

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF ATMOS ENERGY)	
CORPORATION, OWENSBORO, KENTUCKY,)	
FOR A CERTIFICATE OF PUBLIC)	CASE NO.
CONVENIENCE AND NECESSITY)	2009-00335
AUTHORIZING IT TO BID ON A FRANCHISE)	
ESTABLISHED BY THE CITY OF CADIZ,)	
KENTUCKY)	

O R D E R

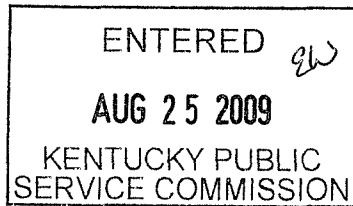
On August 12, 2009, Atmos Energy Corporation ("Atmos") filed with the Commission its application seeking a Certificate of Public Convenience and Necessity to qualify it to bid on a franchise for natural gas service offered by the city of Cadiz, Kentucky. Under the provisions of KRS 278.020(4), no utility may apply for a franchise from any governmental agency until it has obtained a Certificate of Public Convenience and Necessity 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 ordinance of the city of Cadiz creating a natural gas distribution franchise, the Commission determines that there is evidence of a need and demand for natural gas 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 franchises offered by said city, or the manner in which any franchise fee is to be treated for rate purposes.

IT IS THEREFORE ORDERED that:

1. Atmos is granted a Certificate of Public Convenience and Necessity that authorizes it to bid on a franchise for natural gas service offered by Cadiz, Kentucky.
2. Atmos, if it becomes the successful bidder, shall file with this Commission two copies of the franchise agreement.
3. This Order shall not be construed as granting a Certificate of Public Convenience and Necessity to construct utility facilities in Cadiz, Kentucky.

By the Commission



ATTEST:



Executive Director

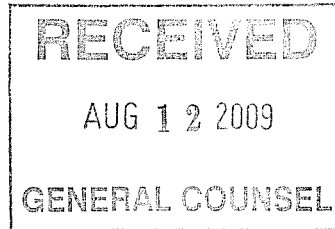
The Law Offices of

WILSON, HUTCHINSON & POTEAT

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OVERNIGHT DELIVERY

August 11, 2009

RECEIVED

AUG 12 2009

**PUBLIC SERVICE
COMMISSION**

Jeff R. Devouen
Executive Director
Kentucky Public Service Commission
211 Sower Blvd.
PO Box 615
Frankfort, Kentucky 40602

RE: City of Cadiz, Kentucky

Dear Mr. Devouen:

2009-00335

I enclose herewith an original, plus eleven (11) copies, of an Application of Atmos Energy Corporation for a Certificate of Public Convenience and Necessity Authorizing it to Bid on Franchise Established by the City of Cadiz, Kentucky, for filing in your office.

The City has established August 27, 2009 as the deadline for submitting bids. We would therefore appreciate entry of an order prior to that date. I am sorry for the short time frame but we were just able to obtain a copy of the Ordinance from the City Attorney yesterday.

Very truly yours,

A handwritten signature in black ink, appearing to be "Mark R. Hutchinson".

Mark R. Hutchinson

Enclosures

c: Mark Martin

BEFORE THE

PUBLIC SERVICE COMMISSION OF KENTUCKY

RECEIVED

AUG 12 2009

PUBLIC SERVICE
COMMISSION

IN THE MATTER OF:

APPLICATION OF ATMOS ENERGY
CORPORATION, OWENSBORO
KENTUCKY FOR A CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY
AUTHORIZING IT TO BID ON A FRANCHISE
ESTABLISHED BY THE CITY OF CADIZ,
KENTUCKY

CASE
NO. _____

APPLICATION

1

Applicant, Atmos Energy Corporation, a corporation duly qualified under the laws of the Commonwealth of Kentucky to carry on its business in the Commonwealth.

The Company is an operating public utility engaged in the business of supplying natural gas to the public in numerous cities, towns, and communities in Western and South Central Kentucky.

2

A certified copy of Applicant's Amended and Restated Articles of Incorporation is already on file with the Commission in the Matter of: The Application of Atmos Enemy Corporation for An Order Authorizing a \$900,000,000 Universal Shelf Registration, Case No. 2006-00387.

1

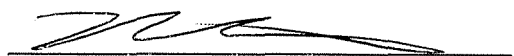
The City of Cadiz (sometimes hereinafter called the "City") is a municipal corporation situated in Trigg County, Kentucky and is in an area presently served by Applicant. Applicant has been the owner of a franchise operation of the natural gas system within the City immediately prior to the sale of a new franchise. Applicant is at the present time serving the City and owns and maintains a gas distribution system in such City.

The City Commission of the City has established a natural gas franchise for the City and has directed that bids for the sale thereof be received on or before 3:00 p.m. August 27, 2009. A copy of the resolution establishing such franchise, directing its sale, and setting forth the type and provisions of such franchise is filed herewith as a part hereof.

There is a demand and need for continued natural gas service for the City.

WHEREFORE, Applicant respectfully requests the Commission to enter a certificate of public convenience and necessity authorizing Applicant to bid on the aforesaid natural gas franchise and, if it is awarded such franchise, to operate the natural gas distribution system pursuant to such franchise. A copy of the franchise, if awarded to Applicant, will be filed with the Commission.

Respectfully submitted,



Mark R. Hutchinson
611 Frederica Street
Owensboro, Kentucky 42301
Attorney for Applicant

COMMONWEALTH OF KENTUCKY)
COUNTY OF DAVIESS)

The undersigned Affiant, Mark A. Martin, being first duly sworn, deposes and says that he is Vice President-Marketing and Regulatory Affairs of Atmos Energy Corporation, Kentucky/Mid-States Division having its principal office in Owensboro, Kentucky, which is the Applicant in this proceeding; that he has read the foregoing application and knows the contents thereof; that the same is true of his own knowledge, except as to the matters which are therein stated on information or belief, and that as to those matters he believes them to be true; and that he is duly authorized to sign, execute, verify and file the foregoing application on behalf of Applicant.



Mark A. Martin

SUBSCRIBED AND SWORN to before me by Mark A. Martin as Vice President – Marketing and Regulatory Affairs of Atmos Energy Corporation, Kentucky/Mid-States Division, on this the 11th day of August, 2009.



Notary Public

My Commission Expires: 7/30/2012

ORDINANCE 09-07

AN ORDINANCE OF THE CITY OF CADIZ, KENTUCKY, PROVIDING FOR THE CREATION AND SALE OF A FRANCHISE FOR THE PRIVILEGE OF CONSTRUCTING, TRANSPORTING, OPERATING, MAINTAINING AND DISTRIBUTING NATURAL GAS ALONG AND UNDER PUBLIC RIGHT OF WAY WITHIN THE CITY OF CADIZ, KENTUCKY, FOR A TERM OF FIVE (5) YEARS IN CONSIDERATION FOR WHICH, THE SUCCESSFUL FRANCHISEE SHALL PAY TO THE CITY AN ANNUAL SUM EQUAL TO ONE PERCENT (1%) OF GROSS RECEIPTS COLLECTED; AND FURTHER ESTABLISHING A BID PROCEDURE FOR THE AWARD OF SAID FRANCHISE TO THE SUCCESSFUL BIDDER.

WHEREAS, the existing natural gas franchise agreement between the City of Cadiz, Kentucky and Atmos Energy Corporation expires on November 4, 2009; and,

WHEREAS, the City has determined that it is in the best interest of its citizens to create and offer for sale a new natural gas franchise.

BE IT ORDAINED BY THE CITY OF CADIZ, KENTUCKY (hereinafter referred to as the "City") that the Mayor of the City, or such other person as the Mayor may designate, shall offer for sale, to the highest and best bidder, Cadiz franchise to enter upon, acquire, construct, operate, maintain and repairs in the public right of way of the City, a gas distribution system with the corporate boundaries of the City, subject to the provisions of the Franchise Agreement attached hereto and incorporated herein by reference.

The Mayor, or such other person as the Mayor may designate, shall, as soon as practicable after passage of this Ordinance, offer for sale, under sealed public bids, the franchise and privileges created herein. Such bids shall be in writing and shall be delivered to the Mayor or his designee, at City Hall, Cadiz, Kentucky, by 3:00 PM on August 27, 2009 (the "Bid Deadline"). Advertisements for such bids shall be published in accordance with the requirements of KRS Chapter 424. All costs for such advertisements shall be borne by the successful Franchisee.

Sealed bids offered for the purchase of this franchise shall be publicly opened and read at 9:00 a.m. C.S.T. on August 28. All bids shall state the bidder's acceptance of the terms and provisions set forth in the attached franchise agreement.

The Mayor shall present all written bids to the City of Cadiz at its first meeting scheduled after the Bid Deadline for the City's consideration and approval. The City reserves the right to accept any bid, to reject any and all bids received, to waive any irregularities or informalities in awarding the franchise and to accept what, in its opinion, is the best responsive and responsible bid. In the event all bids are rejected, the City reserves the right to direct by

resolution or ordinance that the franchise created hereunder be offered again for sale until a satisfactory bid is received and approved.

The franchise created by this ordinance shall become effective when the franchise agreement is signed by the successful bidder and the City.

INTRODUCED AND PUBLICLY READ ON FIRST READING, this the 7th day of July, 2009.

PUBLICLY READ AND FINALLY APPROVED ON SECOND READING, this the 4th day of August, 2009.

CITY OF CADIZ, KENTUCKY

By: Lyn Bailey
Lyn Bailey, Mayor

ATTEST:

Lisa Rogers

A regular called meeting of the Cadiz City Council was held Tuesday, August 4, 2009, at 6:00 p.m. in the council chambers at City Hall.

Presiding at the meeting was Mayor Lyn Bailey. Councilmember's in attendance were: Susan Bryant, Regenia Wilkerson-Jasper, Bob Noel, Manuel Brown, Todd King; and Frankie Phillips. Also present was Allen Wilson, City Attorney; Lisa Rogers, City Clerk; Hollis Alexander, Chief of Police; Kerry Fowler, Public Works; and Sharon Butts, Economic Development.

Guests: Franklin Clark, *Cadiz Record*; Allen Watts, WKDZ; and Harry Todd.

Public Comments

None.

Approval of Minutes

Councilmember Phillips made a motion and second by Councilmember Bryant to approve the minutes of the Regular Meeting held on July 7, 2009. All members present voted aye. All members present voted aye.

Monthly Reports

Expenditure Report – Motion was made by Councilmember Phillips and second by Councilmember Jasper to accept the expenditures for the month. All members present voted aye.

Police Department – Mr. Alexander presented an activity report for the month.

Public Works – Mr. Fowler give a report for July. Mr. Fowler reported the senior Citizens Project was bid and the low bid was from Civilworx, LLC in the amount of \$84,582.99. Motion was made by Councilmember Noel and second by Councilmember Brown to approve the bid to Civilworx. All members present voted aye.

Economic Development – Mrs. Butts provided a report for July.

Second Reading Ordinance 09-07 Providing for the Creation and Sale of a Franchise

Councilmember King made a motion and second by Councilmember Phillips to approve Ordinance 09-07. A roll call vote was taken.

Bryant – NO

King – YES

Brown – YES

Noel – YES

Jasper – NO

Phillips – YES

Motion Passed.

Resolution 03-09 Amendment to the Agreement for Safe Routes to School Project

Councilmember Phillips made a motion and second by Councilmember King to approve Resolution 03-09. All members present voted aye.

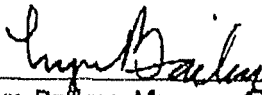
Review Planning & Zoning Proposed Fee Schedule

Councilmember Bryant made a recommendation to get Bob Brame to explain the changes and fees.


Discuss Vendor List in Ordinance 08-01

Motion was made by Councilmember Bryant and second by Councilmember King to amend Ordinance 08-01 requiring all businesses to provide a vendor list before next year's licenses are due. All members present voted aye.

Motion was made by Councilmember King and second by Councilmember Jasper to adjourn. All members present voted aye. Mayor Bailey declared the meeting adjourned at 6:28 PM.



Lyn Bailey, Mayor



Lisa Rogers, City Clerk

NOTICE OF SALE OF GAS FRANCHISE

NOTICE IS HEREBY GIVEN that the City of Cadiz, Kentucky, will on August 27, at 3:00 p.m. at City Hall, Cadiz, Kentucky, consider offers for sale to the highest and best bidder, plus all costs, including advertising cost, a franchise as defined in Ordinance 09-07 adopted by Cadiz on August 4 2009, the full text of which Ordinance, including the agreement containing the terms of the franchise, is available for inspection in the Office of the City Clerk, City Hall, 63 Main, Cadiz, Kentucky between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday.

ORDINANCE 09-07

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Sealed Bids are to be delivered to City Hall, 63 Main, Cadiz, Kentucky, to be publicly opened and read at 9:00 a.m., C.S.T. On August 28, 2009.

Cadiz reserves the right to accept any bid, to reject any and all bids, to waive any irregularities or informalities in awarding the franchise and to accept what, in its opinion, is the best responsive and responsible bid.

Mark R Hutchinson
Wilson, Hutchinson & Poteat
611 Frederica Street
Owensboro, KY 42301

Mark Martin
VP Rates & Regulatory Affairs
Atmos Energy Corporation
3275 Highland Pointe Drive
Owensboro, KY 42303