (the OCC) filed a "Notice of Intervention of Right, Entry of Appearance and Request for Hearing" (Intervention).

4. On March 12, 2014, by Minute Order, the Commission referred this matter to an Administrative Law Judge (ALJ) for disposition.

5. By Decision No. R14-0288-I, the ALJ scheduled this matter for a prehearing conference for March 21, 2014. The same Decision ordered Applicant to confer with the OCC, and make a filing by 4:00 p.m. on March 20, 2014 setting forth a proposed procedural schedule and hearing date.

6. At the designated date, time and location, the ALJ convened the prehearing conference. Applicant appeared through counsel, Mr. Emanuel Cocian and Ms. Sara Rundell; the OCC appeared through counsel, Mr. Greg Bunker. During the prehearing conference, the parties agreed to, and the ALJ approved a hearing date and procedural schedule. In addition, several other issues were addressed, as discussed below.

7. In particular, Applicant argued that the ALJ's recommended decision in this proceeding should include a presumption that the estimated costs of the Greeley Building Project are prudent. As a part of its argument, Applicant provided the ALJ and the OCC with copies of several Commission decisions, that is, Decision Nos. C12-0159, R10-1158, C09-0472, C08-0369. The OCC objected to Applicant's request and presented the same argument made in its Intervention.

8. The ALJ ordered that the scope of the proceeding will be consistent with the scope of the Application.¹ The Application requests that the Commission make a determination that the estimated costs of the Greeley Building Project are prudent.

¹ This is not to say that the ALJ *will* make such a prudence determination. Instead, this simply means the scope of the proceeding will include this issue.

9. The OCC indicated that it does not object to Applicant's request for waiver of the requirements of Rule 4002(b)(IX), 4 CCR 723-4, to provide specific audited financial information. Since there was no objection, and for good cause shown in the Application, the ALJ granted Applicant's request.

10. The parties agreed to the procedural schedule and hearing dates set forth in the ordering paragraphs, below.

11. Applicant agreed that it has no need to file any supplemental direct testimony and exhibits. Thus, the ALJ will not set a deadline to file supplemental direct testimony and exhibits.

12. The parties agreed there is no need for dispositive motions or a final prehearing conference.

13. The parties agreed that they may use relevant discovery from Applicant's most recent rate case in Proceeding No. 13AL-0496G in this proceeding.

14. The parties agreed to raise any issues relating to confidentiality as they arise.

15. The parties agreed that Rule 1405(b) of the Rules of Practice and Procedure, 4 CCR 723-1, is adequate as it relates to discovery response time-frames. Under Rule 1405(b), discovery responses relating to direct and answer testimony are due within ten days of service of a request, and discovery responses to rebuttal testimony are due within seven days of service of a request.

16. Applicant requested that the ALJ place a limit on the number of discovery requests that OCC may propound. Applicant argued that OCC abused the discovery process by propounding an excessive number of discovery requests during the most recent gas rate proceeding. The OCC objected to this request. The ALJ denied Applicant's request because the OCC has not issued discovery requests to Applicant in this proceeding and there is no reason to

assume in advance that the OCC will issue excessive or abusive discovery requests in this proceeding.² As stated during the hearing, if discovery becomes an issue, Applicant should file a timely motion.

17. The ALJ reminds the parties of the requirements of Rule 1501(c) relating to administrative notice.

II. ORDER

A. It Is Ordered That:

1. A hearing is scheduled on the merits of Atmos Energy Corporation's (Applicant) Application for an Order Granting It a Certificate of Public Convenience and Necessity to Implement the Greeley Building Project (Application) as follows:

DATE: May 28, 2014

TIME: 9:15 a.m.

PLACE: Commission Hearing Room
1560 Broadway, Suite 250
Denver, Colorado 80202

2. The requirements of Rule 4002(b)(IX), of the Commission's Rules Regulating Gas Utilities and Pipeline Operators, 4 *Code of Colorado Regulations* 723-4, for Applicant to provide specific audited financial information are waived for this proceeding.

3. The scope of the proceeding shall be consistent with the scope of the Application.

4. The Colorado Office of Consumer Counsel shall file its answer testimony and exhibits by 5:00 p.m. on April 22, 2014.

² In so ruling, the ALJ makes no determination that the OCC's past discovery requests were excessive or abusive.

5. Applicant shall file its rebuttal testimony and exhibits by 5:00 p.m. on May 8, 2014.

6. All parties shall file their corrected testimony and exhibits, pre-hearing motions, and any stipulations or settlement reached by 5:00 p.m. on May 13, 2014.

7. The parties may, but are not required, to submit legal briefs providing their position on the legal issues in this proceeding by 5:00 p.m. on May 22, 2014.

8. All parties shall file their post-hearing statement of position, to which no response will be permitted, by 5:00 p.m. on June 11, 2014.

9. All exhibits to be introduced at the evidentiary hearing shall be identified by sequential numbers (*e.g.*, Exhibit 1, Exhibit 2, Exhibit 3). The parties shall coordinate with each other to ensure the correct numbering sequence of exhibits (*e.g.*, Applicant may have exhibit numbers 1-100, and the OCC may have exhibit numbers 101-200).

10. Exhibits shall include the following information: exhibit number, proceeding number, name of the witness who will testify to the exhibit's foundation, and the date of the hearing.

11. The parties must pre-mark all their exhibits prior to the time the hearing is scheduled to begin.

12. At the hearing, the parties shall bring an original and three copies of each pre-marked exhibit they intend to introduce, including any exhibits which the party will request the Administrative Law Judge take administrative notice of, along with a completed exhibit list in the format set forth in Appendix A to this Decision.

13. If any exhibit is longer than two pages, the party offering the exhibit shall sequentially number *each page* of the exhibit.

14. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director