Comments re HB 24-1357
March 18, 2024

Members of the House Energy & Environment Committee,

Atmos Energy Corporation ("Atmos Energy" or the "Company") appreciates the opportunity to provide comments regarding HB 24-1357, "Concerning Measures to Promote Safety in the Distribution of Natural Gas." Atmos Energy supports regulations properly designed to promote the safe operation of pipelines in Colorado.

These comments provide background information regarding Atmos Energy and the Company's gas distribution operations in Colorado; describe the Company's participation in recent and ongoing rulemaking proceedings in Colorado and federally regarding pipeline safety, which address many of the same topics identified in HB 24-1357; and identify some specific concerns Atmos Energy has with HB 24-1357 as proposed.

For the reasons explained below, Atmos Energy believes Colorado should wait until the ongoing and anticipated state and federal rulemaking proceedings conclude to determine whether and the extent to which any additional pipeline safety requirements are necessary.

Background Regarding Atmos Energy:

Atmos Energy, headquartered in Dallas, Texas, is the country's largest natural gas only distributor, serving more than three million customers in over 1,400 communities in eight states: Colorado, Kansas, Kentucky, Louisiana, Mississippi, Tennessee, Texas, and Virginia. Colorado is served through the Company's Colorado-Kansas division, with division offices located in Denver, Colorado and Olathe, Kansas. In addition to operating distribution systems in eight states, Atmos Energy has an intrastate pipeline division, Atmos Pipeline-Texas, which is based in Dallas, Texas.

In Colorado, Atmos Energy uses its gas distributions systems to deliver natural gas to approximately 129,000 customers in noncontiguous areas across the state. The communities served by the Company span from (1) Greeley and surrounding areas in the northeast; (2) Steamboat Springs, Craig, and Meeker in the northwest; (3) Salida, Gunnison, and Crested Butte; (4) Canon City in central Colorado; (5) Lamar and many small communities in the southeast corner; and (6) Cortez and Durango areas in the southwest corner.

Our vision is for Atmos Energy to be the safest provider of natural gas services. Our environmental strategy aligns with that vision, and we intend to be a part of a sustainable energy future for our customers and the communities we serve for the long term. This alignment means investing in safety, focusing on operational and environmental sustainability, hiring and training a diverse and engaged workforce, and Fueling Safe and Thriving Communities.

Modernizing Atmos Energy's natural gas distribution system in Colorado is a key component of fulfilling the Company's vision of becoming the safest provider of natural gas services and our obligation to provide safe and reliable service to customers and communities. This modernization enhances safety and reliability and also reduces emissions.

Pipeline Safety and Recent Administrative Rulemakings:

As a gas distribution company, Atmos Energy operates under state and federal regulations governing pipeline safety.

The goal of pipeline safety regulation in the natural gas industry is to set operational standards that advance the safe transportation and delivery of natural gas to each utility's customers. The Pipeline and Hazardous Materials Safety Administration ("PHMSA") has carefully developed a rigorous set of such standards, which are codified in Title 49 CFR Parts 191-199. The Colorado Public Utilities Commission ("Commission") is the agency authorized to enforce these standards in Colorado, and the Commission's Pipeline Safety Division regularly conducts various safety inspections to confirm that natural gas utilities like Atmos Energy are complying with these standards.

While many federal rules and directives are prescriptive in nature, the regulations have increasingly also made it clear that each individual pipeline operator is responsible for identifying and evaluating the risks of its system and for addressing those risks in a proactive manner. Thus, for the pipeline operator, this can be broken down into three main points: know your assets; identify the risks and threats to those assets; and be proactive in mitigating those risks and threats. These points must be addressed, not sequentially, but in unison. This can be viewed as a continuous cycle of "plan, do, check, and adjust."

Broadly speaking, the program required to accomplish this is referred to as a Distribution Integrity Management Program ("DIMP"). While PHMSA's rules requiring a DIMP set up a framework of general requirements, those rules require the operator to design its own plan that is specific to its system to calculate and address risk. Over time, the statutes and rules governing the DIMP have provided increasingly more direct guidance on the necessity of a systematic distribution facilities replacement program.

Section 114 of the PIPES Act of 2020 contained a self-executing provision explicitly requiring that, by December 27, 2021, operators must update their inspection and maintenance plans to address:

- Eliminating hazardous leaks of natural gas;
- Minimizing releases of natural gas; and
- Replacement or remediation of all pipelines that are known to leak.[1]

[1] *See, e.g.*, PHMSA Information Webinar for Section 114 of the PIPES Act of 2020, https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2022-03/Section_114_Webinar.pdf.

In compliance with this directive, Atmos Energy's DIMP now explicitly lists its "Distribution Facility Replacement Program" as one of the programs designed to mitigate threats/risks on its system. The description of that program is as follows:

> Atmos Energy Operating Divisions plan and prioritize replacements of unprotected steel, wrought iron, historic plastic (e.g., PVC, ABS, Aldyl-A) and other pipe materials that are known to leak consistent with the requirements of Section 114 of the PIPES Act of 2020. These programs take into consideration factors including, but not limited to, pipe material and operation and maintenance history, including the frequency of leak or failure events. Details of the respective plans are available in each operating division.
>
> Threats / Risks Mitigated
>
> As a result of the prioritized replacement of facilities on Atmos Energy's distribution systems, the following threats or risks are mitigated:
>
> - Corrosion
> - Excavation Damage
> - Natural Force Damage
> - Other Outside Force Damage
> - Materials
> - Joints/Welds
> - Equipment Failure

In addition to updating the Company's DIMP pursuant to the PIPES Act of 2020, recently Atmos Energy has been involved in several state and federal rulemaking proceedings regarding pipeline safety.

In Colorado, the Commission is currently finalizing amended pipeline safety rules following an extensive rulemaking process that began in 2022 pursuant to SB 21-108 and to reflect changes to PHMSA's regulations.[2] The Commission's amended pipeline safety rules "represent an affirmative and essential step forward in the Commission's goal to increase pipeline safety across Colorado" and build on rules adopted by the Commission in 2020 (effective in 2021) "which significantly altered the Commission's processes to better ensure public access and transparency to Pipeline Safety Information and processes."[3]

While that PUC rulemaking was underway, PHMSA initiated a rulemaking to revise its pipeline safety rules in 2023, including requirements for Advanced Leak Detection Technology and Advanced Leak Detection Programs. That federal rulemaking is ongoing, with final rules expected

[2] Proceeding No. 22R-0491GPS.

[3] Proceeding No. 22R-0491GPS, Decision No. C24-0058 at ¶ 3.

in late 2024 or early 2025. Both the contents and timing of PHMSA's proposed rules were considered as part of the PUC's pipeline safety rulemaking decision.[4]

Importantly, the Commission's amended pipeline safety rules addressed many of the issues in HB 24-1357, including GIS pipeline reporting and mapping, leak reporting, and the amount of detail included in publicly available maps for Commission-jurisdictional pipelines in Colorado.[5] The Commission also specifically acknowledged the ongoing PHMSA rulemaking and indicated the Commission's intention to "bring forward a subsequent notice of proposed rulemaking that, among other continuous improvements, will address Advanced Leak Detection Technology following stakeholder input."[6]

Additionally, the Commission recently initiated another pipeline safety rulemaking in February 2024 pursuant to HB 23-1216 and SBS 23-285.[7] As part of that rulemaking the Commission again acknowledged that it has an ongoing stakeholder process to consider a future rulemaking on additional pipeline safety rule updates, including with regard to Advanced Leak Detection Technology.[8]

Comments Regarding HB 24-1357:

As explained above, the Company has been involved in numerous recent and ongoing rulemakings focused on improving the safety of the gas distribution systems in Colorado. Those amended rules are just being finalized (like the Commission's amendments to its pipeline safety rules following the rulemaking that began in 2022) or are currently going through the formal rulemaking process (PHMSA and PUC rulemakings).

HB 24-1357 also proposes to codify portions of PHMSA's proposed rules regarding Gas Pipeline Leak Detection and Repair (Docket No. PHMSA-2021-0039) into Colorado law. After initiating the Notice of Proposed Rulemaking, PHMSA received over 26,000 comments filed in the docket by a vast variety of stakeholders across the country, including operators, industry experts, individuals, environmental groups, trade associations, and local governments. PHMSA is currently considering the wealth of information provided to inform their final decision, and final rules incorporating their findings are expected to be incorporated into revised final rules by December 2024. Incorporating the initial language proposed at the beginning of the PHMSA docket into Colorado law would deny Coloradans the benefit of the extensive stakeholder process that is being undertaken to develop final rules that achieve the stated goals. It would also lead to inconsistency between federal regulations and Colorado law that could potentially be impractical or impossible to reconcile without further statutory changes, which is why rules of this type are generally undertaken in an administrative rulemaking rather than the legislative process. It is more efficient

[4] *See* Decision No. R23-0744 and Decision No. C24-0068.

[5] *Id.*

[6] Decision No. C24-0058 at ¶ 2, fn 3.

[7] Proceeding No. 24R-0078GPS.

[8] Decision No. C24-0099.

to allow the ongoing federal and state administrative rulemaking proceedings to conclude before attempting to include the same requirements in Colorado regulations or statute.

Additionally, HB 24-1357 fails to appropriately distinguish between the different segments of the gas industry in Colorado (gathering, transmission, and distribution). For example, gas gathering involves the gathering of unprocessed and un-odorized raw gas from the wellhead for processing, prior to delivery to the interstate transmission pipeline system. This difference in odorization supports different requirements regarding leak detection. Similarly, gas gathering lines bring the raw gas from wellheads to processing plants, leading to potentially different treatment regarding abandonment if a gathering line is no longer in use, as compared to a distribution service line from a distribution main to a customer's premises. Any proposed legislation would need to separately address concepts of pipeline safety for consideration, differentiating industry segments of gathering, transmission and distribution. For the reasons explained above, Atmos Energy recommends the Legislature allow PHMSA's rules to be finalized before identifying whether any additional or supplemental requirements are appropriate or necessary.

However, if HB 24-1357 is likely to move forward this session, then Atmos Energy recommends the following specific changes:

- As mentioned above, the bill and its sections should clearly identify and delineate between un-odorized gathering lines and the odorized pipelines operated by natural gas distribution utilities. The role of odorization is significant, particularly regarding the identification of leaks.

- Assuming pipelines are delineated by odorization and industry segment, with respect to those sections of HB 24-1357 that would apply to the odorized lines owned or operated by local distribution utilities, Atmos Energy would be agreeable to these provisions (with changes) being effective January 1, 2025, with compliance required by January 1, 2028.

- HB 24-1357 should require the PUC's Pipeline Safety Program to continue to defer to PHMSA's developing rules regarding leak grading and repair-to-resolution times. Operators like Atmos Energy will need to offer clarifications to the bill's language regarding the timing and sequence of events required to grade and repair leaks.

- The use of "advanced leak detection" and "advanced leak detection technology" in HB 24-1357 is ill-defined and should be omitted.[9] Instead, equipment specifications should drive the technology used for leak detection.

- The proposed requirements regarding inspections of pipeline road and railroad crossings should exclude natural gas distribution utilities from the scope of those requirements.[10] For example, Atmos Energy's distribution system has over 200,000 road and railroad crossings

[9] Beginning on page 4, line 22.

[10] Beginning on page 5, line 26.

in Colorado. The additional inspections as required by the proposed language would be onerous and detract resources from higher priority public safety activities.

- The proposed requirements regarding the timelines to repair leaks should be omitted,[11] as the PHMSA rules will establish the appropriate repair timelines and compliance with PHMSA's requirements will be monitored by the PUC's Pipeline Safety Program.

- For gas distribution utilities, there should be no requirement to remove natural gas distribution service lines (i.e., the line from the gas main to the meter or customer's premises).[12] If a current customer wishes to disconnect its meter from the system, a subsequent owner or occupant of the premises may desire gas service. For most customers, the service line is owned by the Company and is in a utility easement. And, if the service is removed and subsequent owner requests gas service, then the new owner will be required to bear the entire cost of the service line, regulator, and meter given the elimination of construction allowances or incentives for new gas service in Colorado.

- The proposed requirements regarding utility notification to the Commission during pipeline abandonments and removals should be eliminated.[13] As written, the proposed language inhibits a utility's ability to timely complete work, deteriorating quality of service and increasing costs. Additionally, there is no need for the proposed language for gas distribution utilities, as the requirements regarding the abandonment or removal of facilities are governed by the utilities' operation and maintenance ("O&M") manuals. Those O&M manuals are audited by the state in compliance with federal rules.

- The proposed language requiring a public-facing website with information about pipeline systems and public access to detailed pipeline maps should be eliminated.[14] Public access to pipeline maps and sensitivity system information was thoroughly evaluated and considered by the Commission in its recent rulemaking proceeding. While recognizing the public interest in pipeline maps, the Commission also considered the valid concerns raised by industry-operators regarding the potential security threat that could be created by having too detailed pipeline data available to the public. As a result, the Commission carefully balanced the information that should be available to the public and the information that should be available to the Commission, with access to other interested parties governed by the Commission's confidentiality rules. The legislature should not upset the Commission's balancing of public access vs. security risks as proposed in HB 24-1357. Customers and interested parties can access this information through the Commission and with assistance from the gas distribution utilities. This established process ensures understanding for the inquiring public and builds public trust. Any unsupervised or unconditional access to the information may create an opportunity for "bad actors" resulting in a risk to public safety and system reliability.

[11] Beginning on page 6, line 3.

[12] Beginning on page 6, line 11.

[13] Beginning on page 7, line 3.

[14] Beginning on page 3, line 6 and page 8, line 21.

- The proposed language regarding civil penalties for pipeline safety violations should be removed,[15] as it precludes potential settlement negotiations. Settlements are widely recognized as an efficient means to resolve disputes consistent with the public interest.

Once again, Atmos Energy appreciates the opportunity to provide comments regarding HB 24-1357 and looks forward to continuing to work with the state to ensure gas distribution systems in Colorado continue to provide safe and reliable service.

Respectfully submitted,

/s/ John Willis

John Willis
Vice President Technical Services, Colorado Kansas Division
Atmos Energy Corporation

[15] Beginning on page 12, line 11.