

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF ATMOS	)	
ENERGY CORPORATION FOR A CERTIFICATE	)	CASE NO.
OF PUBLIC CONVENIENCE AND NECESSITY	)	2023-00081
AUTHORIZING IT TO BID ON A FRANCHISE	)	
ESTABLISHED BY THE CITY OF BURGIN	)	

ORDER

On March 6, 2023, Atmos Energy Corporation (Atmos) filed its application with the Commission seeking a Certificate of Public Convenience and Necessity (CPCN) to authorize it to bid on a franchise offered by the city of Burgin, Kentucky, for natural gas transmission and distribution service. Atmos provided a copy of the Burgin Council Meeting Minutes of February 14, 2023, that authorized placing a franchise for the sale and distribution of natural gas within the city of Burgin boundary out for bid.<sup>1</sup> Atmos also provided a copy of the public notice of the sale of franchise that was published on March 2, 2023.<sup>2</sup>

Sections 163 and 164 of the Kentucky Constitution and KRS Chapter 96 authorize municipal corporations to require public utilities, including non-governmental providers of natural gas service within the municipal corporations' boundaries, to operate under franchise agreements and to grant utilities the right to use public right-of-way on reasonable and necessary conditions. Under the provisions of KRS 278.020(5), no utility

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<sup>1</sup> Burgin City Council Meeting Minutes (filed Mar. 15, 2023) at 2 of 3.

<sup>2</sup> Application, Exhibit.

may apply for a franchise from any governmental agency until it has obtained a CPCN from this Commission based on our finding that there is a need and demand for the service sought to be rendered.

In light of the city of Burgin's creating a franchise for natural gas transmission and distribution service, the Commission determines that there is evidence of a need and demand for natural gas transmission and distribution service in the above-mentioned city. Since the Commission's authority in such matters is limited by statute to finding only whether there is a need and demand for the service sought to be rendered, no finding or determination is made as to the qualifications of the bidder, the validity of any of the provisions of the franchise offered by said city, or the manner in which any franchise fee is to be treated for rate purposes.

The Commission directs Atmos Energy to the Commission's July 22, 2021 Order in Case No. 2020-00085<sup>3</sup> regarding filings with the Commission.

IT IS THEREFORE ORDERED that:

1. Atmos Energy is granted a CPCN that authorizes it to bid on a franchise offered by the city of Burgin, Kentucky, for natural gas transmission and distribution service.
2. If Atmos Energy is not the successful bidder, Atmos Energy shall file with the Commission, within ten days of the award of the franchise at issue, a written notice stating that Atmos Energy was not the successful bidder.

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<sup>3</sup> Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

3. If Atmos Energy is the successful bidder, Atmos Energy shall file with the Commission, within ten days of the award of the franchise at issue, a copy of the executed franchise agreement and a statement disclosing the amount of the initial franchise fee.

4. If Atmos Energy is the successful bidder, Atmos Energy shall file with the Commission, within ten days of an increase or decrease in the amount of the initial franchise fee set forth in the franchise agreement, documentation setting forth the revised fee.

5. Any documents filed pursuant to ordering paragraphs 2, 3, or 4 of this Order shall reference the number of this case and shall be electronically submitted via the Commission's electronic Tariff Filing System.

6. This Order shall not be construed as granting a CPCN to construct utility facilities in said city.

7. This case is closed and removed from the Commission's docket.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner



ATTEST:

  
Executive Director

\*Atmos Energy Corporation  
3275 Highland Pointe Drive  
Owensboro, KY 42303

\*Honorable John N Hughes  
Attorney at Law  
124 West Todd Street  
Frankfort, KENTUCKY 40601

\*Mark A Martin  
Atmos Energy Corporation  
810 Crescent Centre Drive, Suite 600  
Franklin, TN 37067

\*Randy Hutchinson  
Wilson, Hutchinson & Littlepage  
611 Frederica Street  
Owensboro, KENTUCKY 42301

\*Eric Wilen  
Atmos Energy Corporation  
810 Crescent Centre Drive, Suite 600  
Franklin, TN 37067