

**BEFORE THE
RAILROAD COMMISSION OF TEXAS**

APPLICATION OF ATMOS ENERGY CORP., MID-TEX DIVISION FOR THE TEST YEAR 2012 ANNUAL INTERIM RATE ADJUSTMENT PROGRAM FOR THE ENVIRONS AREAS.	§ § § § §	GAS UTILITIES DOCKET NO. 10286
--	-----------------------	---

INTERIM RATE ADJUSTMENT 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 Chapter 551. The Railroad Commission of Texas adopts the following findings of fact and conclusions of law and orders as follows:

FINDINGS OF FACT

Background

1. Atmos Energy Corporation (Atmos) is a "gas utility," as that term is defined in the TEXAS UTILITY CODE, and is subject to the jurisdiction of the Railroad Commission of Texas (Commission).
2. Atmos Energy Corporation, Mid-Tex Division (Atmos), a division of Atmos, owns and operates a gas distribution system (Distribution).
3. On July 1, 2013, Atmos filed an application for an annual interim rate adjustment (IRA) applicable to customers located in its Mid-Tex System environs area.
4. Atmos requested that the interim rate adjustments for all customer classes become effective on August 30, 2013.
5. On July 8, 2013, the Commission suspended implementation of Atmos' proposed interim rate adjustments until October 14, 2013, which would be 45 days following the 60th day after the application would be considered complete.
6. TEX. UTIL. CODE, §104.301 does not provide a remedy for parties that oppose an annual interim rate adjustment.
7. 16 TEX. ADMIN. CODE, §7.7101 allows written comments or a protest concerning the proposed interim rate adjustment to be filed with the Gas Services Division.

8. Two letters of protest were received in the docket from identified Mid-Tex System environs area customers.
9. In response to the protests, the protestants were contacted via correspondence by Atmos Energy Corporation, Mid-Tex Division which explained the interim rate review process and provided contact information to address additional questions and comments.
10. No further questions or comments were received by the Commission from the protestants.
11. Neither TEX. UTIL. CODE, §104.301 nor 16 TEX. ADMIN. CODE, §7.7101 provides the opportunity for parties to intervene in the Commission's review of an application for an annual interim rate adjustment.
12. A gas utility's allowed adjustment in the first interim rate adjustment following a rate case is based on the difference between the gas utility's invested capital at the end of the rate case test year and the invested capital at the end of the calendar year following the end of such test year.
13. This docket is the first annual interim rate adjustment for the distribution system environs of Atmos Energy Corp., Mid-Tex Division following GUD No. 10170.
14. Until promulgation of TEX. UTIL. CODE, §104.301, a utility could not increase its rates applicable to environs customers without filing with the Commission a formal statement of intent rate case, including a comprehensive cost of service rate review.
15. Atmos' proposed interim rate adjustments will allow Distribution an opportunity to recover a return on investment, depreciation expense, and related taxes on the incremental cost of infrastructure investment since its last rate case, GUD No. 10170, without the necessity of filing a statement of intent rate case and without review by the Commission of Atmos' comprehensive cost of service.

Applicability

16. This docket applies to only those rates over which the Commission has original jurisdiction, including all of the Distribution system environs customers.
17. For the environs areas, Atmos' average customer counts by class for 2012 was; 1,452,060 residential customers, 122,454 commercial customers, 133 industrial sales customers, and 822 industrial transport customers, excluding Dallas customers.

Most Recent Comprehensive Rate Case

18. Atmos' most recent rate case for the area in which the interim rate adjustment will be implemented is GUD No. 10170, *Statement of Intent Filed by Atmos Energy Corporation To Increase Gas Utility Rates Within Unincorporated Areas Served by Atmos Energy Corporation, Mid-Tex Division*.
19. GUD No. 10170 was filed on May 31, 2012.
20. The data used in GUD No. 10170 was based on a test-year ending September 30, 2011 updated through March 31, 2012 for known and measurable changes.
21. The Commission signed the GUD No. 10170 final Order on December 4, 2012, and the rates became effective the same day.
22. The base rates currently charged by Atmos were set by the Commission in GUD No. 10170.
23. The following chart shows the factors that were used for Distribution to establish or used in the Final Order setting rates in GUD No. 10170 to calculate the return on investment, depreciation expense, incremental federal income tax, and ad valorem taxes, except for the property tax factor which was calculated in the same manner as the alternative tax calculation in GUD No. 9734.

CALCULATION FACTORS

Factor	Distribution
Rate of return	8.57%
Mid-Tex Depreciation Rate	3.128%
SSU Depreciation Rate	6.356%
Federal Income Tax Rate	35%
Mid-Tex Ad Valorem Tax Rate	1.342%
SSU Ad Valorem Tax Rate	0.844%

Interim Rate Adjustment

24. Atmos seeks approval from the Commission for an adjustment to its revenue, based on incremental net utility plant investment, with regard to the following components: return on investment; depreciation expense; ad valorem taxes; revenue related taxes; and federal income taxes.

25. The revenue amounts to be recovered through Atmos' proposed annual interim rate adjustments are incremental to the revenue requirement established in Atmos' most recent rate case for the area in which the interim rate adjustment is to be implemented, i.e., GUD No. 10170.
26. For the first interim rate adjustment following a rate case, the amounts by which Atmos may adjust its rates are based on the difference between Distribution's invested capital at the end of the most recent rate case test-year (September 31, 2011 updated through March 31, 2012) and the invested capital at the end of the calendar-year following the end of the most recent rate case test-year (December 31, 2012).
27. The value of Atmos' invested capital is equal to the original cost of the investment at the time the investment was first dedicated to public use minus the accumulated depreciation related to that investment for Distribution's interim rate adjustments.
28. Atmos' incremental net utility plant investment increase is \$26,881,360 for Distribution, as shown in Exhibit B.
29. Atmos is required to use the same factors to calculate the interim return on investment, depreciation expense, and incremental federal income tax as those established or used in the final order setting rates in Atmos' most recent rate case for the area in which the interim rate adjustment is to be implemented.
30. Atmos is required to allocate the revenue to be collected through the interim rate adjustment among its customer classes in the same manner as the cost of service was allocated among its customer classes in its most recent rate case for the area in which the interim rate adjustment is to be implemented.
31. Atmos proposed the interim rate adjustment as a flat rate to be applied to the monthly customer charges and monthly meter charges rather than as a volumetric rate to be applied to the initial block usage rates.
32. Atmos is required to show its annual interim rate adjustments on its customers' monthly billing statements as a surcharge.
33. As required by TEX. UTIL. CODE, §104.301(f), Atmos filed an annual earnings monitoring report with its application. The earnings monitoring report states that Atmos' actual rate of return in 2012 was 6.936% as compared with the 8.568% allowed rate of return established in GUD No. 10170.

34. The proposed interim rate adjustment does not require an evidentiary proceeding; rather, TEX. UTIL. CODE, §104.301 and 16 TEX. ADMIN. CODE, §7.7101 require the regulatory authority to review a utility's method of calculating the interim rate adjustment.
35. Due process protections are deferred until Atmos files its next full statement of intent rate case.

Notice

36. Atmos provided adequate notice to its Distribution Residential (R) and Commercial (C) customers between July 8, 2013 and August 7, 2013.
37. Atmos provided adequate notice to its Distribution Industrial (I) and Transportation (T) customers on August 1, 2013.

Comprehensive Rate Case Required

38. Atmos is not required to initiate a rate case supporting a statement of intent at the time it applies for an interim rate adjustment.
39. A gas utility that implements an interim rate adjustment and does not file a rate case before the fifth anniversary of the date its initial interim rate adjustment became effective is required to file a rate case not later than the 180th day after that anniversary.

Review of Interim Rate Adjustment

40. Atmos' proposed allocation methodology complies with TEX. UTIL. CODE, §104.301, and with 16 TEX. ADMIN. CODE, §7.7101.
41. For allocation methodology, it is reasonable for the Commission to approve use of Atmos' overall cost of service (less other revenue, gas cost, and revenue related taxes) as determined in its most recent rate case. The following overall cost of service allocation factors for use in the calculation of Atmos' interim rate adjustment are reasonable:

Customer Class	Allocation Factors
Distribution:	
Residential (R)	0.779535
Commercial (C)	0.193999
Industrial Sales & Transport (I & T)	0.026467

42. Atmos' proposed customer and meter counts comply with TEX. UTIL. CODE, §104.301, and with 16 TEX. ADMIN. CODE, §7.7101. For calculating the number of customer charges or meter charges per year, it is reasonable for the Commission to approve use of Distribution's 2012 year-end number of customers multiplied by twelve. The following total numbers of customer and meter charges for use in the calculation of the interim rate adjustment are reasonable:

Customer Class	Total Number of Customer Charges / Meters
Distribution:	
Residential (R)	17,424,720
Commercial (C)	1,469,448
Industrial Sales & Transport (I & T)	11,460
Total	18,905,628

43. It is reasonable for the Commission to approve Atmos' applications for interim rate adjustments. The following amounts of interim rate adjustment revenue and additional customer charges by customer class are reasonable:

Customer Class	Interim Rate Adjustment Revenue	Additional Customer / Meter Charges
Distribution:	\$26,881,360	
Residential (R)	\$20,954,957	\$1.20
Commercial (C)	\$5,214,947	\$ 3.55
Industrial (I & T)	\$711,456	\$62.08

Reimbursements of Expense

44. As provided for in the statute and the rule, a gas utility that implements an interim rate adjustment is required to reimburse the Commission for the utility's proportionate share of the Commission's annual costs related to the administration of the interim rate adjustment mechanism.
45. After the Commission has finally acted on Atmos' application for an interim rate adjustment, the Director of the Gas Services Division will estimate Atmos' proportionate share of the Commission's annual costs related to the processing of such applications.
46. In making the estimate of Atmos' proportionate share of the Commission's annual costs related to the processing of such applications, the Director will take into account the number of utilities the Commission reasonably expects to file for interim rate adjustments during the fiscal year, and the costs expected to be incurred in processing such applications.
47. Atmos is required to reimburse the Commission for the amount determined by the Director of the Gas Services Division and approved by the Commission, within thirty days after receipt of notice of the amount of the reimbursement.

CONCLUSIONS OF LAW

1. Atmos Energy Corporation (Atmos) is a "gas utility" as defined in TEX. UTIL. CODE § 101.003(7) and § 121.001, and is therefore subject to the jurisdiction of the Railroad Commission of Texas (Commission).
2. The Commission has jurisdiction over Atmos, Atmos' applications for interim adjustments for incremental changes in investment, and the subject matter of this case under TEX. UTIL. CODE §102.001, §104.001, §104.002, and §104.301.
3. Under TEX. UTIL. CODE ANN. §102.001, the Commission has exclusive original jurisdiction over the rates and services of a gas utility that distributes natural gas in areas outside of a municipality and over the rates and services of a gas utility that transmits, transports, delivers, or sells natural gas to a gas utility that distributes the gas to the public.
4. Under the provisions of the TEX. UTIL. CODE §104.301 and 16 TEX. ADMIN. CODE § 7.7101, Atmos is required to seek Commission approval before implementing an interim rate adjustment tariff for environs customers.

5. Atmos filed its applications for interim rate adjustments for changes in investment in accordance with the provisions of TEX. UTIL. CODE §104.301 and 16 TEX. ADMIN. CODE § 7.7101.
6. Atmos' application for an interim rate adjustment was processed in accordance with the requirements of TEX. UTIL. CODE ANN. §104.301 and 16 TEX. ADMIN. CODE §7.7101.
7. In accordance with 16 TEX. ADMIN. CODE § 7.315, within thirty days of the effective date of any change to rates or services, Atmos is required to file with the Gas Services Division of the Commission its revised tariffs.
8. Atmos may not charge any rate that has not been successfully filed and accepted as a tariff filing electronically pursuant to TEX. UTIL. CODE § 102.151 and 104.002 and 16 TEX. ADMIN. CODE § 7.315 (2008).
9. In accordance with TEX. UTIL. CODE §104.301(a) and 16 TEX. ADMIN. CODE § 7.7101(a), the filing date of Atmos' most recent rate case, in which there is a final order setting rates for the area in which the interim rate adjustment will apply, was no more than two years prior to the date Atmos filed its initial interim rate adjustment.
10. Atmos is required, under TEX. UTIL. CODE ANN. §104.301(e) and 16 TEX. ADMIN. CODE § 7.7101(d), to file with the Commission an annual project report, including the cost, need, and customers benefited by the change in investment, and describing the investment projects completed and placed in service during the preceding calendar year and the investments retired or abandoned during the preceding calendar year.
11. Atmos shall include in all future annual interim rate adjustment filings, relocation project reports that provide additional information about relocation project costs included in investment projects, in the same format as required in this docket.
12. Atmos is required, under TEX. UTIL. CODE ANN. §104.301(f) and 16 TEX. ADMIN. CODE § 7.7101(e), to file with the Commission an annual earnings monitoring report demonstrating the Utility's earnings during the preceding calendar year.
13. Atmos is required, under 16 TEX. ADMIN. CODE §7.7101(h), to recalculate its approved interim rate adjustments annually and is required to file an application for an annual adjustment no later than 60 days prior to the one-year anniversary of the proposed implementation date of the previous interim rate adjustment application.

14. In accordance with 16 TEX. ADMIN. CODE § 7.7101(i), all amounts collected from customers under Atmos' interim rate adjustment tariffs or rate schedules are subject to refund. The issues of refund amounts, if any, and whether interest should be included on refunded amounts and, if so, the rate of interest, shall be addressed in the rate case a gas utility files or the Commission initiates after the implementation of an interim rate adjustment and shall be the subjects of specific findings of fact in the Commission's final order setting rates.
15. In accordance with 16 TEX. ADMIN. CODE § 7.7101(j) (2008), in the rate case that Atmos files or the Commission initiates after the implementation of an interim rate adjustment, any change in investment and related expenses and revenues that have been included in any interim rate adjustment shall be fully subject to review for reasonableness and prudence. Upon issuance of a final order setting rates in the rate case that Atmos files or the Commission initiates after the implementation of an interim rate adjustment, any change in investment and related expenses and revenues that have been included in any interim rate adjustment shall no longer be subject to review for reasonableness or prudence.
16. The Commission has authority to suspend the implementation of the interim rate adjustment, under TEX. UTIL. CODE § 104.301(a) and 16 TEX. ADMIN. CODE § 7.7101(e).
17. Atmos provided adequate notice, in accordance with TEX. UTIL. CODE ANN. § 104.301(a) and 16 TEX. ADMIN. CODE § 7.7101(b).
18. Atmos' applications for interim rate adjustments, as proposed, comply with all provisions of TEX. UTIL. CODE § 104.301 and 16 TEX. ADMIN. CODE § 7.7101.
19. Atmos' interim rate adjustments established in the findings of fact and conclusions of law, comply with the provisions of TEX. UTIL. CODE ANN. § 104.301 and 16 TEX. ADMIN. CODE § 7.7101.
20. In accordance with TEX. UTIL. CODE § 104.301(h) and 16 TEX. ADMIN. CODE § 7.7101(l), Atmos shall file a comprehensive rate case for the areas in which the interim rate adjustment is implemented, not later than the 180th day after the fifth anniversary of the date its initial interim rate adjustment became effective.
21. The Commission has authority, under TEX. UTIL. CODE ANN. § 104.301(j) and 16 TEX. ADMIN. CODE § 7.7101(m), to recover from Atmos the Utility's proportionate share of the Commission's annual costs related to the administration of the interim rate adjustment mechanism.

IT IS THEREFORE ORDERED BY THE RAILROAD COMMISSION OF TEXAS THAT Atmos' interim rate adjustments as requested and to the extent recommended to be approved in the findings of fact and conclusions of law are **HEREBY APPROVED** to be effective for bills rendered on or after October 1, 2013.

IT IS FURTHER ORDERED THAT Atmos **SHALL** file with the Commission no later than July 1, 2014, for Distribution, an annual project report, including the cost, need, and customers benefited by the change in investment, and describing the investment projects completed and placed in service during the preceding calendar year and the investments retired or abandoned during the preceding calendar year.

IT IS FURTHER ORDERED THAT Atmos **SHALL** file with the Commission no later than July 1, 2014, for Distribution, a relocation project report, which provides additional information about relocation costs included in investment projects, in the format provided in this docket.

IT IS FURTHER ORDERED THAT Atmos **SHALL** file with the Commission no later than July 1, 2014, for Distribution, an annual earnings monitoring report demonstrating Distribution's earnings during the preceding calendar year.

IT IS FURTHER ORDERED THAT Atmos **SHALL** file with the Commission no later than July 1, 2014, for Distribution, recalculations of its approved interim rate adjustments and applications for annual interim rate adjustments for the preceding calendar year.

IT IS FURTHER ORDERED THAT within 30 days of this order Atmos **SHALL** electronically file its interim rate adjustment tariffs in proper form that accurately reflect the rates, as expressed in Exhibit A, approved by the Commission in this Order.

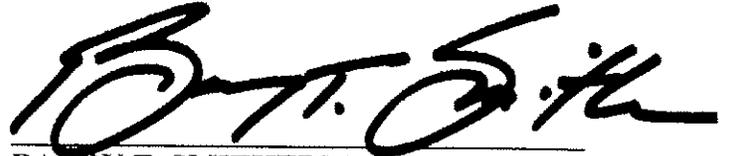
IT IS FURTHER ORDERED THAT Atmos **SHALL** not charge any rate that has not been electronically filed and accepted by the Commission as a tariff.

IT IS FURTHER ORDERED THAT Atmos **SHALL** reimburse the expenses incurred by the Commission in reviewing these applications. The amount of this reimbursement shall be determined by the Director of the Gas Services Division and must be approved by the Commission. This Order will not be final and effective 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.

Any portion of the Utility's application 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 1st day of October 2013.

RAILROAD COMMISSION OF TEXAS



BARRY T. SMITHERMAN
CHAIRMAN

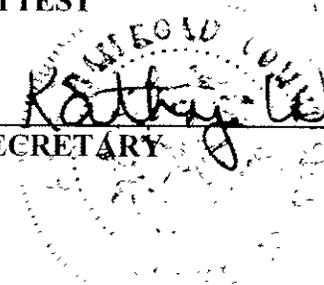


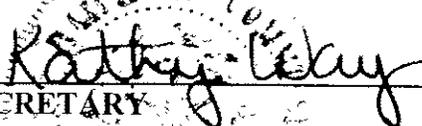
DAVID PORTER
COMMISSIONER



CHRISTI CRADDICK
COMMISSIONER

ATTEST




SECRETARY