

**BEFORE THE
RAILROAD COMMISSION OF TEXAS**

**APPLICATION OF ATMOS ENERGY §
CORP., MID-TEX DIVISION FOR §
APPROVAL OF ABANDONMENT §
RELATED TO SERVICE AND §
FACILITIES; TRISTATE ETX, LLC P/L § GAS UTILITIES DOCKET NO. 10379
(FORMER LINE MAA), FREESTONE §
COUNTY TEXAS TO 2 RESIDENTIAL §
SERVICES §**

FINAL ORDER

Notice of Open Meeting to consider this Order was duly posted with the Secretary of State within the time period provided by law pursuant to TEX. GOV'T CODE ANN. Chapter 551, et seq. (Vernon 2008 & Supp. 2014). The Railroad Commission of Texas adopts the following findings of fact and conclusions of law and orders as follows:

FINDINGS OF FACT

1. On August 18, 2014, Atmos Energy Corporation, Mid-Tex Division (Atmos Energy or Applicant) filed with the Railroad Commission of Texas (Commission) an *Application for Abandonment of Service and Facilities* to abandon service and distribution facilities serving two residential customers in the unincorporated area of Freestone County, Texas (Affected Customers) under 16 TEX. ADMIN. CODE § 7.465(b) (2014).
2. Atmos Energy is a gas utility and is subject to the jurisdiction of the Commission.
3. Atmos Energy is a gas utility that owns and operates natural gas distribution facilities within the State of Texas for the distribution of natural gas to end users for their own use and to one local distribution company for subsequent distribution to its end-use customers.
4. The Affected Customers are served from taps on the Tristate pipeline, from which Atmos Energy has a right to deliver natural gas to the Affected Customers.
5. Atmos Energy currently receives approximately \$495.88 in total annual non-gas revenue from the two Affected Customers.
6. Atmos Energy's annual operating cost to serve the two Affected Customers is approximately \$600.
7. Gas distribution service by Atmos Energy to the Affected Customers is not economically viable for Atmos Energy.

8. On or about August 26, 2013, Atmos Energy made a qualifying offer to the two Affected Customers (Qualifying Offer) that included the following:
 - a. conversion of the natural gas service to LPG fuel service, including a leak test and repair of any leaks, by a licensed LPG dealer or, alternatively, conversion to all electric power;
 - b. installation of one new 250-gallon LPG tank;
 - c. conversion of all existing natural gas appliances to propane, if convertible, and if not convertible, replacement of such appliances with new LPG appliances or, if needed, conversion to electric appliances;
 - d. the initial filling of the LPG tank;
 - e. in the alternative, a cash payment equal to the estimated cost to convert to LPG or electric service in lieu of actual conversion.
9. Atmos Energy intended the Qualifying Offer to be the required qualifying offer encompassed by 16 TEX. ADMIN. CODE § 7.465 (2014) and 16 TEX. ADMIN. CODE § 7.115(30) (2014).
10. The Qualifying Offer did not state a reason for the proposed abandonment.
11. Atmos Energy estimated that the cost of conversion to LPG/propane is approximately \$6,000.
12. Atmos Energy estimated that the cost of conversion to electricity is approximately \$12,000 to \$15,000.
13. On August 26, 2014, Kenneth Miller (Protestant) did not consent to the proposed abandonment and filed a protest.
14. The other customer, Jeff Marsters, did not respond to the application and did not file a protest to the application.
15. A Notice of Hearing was issued in this docket on September 5, 2014.
16. Before the hearing, Kenneth Miller, one of the two Affected Customers, consented to abandonment and agreed to Atmos Energy's proposal to pay for conversion to either propane or electricity per the terms of the Qualifying Offer.
17. A hearing on the merits was convened on September 23, 2014, to take testimony, evidence, and legal argument on all issues of law and fact.
18. Subsequent to filing his protest, Protestant reversed his prior objection and has now consented to this abandonment.

19. No party has raised objections to the completeness of Atmos Energy's application under 16 TEX. ADMIN. CODE § 7.465(b), or requested dismissal of the *Application for Abandonment of Service and Facilities* as a result of any deficiency.
20. There is no evidence that Atmos Energy neglected or failed to properly maintain its equipment and facilities pertaining to this proceeding.
21. A minimum of two alternative energy sources are available to the Affected Customers, propane and electricity.
22. Both propane and electricity are reasonable alternatives to natural gas service.
23. The cost for propane is approximately \$26.31 per MMBtu.
24. The cost for electricity is approximately \$33.70 per MMBtu.
25. There is no evidence that any Affected Customer made an investment or capital expenditure in reliance on continued availability of natural gas, where use of an alternative energy source was not available.
26. It is reasonable, necessary, and in the public interest to allow Atmos Energy to discontinue gas service to the Affected Customers.

CONCLUSIONS OF LAW

1. Atmos Energy is a gas utility as defined in TEX. UTIL. CODE ANN. §§ 101.003(7), 121.001 (Vernon 2007 & Supp. 2014) and is subject to the Commission's jurisdiction under TEX. UTIL. CODE ANN. §§ 104.001, 121.051 (Vernon 2007 & Supp. 2014).
2. A gas utility shall obtain written Commission approval prior to the abandonment or permanent discontinuance of service to any residential or commercial customer that involves the removal or abandonment of facilities other than a meter pursuant to 16 TEX. ADMIN. CODE § 7.465(b) (2014).
3. Atmos Energy's *Application for Abandonment of Service and Facilities* contained the information required for such applications in 16 TEX. ADMIN. CODE § 7.465(b)(1) (2014), is complete and contains all of the necessary information required for review of the application by the Commission.

4. A Notice of Hearing was issued in this docket on September 5, 2014, and satisfied the requirements of 16 TEX. ADMIN. CODE § 1.45 (2012) and TEX. GOV'T. CODE ANN. § 2001.052 (Vernon 2008 and Supp. 2014). Atmos Energy has the burden to prove that its proposal to abandon gas service to residential and commercial customers is reasonable and necessary and not contrary to the public interest under 16 TEX. ADMIN. CODE § 7.465(b)(5) (2012). The findings of fact enumerated herein establish that gas distribution service provided by Atmos Energy to the Affected Customers is no longer economically viable for Atmos Energy and Atmos Energy's two Affected Customers under 16 TEX. ADMIN. CODE § 7.465(b)(5)(A) (2014).
5. On September 23, 2014, the day of the hearing, Kenneth Miller signed a consent form which was admitted into evidence. The other affected customer, Jeff Marsters, was properly served notice of the application, but did not file an objection or motion to intervene in this proceeding.
6. The findings of fact enumerated herein establish that Atmos Energy made a qualifying offer, as that term is defined in 16 TEX. ADMIN. CODE § 7.115(30) (2014), to the Affected Customers.
7. The findings of fact enumerated herein establish that the Affected Customers have economically viable alternatives to gas distribution service from Atmos Energy under 16 TEX. ADMIN. CODE § 7.465(b)(5)(B) (2014).
8. The findings of fact enumerated herein establish that Atmos Energy's proposed abandonment of gas distribution service to the Affected Customers is reasonable, necessary, and not contrary to the public interest under 16 TEX. ADMIN. CODE § 7.465(b)(5) (2014).

IT IS THEREFORE ORDERED that *Application for Abandonment of Service and Facilities* to permanently discontinue service to the two Affected Customers in Freestone County, Texas, and provide the conversion or alternative cash payment set out in the Qualifying Offer to those customers, is hereby **GRANTED**.

This Order will not be final and appealable until 20 days after a party is notified of the Commission's order. A party is presumed to have been notified of the Commission's order three days after the date on which the notice is actually mailed. If a timely motion for rehearing is filed by any party at interest, this order shall not become final and effective until such motion is overruled, or if such motion is granted, this order shall be subject to further action by the Commission. Pursuant to TEX. GOV'T CODE § 2001.146(e), the time allotted for Commission action on a motion for rehearing in this case prior to its being overruled by operation of law, is hereby extended until 90 days from the date the order is served on the parties.

Each exception to the examiners' proposal for decision not expressly granted herein is overruled. All requested findings of fact and conclusions of law which are not expressly adopted herein are denied. All pending motions and requests for relief not previously granted or granted herein are denied.

SIGNED this 12th day of May, 2015.

RAILROAD COMMISSION OF TEXAS

Christi Craddick

CHAIRMAN CHRISTI CRADDICK

David Porter

COMMISSIONER DAVID PORTER

Ryan Sitton

COMMISSIONER RYAN SITTON

ATTEST:

Kathy Way

SECRETARY

