

**RAILROAD COMMISSION OF TEXAS
GAS SERVICES DIVISION**

**GAS UTILITIES
INFORMATION BULLETIN**

No. 867



**RAILROAD COMMISSION
OF TEXAS**

**Victor G. Carrillo, Chairman
Elizabeth A. Jones, Commissioner
Michael L. Williams, Commissioner**

**William O. Geise
Director
Gas Services Division**

May 11, 2009

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Orders were issued in the following dockets:

GUD No. 9732: Atmos Energy Corp., Mid-Tex Division, Gas Cost Review in Compliance with 8664 and 9400 – *Order Denying Motions for Rehearing.*

GUD No. 9835: Rate Case Expenses From Docket No. 9810 – *Final Order.*

GUD No. 9839: Statement of Intent Filed by Texas Gas Service Company to Change the Rates Within the Environs of the North Texas Service Area – *Final Order.*

GUD No. 9855: Application of Atmos Pipeline-Texas for Year 2008 Test Year Annual Interim Rate Adjustment – *Interim Rate Adjustment Order.*

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SECTION 1
NEW APPEALS AND APPLICATIONS FILED

DOCKET NO. -- 9868
CAPTION -- Application of Monument Pipeline, LP for a Waiver of the Commission's Pipeline Safety Rules for 192.53(c), 192.121, 192.123 and 192.619(a).
DATE FILED -- April 27, 2009
FILED BY -- Joe Mills
EXAMINER --

DOCKET NO. -- 9869
CAPTION -- Petition for De Novo Review of the Denial of the Statement of Intent filed by Atmos Energy Corp., Mid-Tex Division by the City of Dallas.
DATE FILED -- April 23, 2009
FILED BY -- Ann Coffin
EXAMINER -- John Chakales

DOCKET NO. -- 9870
CAPTION -- Statement of Intent filed by Atmos Energy Corp., Mid-Tex Division to Increase Gas Utility Rates in the Unincorporated Areas Served by the Mid-tex Division.
DATE FILED -- April 23, 2009
FILED BY -- David J. Park
EXAMINER -- John Chakales

DOCKET NO. -- 9871
CAPTION -- Application of Texas Gas Service Company Test Year 2007 Reliability Infrastructure Program Rate Adjustment for Unincorporated Areas of the Rio Grande Valley Service Area.
DATE FILED -- May 1, 2009
FILED BY -- Dane McKaughan
EXAMINER -- Bill Geise

DOCKET NO. -- 9872
CAPTION -- Application for Cost of Service Adjustment filed by Centerpoint Energy Entex to Increase the Rates in the Unincorporated Areas of the Texas Coast Division.
DATE FILED -- May 1, 2009
FILED BY -- Dane McKaughan
EXAMINER -- Rose Ruiz

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DOCKET NO. -- 9873
CAPTION -- Application for Cost of Service Adjustment filed by Centerpoint Energy Entex to Increase the Rates in the City of Weston Lakes Area.
DATE FILED -- May 1, 2009
FILED BY -- Dane McKaughan
EXAMINER -- Rose Ruiz

DOCKET NO. -- 9874
CAPTION -- Application for Cost of Service Adjustment filed by Centerpoint Energy Entex to Increase the Rates in the Cities of Danbury, El Lago, Hitchcock, Jones Creek, and Richwood.
DATE FILED -- May 1, 2009
FILED BY -- Dane McKaughan
EXAMINER -- Rose Ruiz

DOCKET NO. -- 9875
CAPTION -- Appeal of CoServ Gas, Ltd. from Ratesetting Actions of the Municipalities of Highland Village, Little Elm, Plano and the Colony.
DATE FILED -- May 5, 2009
FILED BY -- John R. Hays, Jr.
EXAMINER -- Eugene Montes

DOCKET NO. -- 9876
CAPTION -- Application of Atmos Energy, West Texas Division for Test Year 2008 Annual Interim Rate Adjustment Program for the Unincorporated Areas of the Lubbock Rate Division.
DATE FILED -- May 8, 2009
FILED BY -- C.W. (Bill) Guy
EXAMINER -- Bill Geise

DOCKET NO. -- 9877
CAPTION -- Application of Atmos Energy, West Texas Division Test Year 2008 Annual Interim Rate Adjustment for the Environs Areas of the Cities in the West Texas Rate Division.
DATE FILED -- May 8, 2009
FILED BY -- C.W. (Bill) Guy
EXAMINER -- Bill Geise

SECTION 2
APPEALS AND APPLICATIONS SET FOR HEARING OR PREHEARING CONFERENCE

SECTION 3
STATUS OF PENDING CASES

None at this time.

SECTION 4
NOTICES OF DISMISSAL

None at this time.

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SECTION 5
ORDERS OF THE COMMISSION

RAILROAD COMMISSION OF TEXAS
ATMOS ENERGY CORP., MID-TEX DIVISION, § GAS UTILITIES DOCKET
GAS COST REVIEW IN COMPLIANCE WITH § NO. 9732
8664 AND 9400 §

ORDER DENYING MOTIONS FOR REHEARING

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 1994 & Supp. 2004). The Railroad Commission of Texas adopts the following findings of fact and conclusions of law and orders as follows:

The Railroad Commission of Texas approved a Final Order in this Docket on February 26, 2009. On March 23, 2009, the Atmos Cities Steering Committee ("ACSC") timely filed its Motion for Rehearing. On March 20, 2009, the City of Dallas ("Dallas") timely filed its Motion for Rehearing. On March 20, 2009, the State of Texas ("State") timely filed its Motion for Rehearing. On April 3, 2009, Atmos Energy Corp., Mid-Tex Division ("Atmos"), timely filed its Reply to Motions for Rehearing.

The Motions for Rehearing filed by ACSC, Dallas, and the State raise no new issues of fact or law that were not previously considered by the Railroad Commission of Texas when issuing its Final Order in this docket on February 26, 2009.

The Motions for Rehearing filed by ACSC, Dallas and the State were timely filed pursuant to TEX. GOV'T CODE ANN. § 2001.146 (Vernon 2008) and 16 TEX. ADMIN. CODE § 1.149 (1991). The Reply to Motions for Rehearing filed by Atmos was timely filed pursuant to TEX. GOV'T CODE ANN. § 2001.146 (Vernon 2008) and 16 TEX. ADMIN. CODE § 1.149 (1991).

IT IS THEREFORE ORDERED that the Motions for Rehearing filed by ACSC, Dallas, and the State are hereby **DENIED**. **IT IS FURTHER ORDERED** that all pending motions and requests for relief not previously granted or granted herein are hereby **DENIED**.

SIGNED this 28th day of April, 2009.

RAILROAD COMMISSION OF TEXAS

/s/ _____
CHAIRMAN VICTOR G. CARRILLO

/s/ _____
COMMISSIONER ELIZABETH A. JONES

/s/ _____
COMMISSIONER MICHAEL L. WILLIAMS

May 11, 2009

ATTEST:

Kim Williamson
SECRETARY

RAILROAD COMMISSION OF TEXAS

**SEVERED RATE CASE EXPENSES FROM
DOCKET NO. 9810**

GAS UTILITIES DOCKET NO. 9835

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 1994 & Supp. 2008). The Railroad Commission of Texas adopts the following findings of fact and conclusions of law and orders as follows:

FINDINGS OF FACT

1. Bluebonnet Natural Gas ("BNG") is a gas utility as that term is defined in the Texas Utility Code.
2. BNG owns and operates a gas distribution system that distributes gas in the following municipalities: Devers, Mt. Enterprise, and Nome, Texas and its surrounding environs. BNG also operates systems in the following counties: Hardin, Jefferson, Liberty, Nacodoches, Rusk and Tyler.
3. On July 16, 2008, BNG filed a *Statement of Intent* requesting that the Railroad Commission of Texas ("Commission") approve new rates for all customer classes within the areas served by BNG. BNG also filed *Statement of Intent* within the municipalities served by it.
4. The notice that was issued by BNG at the time the *Statement of Intent* was filed did not include a notice of the proposed surcharge related to rate case expenses and indicated that the proposed increase would not exceed \$219,991.
5. The proposed rate increase was approved and the final order was issued in the rate proceeding on November 28, 2008.
6. In order to allow BNG an opportunity to provide notice of the proposed surcharge to recover rate case expenses and review the reasonableness of the proposed rate case expenses, the Commission severed consideration of the proposed rate case expenses into a separate docket.
7. BNG requested recovery of rate case expenses in the amount of \$59,905.
8. BNG provided notice of the proposed increase due to the proposed rate case expense surcharge by U.S.

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- Mail on December 17, 2008. BNG's publication of notice meets the statutory and rule requirements of notice for the proposed change in rates to recover rate case expenses.
9. A protest was filed with the Commission regarding the proposed rate increase on January 13, 2009. No motions to intervene were filed in this case.
 10. A hearing was convened on March 3, 2009.
 11. Of the total rate case expenses requested by BNG, \$21,991 is attributable to the preparation of the cost of service model.
 12. BNG has not established that the amount of work done to prepare the cost of service model was reasonable.
 13. The data submitted in the initial *Statement of Intent* to support the proposed increase was based upon three months of data that was annualized to estimate expenses over a twelve-month period.
 14. After the case was filed, and in order to provide twelve months of data BNG submitted cost of service data for the six month period from June 2007 through December 2007, a period when Panther Natural Gas Company, Ltd. operated the gas utility system, and January 2008 through December 2008, a period when BNG operated the gas utility system.
 15. Revising the cost of service study resulted in an additional expenditure of \$9,672.50. The additional expenditure was required because the original cost of service model did not include a full 12 months of test-year data.
 16. It is reasonable to adjust the expense related to the preparation of cost of service model by \$9,672.50.
 17. Matters easily delegable to non-professional or less experienced consultants and associates should not be billed at the same rate as matters that require the technical and legal expertise of highly skilled and experienced consultants and attorneys.
 18. On several occasions BNG billed for copying and filing documents at the Commission by highly trained technical consultants at rates in excess of \$200 per hour.
 19. It is reasonable to remove \$371.25 of the proposed rate case expenses related to copying and filing documents by highly trained and technical consultants.
 20. BNG has not established that certain rates charged by a consultant employed by BNG were reasonable. The bills submitted by BNG reflect that the rate for one consultant varied from \$155 per hour to \$120 per hour.
 21. The nature of the assigned tasks to this consultant did not change during the proceeding in GUD No. 9810.
 22. Representatives of the consultants were aware of the different billing rates but declined to adjust the rate during the proceeding and concluded that a rate of \$120 per hour was reasonable.

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23. It is not reasonable to bill \$155.00 per hour for tasks that the consultant concluded are reasonably billed at \$120.00. Adjusting the hours billed at \$155.00 to \$120.00 is reasonable and results in an adjustment of \$333.00
24. BNG made certain adjustments to the documentation submitted in support of its rate case expense request to remove billing for expenses unrelated to GUD No. 9810.
25. Those expenses were related to the day-to-day management of the utility, such as filing tariffs at the Commission and were expressly considered in the setting of BNG's rates in GUD No. 9810. Therefore, a separate surcharge for the recovery of those expenses is not required.
26. BNG's removal of those expenses is evidence of the reasonableness of excluding that category of expense.
27. BNG, however, did not remove all expenses related to those tasks and the billing records submitted in support of the rate case expense request reflect that BNG seeks recovery for expenses related to the filing of tariffs.
28. Specifically, an entry made on May 16, 2008, and one on May 29, 2008, reference the work related to the same category of expense that was previously removed by BNG. No adjustment was made by BNG to those billing entries. It is reasonable to adjust the expense associated with those entries by 0.75 hours and reduce the expenses requested by \$183.75.
29. The consultants raised billing rates in January of 2009. The proceeding was not concluded in 2008, to allow BNG an opportunity to properly notice the proposed rate case expense surcharge. As a result, any increase in billing rates would provide a benefit to BNG for its failure to properly notice the proposed surcharge. An adjustment of \$22.50 is reasonable to ensure that BNG does not recover expenses at the elevated rate.
30. Once the adjustments noted in Findings of Fact No. 11 through 29 above are made the total rate case expense of \$46,077.50 and estimated rate case expenses of \$3,245 is reasonable.
31. As adjusted in Findings of Fact No. 11 through 29, the amount of work done was reasonable to prepare the cost of service study.
32. Except for the rates identified in Finding of Fact No. 20 through 23, BNG established that the rates the consultants charged was the same or similar in nature to the rates charged by other consultants.
33. BNG established that the proposed rate increase set out in the *Statement of Intent* was reasonable.
34. BNG substantially simplified the existing rate structure
35. Based on the billing records and the staffing of the case there did not appear to be any unnecessary duplication of effort.
36. BNG has not established that the proposed recovery mechanism is reasonable.

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37. BNG proposed a surcharge of \$0.10809 per Ccf or \$1.0809 per Mcf. Recovery at the proposed rate could pose a burden on the customer at a high rate per unit. A customer who consumes 6 Mcf per month would be charged \$6.49 as a rate case expense surcharge.
38. A recovery of rate case expenses over an approximate two-year period at a rate of \$0.408 per Mcf is reasonable.
39. It is reasonable that BNG file a report detailing recovery with the Railroad Commission 45 days after the end of June and December identifying the beginning balance for the period, the recovery by month with monthly volumes the interest calculation and the ending balance. It is reasonable that the report include a reconciliation of the estimated rate case expense approved by providing invoices submitted to the total authorized recovery of the estimated rate case expense.

CONCLUSIONS OF LAW

1. Bluebonnet Natural Gas (ABNG@) is a "Gas Utility" as defined in TEX. UTIL. CODE ANN. §101.003(7) (Vernon 1998 & Supp. 2005) and § 121.001(Vernon 1998 & Supp. 2005) and is therefore subject to the jurisdiction of the Railroad Commission ("Commission") of Texas.
2. The Commission has jurisdiction over BNG=s Statement of Intent under TEX. UTIL. CODE ANN. §§ 102.001, 104.001, 104.001, and ' 104.201(Vernon 1998 & Supp. 2008).
3. Under TEX. UTIL. CODE ANN. § 102.001 (Vernon 1998 & Supp. 2008), 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. A "test year" is defined as the most recent 12 months, beginning on the first day of a calendar or fiscal year quarter, for which operating data for a gas utility are available, TEX. GOV'T CODE ANN. §§ 101.003(16).
5. This Statement of Intent was processed in accordance with the requirements of the Gas Utility Regulatory Act ("GURA"), and the Administrative Procedure Act, TEX. GOV'T CODE ANN. §§ 2001.001-2001.902 (Vernon 2000 & Supp. 2008) ("APA").
6. In accordance with the stated purpose of the Texas Utilities Code, Subtitle A, expressed under TEX. UTIL. CODE ANN. §101.002 (Vernon 1998 & Supp. 2008), the Commission has assured that the rates, operations, and services established in this docket are just and reasonable to customers and to the utilities.
7. TEX. UTIL. CODE ANN. §104.107 (Vernon 1998 & Supp. 2008) provides the Commission authority to suspend the operation of the schedule of proposed rates for 150 days from the date the schedule would otherwise go into effect.
8. In accordance with TEX. UTIL. CODE ' 104.103 (Vernon 1998 and Supp. 2008), 16 TEX. ADMIN. CODE ANN. § 7.230 (2002), and 16 TEX. ADMIN. CODE ANN. § 7.235 (2008), adequate notice was properly

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provided.

9. In accordance with the provisions of TEX. UTIL. CODE ANN. ' 104.102 (Vernon 1998 & Supp. 2008), 16 TEX. ADMIN. CODE ANN. § 7.205 (2002), and 16 TEX. ADMIN. CODE §7.210 (2008), BNG filed its Statement of Intent to change rates.
10. Each party seeking reimbursement for its rate case expenses has the burden to prove the reasonableness of such rate case expenses by a preponderance of the evidence, under 16 Tex. Admin. Code § 7.5530 (2008).
11. BNG has not met its burden of proof in accordance with the provisions of TEX. UTIL. CODE ANN. § 104.008 (Vernon 1998 and Supp. 2008) that the proposed rate changes are just and reasonable.
12. The rate case expense set out in Finding of Fact No. 30 is reasonable and BNG is entitled to recover those rate case expenses through a surcharge on its rates under TEX. UTIL. CODE ANN. § 104.051 (Vernon 1998 & Supp. 2008).
13. The rate case expenses enumerated in Finding of Fact 30 are reasonable and comply with the requirements of 16 Tex. Admin. Code Ann. § 7.5530.
14. BNG is required by 16 TEX. ADMIN. CODE § 7.315 (2008) to file electronic tariffs incorporating rates consistent with this Order within thirty days of the date of this Order.

IT IS THEREFORE ORDERED that Bluebonnet Natural Gas is authorized to recover \$46,077.50 in actual rate case expenses and that Bluebonnet Natural Gas is authorized to recover up to \$3,245 in estimated future rate case expenses provided that Bluebonnet Natural Gas submit evidence of actual incurrence and the reasonableness and necessity of future expenses to the Gas Services Division of the Commission.

IT IS FURTHER ORDERED that a surcharge on rates shall be calculated on a per Mcf basis on all customer classes and implemented over a period of approximately twenty-four (24) months, commencing on the date this final order becomes effective.

IT IS FURTHER ORDERED that a recovery of rate case expenses over an approximate two-year period at a rate of \$0.408 per Mcf is reasonable.

IT IS FURTHER ORDERED that BNG=s rates 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 gas consumed and for services delivered on and after the date of this Order.

IT IS FURTHER ORDERED THAT BNG may begin surcharging rates for gas delivered and for services delivered on and after the date of this Order. 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

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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 28th day of April, 2009.

RAILROAD COMMISSION OF TEXAS

/s/

CHAIRMAN VICTOR G. CARRILLO

/s/

COMMISSIONER ELIZABETH A. JONES

/s/

COMMISSIONER MICHAEL L. WILLIAMS

ATTEST:

Kim Williamson
SECRETARY

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8. On March 5, 2009, Staff of the Railroad Commission of Texas (AStaff@) intervened as a party to this proceeding.
 9. On April 8, 2009, the Examiners severed rate case expense issues out of GUD No. 9839 and into a separate docket, Gas Utilities Docket No. 9867: Rate Case Expenses Severed From Gas Utilities Docket No. 9839.
 10. TGS= filing with the Commission seeks to implement the same rates as those currently in effect in the NTSA municipalities. The proposed rates are comprised of two components: settled rates based on the statement of intent filed with the NTSA municipalities, and a Cost of Service Adjustment Clause (ACOSA@) charge which was approved by the NTSA municipalities.
 11. TGS filed a statement of intent with the NTSA municipalities on July 10, 2007, which resulted in a settlement agreement approving a \$598,000 revenue increase for the NTSA. The environs share of the \$598,000 revenue increase is approximately \$60,601 in base revenue.
 12. TGS filed a COSA adjustment with the NTSA municipalities on April 1, 2008, which resulted in an approval of a \$144,002 revenue increase for the NTSA. The environs share of the \$144,002 revenue increase is approximately \$13,175 in base revenue.
 13. The data submitted by TGS in this docket encompasses full test-years. The data submitted by TGS in this docket that forms the basis of the statement of intent filed with the NTSA municipalities encompasses the test-year ending March 31, 2007. The data submitted by TGS in this docket that forms the basis of the COSA charge filed with the NTSA municipalities encompasses the test-year ending December 31, 2007.
 14. TGS proposed rates for the following seven classes of customers: residential, commercial, large volume commercial, industrial, large volume industrial, public authority, and large volume public authority.
 15. TGS provides gas service to approximately 17,321 customers within the entire NTSA. TGS provides gas service to approximately 1,978 customers within the environs of the NTSA. Approximately 1,761 residential, 187 commercial, 1 large volume industrial, and 29 public authority customers will be affected by TGS's proposed rate changes for the environs of the NTSA.
 16. In its statement of intent filed with the Commission TGS seeks an increase to base revenues attributable to NTSA environs customers of \$73,776. TGS also seeks approval of its proposed Weather Normalization Adjustment Clause, Cost of Gas Clause, and Cost of Service Adjustment Clause. TGS seeks to withdraw all tariffs listed on Schedule 1, attached hereto.

Notice

17. TGS mailed notice of the proposed rate changes by United States mail, postage prepaid, to the billing address of each affected customer. Lori Moreno, Manager of Communications for ONEOK, Inc., filed an affidavit stating that notice was mailed to all environs customers directly or by bill insert on April 2, 2009.
18. The notice mailed by TGS contained information pertaining to the proposed revision of rates and schedules; details of proposed changes; the expected revenue effect on the company; the classes and numbers of

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customers affected; the filing date; a statement the proposed rates do not constitute a "major change;" that the proposed rates are sought to be at the same level as the city rates; where to obtain information concerning the proposed rate change; and a statement that any affected person may file in writing comments or a protest concerning the proposed change in the environs rates with the Docket Services Section of the Office of General Counsel, Railroad Commission of Texas.

19. TGS's mailing of notice meets the statutory and rule requirements of notice and provides sufficient information to rate payers about the statement of intent and satisfies the requirements imposed under TEX. UTIL. CODE ANN. ' 104.103(b)(2) (Vernon 2007 & Supp. 2008) and 16 TEX. ADMIN. CODE ANN. ' 7.230 (2002), and 16 TEX. ADMIN. CODE ANN. ' 7.235 (2002).

20. On March 9, 2009, the Examiners mailed by United States mail, postage prepaid, a Notice of Hearing to all affected parties giving notice of the final hearing to be conducted in Austin, Texas, at the offices of the Railroad Commission of Texas on April 7, 2009.

21. On March 16, 2009, the Examiners mailed by United States mail, postage prepaid, a Notice of Hearing to the County Judges of Young, Jack, Stephens, Palo Pinto, and Parker Counties, giving notice of the final hearing to be conducted in Austin, Texas, at the offices of the Railroad Commission of Texas on April 7, 2009.

22. No protests were filed with the Commission regarding the proposed new rate schedules for the NTSA; no customers or municipality filed a petition to intervene or otherwise participated in this proceeding. The only party to intervene in this proceeding was the Staff of the Railroad Commission of Texas.

Final Hearing

23. A final hearing was conducted in Austin on April 7, 2009, to take testimony, other evidence, and legal argument on all issues of law and fact that were raised in or relevant to TGS's statement of intent, for the purpose of developing a record that the Commission will use in setting rates.

24. At the April 7, 2009, final hearing, TGS and Staff filed their Joint Motion for Entry of Order Adopting Settlement Agreement, requesting that the Commission approve the terms of the proposed Settlement Agreement (AAgreement@). The Agreement is attached hereto as Exhibit 1.

25. The Hearings Examiners recessed the final hearing in order to present the Agreement to the Commission.

Settlement Agreement

26. The Agreement establishes a base revenue increase attributable to the NTSA environs of \$73,776 as requested by TGS in its statement of intent filed with the Commission. The \$73,776 increase in revenue is comprised of \$60,601 representing the environs= share of the settlement agreement resolving the July, 2007 statement of intent, and \$13,175 representing the environs= share of the 2007 COSA adjustment, both of which were approved by the NTSA municipalities.

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27. The cost of service data submitted by TGS in this proceeding establishes that a \$73,776 base revenue increase from NTSA environs customers will allow TGS to recover its reasonable and necessary expenses associated with providing gas service to NTSA environs customers and allow TGS the opportunity to recover a reasonable rate of return on capital investment used to provide gas service.

28. The cost of service data submitted by TGS in this proceeding establishes that an overall rate of return of 8.5840 percent for invested capital is reasonable under current financial conditions.

29. The 8.5840 percent rate of return is comprised of the following cost of capital components:

DESCRIPTION	RATIO	COST RATE %	COMPOSITE RATE %
Long-Term Debt	0.4900	6.220%	3.0500%
Preferred Stock	0.0000	0.000%	0.0000%
Common Equity	0.5100	10.850%	5.5340%
Total	1.0000		8.5840%

30. The Agreement specifies that the overall rate of return of 8.540 percent and the component return on equity of 10.850 percent are the product of agreement with the NTSA cities and are therefore appropriate for application to the NTSA environs. The Agreement further specifies that the ROE should have no precedential effect on future determinations by the Commission of appropriate values for these two components. It is reasonable for the Commission to approve a 10.850 percent return on equity, limited to this proceeding, because this amount does not allow TGS to receive an unreasonably high rate of return on invested capital used and useful in providing gas service to customers within the NTSA environs.

31. Weather has an impact on the sale of gas to TGS=s customers and therefore affects revenues. It is reasonable to account for deviations from normal weather patterns by performing weather normalization adjustments pursuant to a Weather Normalization Adjustment Clause (AWNAC@). As a result of the Agreement, TGS and Staff propose Commission adoption of the WNAC, attached hereto in Exhibit 1.

32. The WNAC will allow TGS to account for deviations from normal weather patterns by refunding over-collections or surcharging under-collections of allowable revenue due to weather that deviates from normal, and is therefore reasonable.

33. TGS requested approval of a Cost of Service Adjustment tariff (ACOSA@) in its statement of intent filed with the Commission. As a result of the Agreement, Staff and TGS propose adoption of the COSA, attached hereto in Exhibit 1.

34. The COSA provides for an annual review and adjustment to the rates charged by TGS for gas service to customers within the NTSA. The COSA will allow for incremental adjustments to the rates TGS charges based on TGS= revenues and expenses. The COSA provides for Commission review of any proposed changes to rates for

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gas service. The COSA as proposed will not allow TGS to over-recover or under-recover expenses or return on invested capital and is therefore reasonable.

35. The COSA allows for a 90-day regulatory review by the appropriate regulatory authority and therefore does not result in an automatic adjustment to rates.

36. The COSA requires regulatory oversight by the appropriate regulatory authority and does not allow for the implementation of a rate increase or decrease without prior consent of the appropriate regulatory authority.

37. TGS requested approval of a Cost of Gas Clause (ACOGC@) in its statement of intent filed with the Commission. As a result of the Agreement, Staff and TGS propose adoption of the COGC, attached hereto in Exhibit 1.

38. The COGC provides for the recovery of gas costs from ratepayers. The COGC provides for the recovery of financial hedging costs associated with reducing the volatility of gas costs. The COGC provides for the recovery of uncollectible expenses associated with gas purchases. The COGC as proposed by the Agreement is reasonable.

39. As set forth in the Agreement entered between Staff and TGS, establishing rates for seven customer classes is reasonable. The seven customer classes which TGS will provide gas service to in the NTSA and its environs are the following: residential, commercial, large volume commercial, industrial, large volume industrial, public authority, and large volume public authority.

40. Residential service rates, as shown on the attached Rate Schedule 1A, consisting of a monthly customer charge of \$10.75 and a single volumetric charge of \$0.20270 per Ccf on all gas volumes, are reasonable.

41. Commercial service rates, as shown on the attached Rate Schedule 2A, consisting of a monthly customer charge of \$22.50 and a single volumetric charge of \$0.19380 per Ccf on all gas volumes, are reasonable.

42. Large volume commercial service rates, as shown on the attached Rate Schedule 2B, consisting of a monthly customer charge of \$400.00 and a single volumetric charge of \$0.17380 per Ccf on all gas volumes, are reasonable.

43. Industrial service rates, as shown on the attached Rate Schedule 3A, consisting of a monthly customer charge of \$50.00 and a single volumetric charge of \$0.15680 per Ccf on all gas volumes, are reasonable.

44. Large volume industrial service rates, as shown on the attached Rate Schedule 3B, consisting of a monthly customer charge of \$400.00 and a single volumetric charge of \$0.13680 per Ccf on all gas volumes, are reasonable.

45. Public authority service rates, as shown on the attached Rate Schedule 4A, consisting of a monthly customer charge of \$40.00 and a single volumetric charge of \$0.18670 per Ccf on all gas volumes, are reasonable.

46. Large volume public authority service rates, as shown on the attached Rate Schedule 4B, consisting of a monthly customer charge of \$400.00 and a single volumetric charge of \$0.16670 per Ccf on all gas volumes, are reasonable.

CONCLUSIONS OF LAW

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1. Texas Gas Service Company (ATGS@) is a "Gas Utility" as defined in TEX. UTIL. CODE ANN. ' 101.003(7) (Vernon 2007 & Supp. 2008) and ' 121.001 (Vernon 2007 & Supp. 2008) and is therefore subject to the jurisdiction of the Railroad Commission (ACommission@) of Texas.
2. The Commission has jurisdiction over TGS and TGS= statement of intent under TEX. UTIL. CODE ANN. ' ' 102.001, 104.001 and 104.201 (Vernon 2007 & Supp. 2008).
3. Under TEX. UTIL. CODE ANN. ' 102.001 (Vernon 2007 & Supp. 2008), 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. This Statement of Intent was processed in accordance with the requirements of the Gas Utility Regulatory Act (GURA), and the Administrative Procedure Act, TEX. GOV'T CODE ANN. ' ' 2001.001-2001.902 (Vernon 2000 and Supp. 2004) (APA).
5. In accordance with the stated purpose of the Texas Utilities Code, Subtitle A, expressed under TEX. UTIL. CODE ANN. ' 101.002 (Vernon 2007 & Supp. 2008), the Commission has assured that the rates, operations, and services established in this docket are just and reasonable to customers and to the utilities.
6. TEX. UTIL. CODE ANN. ' 104.107 (Vernon 2007 & Supp. 2008) provides the Commission's authority to suspend the operation of the schedule of proposed rates for 150 days from the date the schedule would otherwise go into effect.
7. The proposed rates do not constitute a major change as defined by TEX. UTIL. CODE ANN. ' 104.101 (Vernon 2007 & Supp. 2008).
8. In accordance with TEX. UTIL. CODE ' 104.103 (Vernon 2007 & Supp. 2008), 16 TEX. ADMIN. CODE ANN. ' 7.230 (2002), and 16 TEX. ADMIN. CODE ANN. ' 7.235 (2002), adequate notice was properly provided.
9. In accordance with the provisions of TEX. UTIL. CODE ANN. ' 104.102 (Vernon 2007 & Supp. 2008), 16 TEX. ADMIN. CODE ANN. ' 7.205 (2002), and 16 TEX. ADMIN. CODE ' 7.210 (2002), TGS filed its Statement of Intent to change rates.
10. TGS met the required burden of proof in accordance with the provisions of TEX. UTIL. CODE ANN. ' 104.008 (Vernon 2007 & Supp. 2008) on the elements of its requested rate increase identified in this order, and as set forth in the Agreement, schedules and tariffs attached hereto.
11. The rates and tariffs proposed by TGS and Staff, as set forth in the Agreement attached hereto, are in accordance with TEX. UTIL. CODE ANN. ' 104.006 (Vernon 2007 & Supp. 2008) because the rates established for customers of each environs area do not exceed 115 percent of the average of all rates for similar services for all municipalities served by TGS in the same county.
12. The rates and tariffs proposed by TGS and Staff, as set forth in the Agreement attached hereto, are found to be just and reasonable, not unreasonably preferential, prejudicial, or discriminatory, and are sufficient, equitable, and consistent in application to each class of consumer, as required by TEX. UTIL. CODE ANN. ' 104.003 (Vernon 2007 & Supp. 2008).
13. The overall revenues as established by the findings of fact and attached Agreement, schedules and tariffs are reasonable; fix an overall level of revenues for TGS that will permit the company a reasonable opportunity to earn a reasonable return on its invested capital used and useful in providing service to the public over and above its reasonable and necessary operating expenses, as required by TEX. UTIL. CODE ANN. ' 104.051 (Vernon 2007 & Supp. 2008); and

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otherwise comply with Chapter 104 of the Texas Utilities Code.

14. The rates and tariffs proposed by TGS and Staff, as set forth in the Agreement attached hereto, will not yield to TGS more than a fair return on the adjusted value of the invested capital used and useful in rendering service to the public, as required by TEX. UTIL. CODE ANN. ' 104.052 (Vernon 2007 & Supp. 2008).

15. It is reasonable for the Commission to allow TGS to include a Cost of Gas Clause in its rates to provide for the recovery of all of its gas costs, in accordance with 16 TEX. ADMIN. CODE ' 7.5519 (2002).

16. All expenses for lost and unaccounted for gas in excess of 5.0 percent shall be disallowed, consistent with TEX. ADMIN. CODE ' 7.5519 (2002).

17. TGS is required by 16 TEX. ADMIN. CODE ' 7.315 (2002) to file electronic tariffs incorporating rates consistent with this Order within thirty days of the date of this Order.

18. Rate case expenses for GUD No. 9839 will be considered by the Commission in accordance with TEX. UTIL. CODE ANN. ' 104.008 (Vernon 2007 & Supp. 2008), and 16 TEX. ADMIN. CODE ' 7.5530 (2002), in a separate proceeding.

19. It is reasonable for the Commission to allow TGS to recover uncollectible amounts for gas cost through its Cost of Gas Clause, in accordance with 16 TEX. ADMIN. CODE ' 7.5519 (2002).

20. TGS's mailing of notice meets the statutory and rule requirements of notice and provides sufficient information to rate payers about the statement of intent and satisfies the requirements imposed under TEX. UTIL. CODE ANN. ' 104.103(b)(2) (Vernon 2007 & Supp. 2008) and 16 TEX. ADMIN. CODE ANN. ' 7.230 (2002), and 16 TEX. ADMIN. CODE ANN. ' 7.235 (2002).

21. The COSA does not provide for an automatic adjustment to rates. It is reasonable for the Commission to approve the COSA proposed in TGS and Staff's Agreement because the COSA does not allow for the implementation of a rate increase or decrease without prior consent of the appropriate regulatory authority and is therefore allowable under 16 TEX. ADMIN. CODE ANN. ' 7.115(p) and ' 7.220(c) (2002).

IT IS THEREFORE ORDERED that the rates and tariffs proposed by Texas Gas Service Company and the Staff of the Railroad Commission of Texas are hereby **APPROVED**.

IT IS FURTHER ORDERED that the rates and tariffs established in the findings of fact, conclusions of law and as shown in the attached Schedules are **APPROVED**.

IT IS FURTHER ORDERED that, in accordance with 16 TEX. ADMIN. CODE ' 7.315, within 30 days of the date this Order is signed, TGS shall file tariffs with the Gas Services Division. The tariffs shall incorporate the rates and tariffs established in the findings of fact, conclusions of law and as shown in the attached Schedules.

IT IS FURTHER ORDERED that all proposed findings of fact and conclusions of law not specifically adopted in this Order are hereby **DENIED**. **IT IS ALSO ORDERED** that all pending motions and requests for relief not previously granted or granted herein are hereby **DENIED**.

IT IS FURTHER ORDERED THAT within 30 days of this order TGS **SHALL** electronically file tariffs and rates schedules in proper form that accurately reflect the rates approved by the Commission in this Order.

This Order will not be final and effective until 20 days after a party is notified of the Commission's order. A party is

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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 28th day of April, 2009.

RAILROAD COMMISSION OF TEXAS

/s/ _____
CHAIRMAN VICTOR G. CARRILLO

/s/ _____
COMMISSIONER ELIZABETH A. JONES

/s/ _____
COMMISSIONER MICHAEL L. WILLIAMS

ATTEST:

Kim Williamson
SECRETARY

**BEFORE THE
RAILROAD COMMISSION OF TEXAS**

<p>APPLICATION OF ATMOS PIPELINE-TEXAS FOR YEAR 2008 TEST YEAR ANNUAL INTERIM RATE ADJUSTMENT</p>	<p>§ § § § § §</p>	<p>GAS UTILITIES DOCKET NO. 9855</p>
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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 ANN. Chapter 551 (Vernon 2008). 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 Pipeline-Texas (APT), a division of Atmos, owns and operates a gas pipeline transportation system.
3. On February 13, 2009, APT filed an application for an annual interim rate adjustment (IRA) applicable to customers located on APT’s system.
4. APT requested that the IRA for all customer classes become effective on April 14, 2009.
5. On February 25, 2009, the Commission suspended implementation of APT’s proposed IRA until May 29, 2009, which is 45 days following the 60th day after the application.

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6. On March 18, 2009, the Atmos Cities Steering Committee filed a *Plea in Intervention, Request for Hearing, and Request for Reimbursement of Rate Case Expense* with the Commission in the cause of the Company's application for an IRA. The Commission filed a response on March 18, 2009, citing the IRA statute and rule and taking no action on the plea.
7. Neither TEXAS UTILITIES CODE, §104.301 (Vernon Supp 2007) nor 16 TEX. ADMIN. CODE, §7.7101 (2008) provide the opportunity for parties to intervene in the Commission's review of an application for an annual IRA.
8. 16 TEX. ADMIN. CODE, §7.7101 (2008) allows written comments or a protest concerning the proposed IRA to be filed with the Gas Services Division.
9. The Commission received a letter opposing the application for the increase from one commercial customer on March 19, 2009.
10. A letter was sent to the customer opposing the increase acknowledging their opposition with an explanation of their right to intervene in the next rate case.
11. Atmos was instructed to respond to the commercial customers opposing the increase.
12. Atmos contacted the customer as instructed by the Commission.
13. This docket represents the sixth annual IRA for APT.
14. Until promulgation of TEXAS UTILITIES CODE, §104.301 (Vernon 2007), a utility could not increase its rates subject to the Commission's jurisdiction without filing with the Commission a formal statement of intent rate case, including a comprehensive cost of service rate review.
15. The proposed IRA will allow APT an opportunity to recover, subject to refund, a return on investment, depreciation expense, and related taxes on the incremental cost of infrastructure investment since its last rate case, without the necessity of filing a statement of intent rate case and without review by the Commission of APT's comprehensive cost of service.

Applicability

16. This docket applies to only those rates over which the Commission has original jurisdiction, which includes the entire APT system.
17. As of year-end 2008, APT's customers totaled approximately 703 City Gate meters and 170 Pipeline Transportation rate meters.

Most Recent Comprehensive Rate Case

18. APT's most recent rate case for the area in which the IRA will be implemented is GUD No. 9400, *Statement of Intent Filed by TXU Gas Company to Change Rates in the Company's Statewide Gas Utility System*.
19. GUD No. 9400 was filed on May 23, 2003.
20. The data used in GUD No. 9400 was based on a test-year ending December 31, 2002.
21. The Commission signed the GUD No. 9400 final Order on May 25, 2004, and the rates became effective the same day.

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22. The Commission in GUD No. 9400 set the rates charged by APT that have been adjusted by prior orders authorizing IRA adjustments.
23. The following chart shows the factors that were established in GUD No. 9400 to calculate the return on investment, depreciation expense, and incremental federal income taxes for APT:

Rate of Return	8.258%
Depreciation Rate	2.097%
Federal Income Tax Rate	35%

Interim Rate Adjustment

24. APT 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 the proposed annual IRA for APT are incremental to the revenue requirement established in the most recent rate case for APT for the area in which the IRA is to be implemented, GUD No. 9400, as adjusted for prior orders authorizing IRA adjustments.
26. The Company calculated and presented all incremental values for investment, accumulated depreciation, return on investment, depreciation expense, ad valorem taxes, and incremental federal income taxes on a full calendar-year basis. Revenue related taxes are not included in APT's calculation of the IRA. An existing rate schedule that was established by the final Order in GUD No. 9400 (Rider TAX) is applied to all revenues, including revenues that result from an IRA.
27. For the first IRA following a rate case, the amounts by which APT may adjust its rates are based on the difference between APT's invested capital at the end of the most recent rate case test-year (December 31, 2002) and the invested capital at the end of the calendar-year following the end of the most recent rate case test-year (December 31, 2003).
28. This docket is the sixth annual IRA for APT. Therefore, to request its IRA in this docket, APT submitted data for the calendar year ending December 31, 2008.
29. The value of APT's 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 APT's IRA.
30. APT 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 for APT in the most recent rate case for the area in which the IRA is to be implemented.
31. APT filed the Commission's Annual Earnings Monitoring Report (EMR) as required by 16 TEXAS ADMINISTRATIVE CODE §7.7101 (2004). The Company's rate of return is 8.409%, which is less than 0.75% in excess of the 8.258% allowed rate of return established in GUD No. 9400.
32. Atmos filed its Annual Project Report for APT as required by 16 TEXAS ADMINISTRATIVE CODE §7.7101 (2008).
- Net APT capital additions included in this docket total \$50,486,821.
 - Gross APT capital project additions totaled \$69,313,171.
 - Safety-related improvements/infrastructure projects totaled \$42,315,476, or 61% of total additions¹.
 - Integrity testing projects totaled \$15,015,739, or 22% of total additions².

1. Response to Staff's RFI #1-8.

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33. The Company is required to allocate the revenue to be collected through the IRA for APT 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 IRA is to be implemented.
34. Atmos proposed the IRA for APT 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.
35. APT is required to show its annual IRA on its customers' monthly billing statements as a surcharge.
36. The proposed IRA does not require an evidentiary proceeding; rather, TEXAS UTILITIES CODE, §104.301 (Vernon 2007) and 16 TEX. ADMIN. CODE, §7.7101 (2008) require the regulatory authority to review a utility's method of calculating the IRA.
37. Due process protections are deferred until APT files its next full statement of intent rate case.

Notice

38. The Company provided adequate notice to APT's City Gate (CGS) customers on February 26, 2009.
39. The Company provided adequate notice to APT's Pipeline Transportation (PT) customers on February 26, 2009.

Comprehensive Rate Case Required

40. The Company is not required to initiate a rate case supporting a statement of intent, at the time it applies for an IRA for APT.
41. Under 16 TEX. ADMIN. CODE, §7.7101 (1) (2008) a gas utility that implements an IRA and does not file a rate case before the fifth anniversary of the date its initial IRA became effective is required to file a rate case not later than the 180th day after that anniversary. APT is required to file a statement of intent rate case not later than September 17, 2010.

Review of Interim Rate Adjustment

42. APT presented its IRA calculation using the factors for GUD No. 9400 for rate of return, depreciation, and federal income tax, but using a property-related taxes (Ad Valorem) percentage of 1.655% based on the estimated 2008 taxes paid by the Company.³
43. APT's proposed IRA is \$7,549,500 based on an incremental net utility plant investment increase of \$50,486,821 using the property-related taxes (Ad Valorem) percentage of 1.655% based on the estimated 2008 taxes paid by the Company.
44. APT's proposed allocation methodology complies with TEXAS UTILITIES CODE, §104.301 (Vernon 2007), and with 16 TEX. ADMIN. CODE, §7.7101 (2008).

2. Response to Staff's RFI #1-10.

1. 16 TEX. ADMIN. CODE §7.7101(f)(5) only refers to the return on investment, depreciation expense, and incremental federal income tax factors from the most recent rate case to calculate the IRA. The Ad Valorem taxes are not specifically designated as a factor that must remain constant.

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45. For allocation methodology, it is reasonable for the Commission to approve use of APT's overall cost of service (less other revenue, gas cost, and revenue related taxes) as determined in GUD 9560. The following overall cost of service allocation factors for use in the calculation of APT's IRA are reasonable:

Customer Class	Allocation Factor
Rate CGS (City Gate Service)	0.731657
Rate PT (Pipeline Transportation)	0.268343

46. APT's proposed customer and meter counts comply with TEXAS UTILITIES CODE, §104.301 (Vernon 2007), and with 16 TEX. ADMIN. CODE, §7.7101 (2008).
47. For calculating the number of customer charges or meter charges per year, it is reasonable for the Commission to approve use of APT's 2008 year-end number of customers multiplied by twelve. The following total numbers of customer and meter charges for use in the calculation of the IRA are reasonable:

Customer Class	Total Number of Customer Charges / Meters
Rate CGS (City Gate Service)	8,436
Rate PT (Pipeline Transportation)	2,040

48. APT has voluntarily limited the increase to the City of Rising Star and West Texas Gas to 10% of the prior year total meter charge.
49. The City of Rising Star represents one meter and twelve meter charges of the 8,436 meter charges in the table above.
50. West Texas Gas represents one meter and twelve meter charges of the 8,436 meter charges in the table above.
51. APT does not reallocate the revenue not collected by the 10% limitation on the increase to the City of Rising Star and West Texas Gas; therefore, there is no change to the allocation methodology established in GUD 9400.
52. The resulting interim rate adjustment for Rate CGS (City Gate Service) and Rate PT (Pipeline Transportation) is shown in Exhibit A and as follows:

Rate Schedule	2007 Meter Charge	2008 IRA	2008 Proposed Meter Charge
Rate CGS (Entire System excluding City of Rising Star and WTG, CoServe Gas)	\$ 2,400.23	\$ 654.77	\$ 3,055.00
Rate CGS (City of Rising Star and WTG)	\$ 2,004.70	\$ 200.43	\$ 2,204.70
Rate CGS (CoServe Gas) ⁴	\$ 2,400.23	\$ 654.77	\$ 3,055.00
Rate PT	\$ 3,216.08	\$ 993.07	\$ 4,209.15

4. The City Gate Service Rate for CoServ Gas includes a provision for gas delivered through the Atmos Mid-Tex System for those meters connected to the Atmos Mid-Tex System. The rate is a portion of the full IRA-adjusted meter charge based on a pro-rata share of peak day volumes.

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Reimbursements of Expense

53. As provided for in the statute and the rule, a gas utility that implements an IRA is required to reimburse the Commission for the utility's proportionate share of the Commission's annual costs related to the administration of the IRA mechanism.
54. After the Commission has finally acted on Atmos' application for an IRA for APT, 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.
55. In making the estimate of APT's 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 IRAs during the fiscal year, and the costs expected to be incurred in processing such applications.
56. The Company is required to reimburse the Commission for the amount determined by the Director of the Gas Services Division, 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 ANN. §101.003(7) (Vernon 2007 and Supp 2008) and §121.001 (Vernon 2007), and is therefore subject to the jurisdiction of the Railroad Commission of Texas (Commission).
2. The Commission has jurisdiction over Atmos, Atmos' applications for IRAs for APT for incremental changes in investment, and the subject matter of this case under TEX. UTIL. CODE ANN. §102.001, §104.001, §104.002, and §104.301 (Vernon 2007).
3. Under TEX. UTIL. CODE ANN. §102.001 (Vernon 2007), 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 TEXAS UTILITIES CODE ANN. §104.301 (2007) and 16 TEX. ADMIN. CODE § 7.7101 (2008), Atmos is required to seek Commission approval before implementing an IRA tariff for APT's customers.
5. Atmos filed its application for an IRA for APT for changes in investment in accordance with the provisions of TEX. UTIL. CODE ANN. §104.301 (Vernon 2007) and 16 TEX. ADMIN. CODE §7.7101 (2008).
6. Atmos' application for an IRA for APT was processed in accordance with the requirements of TEX. UTIL. CODE ANN. §104.301 (Vernon 2007) and 16 TEX. ADMIN. CODE §7.7101 (2004).
7. In accordance with 16 TEX. ADMIN. CODE §7.315 (2008), within thirty days of the effective date of any change to rates or services, the Company is required to file with the Gas Services Division of the Commission its revised tariffs for APT.
8. The Company may not charge any rate for APT that has not been successfully filed and accepted as a tariff filing electronically pursuant to TEX. UTIL. CODE ANN. §102.151 and 104.002 (Vernon 2007) and 16 TEX. ADMIN. CODE §7.315 (2008).

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9. In accordance with TEX. UTIL. CODE ANN. §104.301(a) (Vernon 2007) and 16 TEX. ADMIN. CODE §7.7101(a) (2008), the filing date of Atmos' most recent rate case for APT, in which there is a final order setting rates for the area in which the IRA will apply, was no more than two years prior to the date Atmos filed its initial IRA for APT.
10. Atmos is required, under TEX. UTIL. CODE ANN. §104.301(e) (Vernon 2007) and 16 TEX. ADMIN. CODE §7.7101(d) (2008), to file with the Commission an annual project report for APT, 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 IRA filings for APT, 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) (Vernon 2007) and 16 TEX. ADMIN. CODE §7.7101(e) (2008), to file with the Commission an annual earnings-monitoring report demonstrating APT's earnings during the preceding calendar year.
13. Atmos is required, under 16 TEX. ADMIN. CODE §7.7101(h) (2008), to recalculate its approved IRA for APT 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 IRA application.
14. In accordance with 16 TEX. ADMIN. CODE §7.7101(i) (2008), all amounts collected from customers under APT's IRA 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 IRA 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) (2004), in the rate case that Atmos files for APT or the Commission initiates after the implementation of an IRA, any change in investment and related expenses and revenues that have been included in any IRA 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 for APT or the Commission initiates after the implementation of an IRA, any change in investment and related expenses and revenues that have been included in any IRA shall no longer be subject to review for reasonableness or prudence.
16. The Commission has authority to suspend the implementation of the IRA, under TEX. UTIL. CODE ANN. §104.301(a) (Vernon 2007) and 16 TEX. ADMIN. CODE §7.7101(e) (2008).
17. The Company provided adequate notice, in accordance with TEX. UTIL. CODE ANN. §104.301(a) (Vernon 2007) and 16 TEX. ADMIN. CODE §7.7101(b) (2008).
18. Atmos' application for an IRA for APT, as proposed, complies with all provisions of TEX. UTIL. CODE ANN. §104.301 (Vernon 2007) and 16 TEX. ADMIN. CODE §7.7101 (2008).
19. The Company's IRA set forth in the findings of fact and conclusions of law in this Order comply with the provisions of TEX. UTIL. CODE ANN. §104.301 (Vernon 2007) and 16 TEX. ADMIN. CODE §7.7101 (2008).
20. In accordance with TEX. UTIL. CODE ANN. §104.301(h) (Vernon 2007) and 16 TEX. ADMIN. CODE §7.7101(l) (2008), Atmos shall file a comprehensive rate case for APT for the areas in which the IRA is implemented, no later than the 180th day after the fifth anniversary of the date its initial IRA became effective.

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21. The Commission has authority, under TEX. UTIL. CODE ANN. §104.301(j) (Vernon 2007) and 16 TEX. ADMIN. CODE §7.7101(m) (2008), to recover from Atmos the APT's proportionate share of the Commission's annual costs related to the administration of the IRA mechanism.

IT IS THEREFORE ORDERED BY THE RAILROAD COMMISSION OF TEXAS THAT APT's IRA, as requested, and to the extent recommended to be approved in the findings of fact and conclusions of law, are **HEREBY APPROVED**, subject to refund, to be effective for bills rendered on or after April 28, 2009.

IT IS FURTHER ORDERED THAT Atmos **SHALL** file with the Commission no later than February 13, 2010, for APT, 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 February 13, 2010, for APT, 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 February 13, 2010, for APT, an annual earnings monitoring report demonstrating APT's earnings during the preceding calendar year.

IT IS FURTHER ORDERED THAT Atmos **SHALL** file with the Commission no later than February 13, 2010, for APT, recalculations of its approved IRA and applications for annual IRA for the preceding calendar year.

IT IS FURTHER ORDERED THAT within 30 days of this order Atmos **SHALL** electronically file its IRA tariffs for APT in proper form that accurately reflect the rates approved by the Commission in this Order.

IT IS FURTHER ORDERED THAT Atmos **SHALL** not charge any rate for APT 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 this application. The amount of this reimbursement shall be determined by the Director of the Gas Services Division. 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 APT'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 28th day of April, 2009.

RAILROAD COMMISSION OF TEXAS

/s/

CHAIRMAN VICTOR G. CARRILLO

May 11, 2009

/s/
COMMISSIONER ELIZABETH A. JONES

/s/
COMMISSIONER MICHAEL L. WILLIAMS

ATTEST:

Kim Williamson
SECRETARY

SECTION 6
MISCELLANEOUS

WILLIAM O. GEISE, GAS SERVICES DIVISION DIRECTOR

1. OFFICE OF THE DIRECTOR

A. Publications

1. Texas Utilities Code Titles 3 and 4. Now available at the State of Texas' website at:

<http://www.statutes.legis.state.tx.us>

Special Rules of Practice and Procedure and Substantive Rules. Now available thru the Commission's Website at:

[http://info.sos.state.tx.us/pls/pub/readtac\\$ext.ViewTAC?tac_view=4&ti=16&pt=1&ch=7](http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC?tac_view=4&ti=16&pt=1&ch=7)

2.

- a. Annual Report for Fiscal Year 2007 – Now available via the Commission's website at:

<http://www.rrc.state.tx.us/data/gasservices/annualrpt/2007/index.php>

- b. Annual Report for Fiscal Year 2006 – Now available via the Commission's website at:

<http://www.rrc.state.tx.us/data/gasservices/annualrpt/2006/index.php>

- c. Annual Report for Fiscal Year 2005 – Now available via the Commission's website at:

<http://www.rrc.state.tx.us/data/gasservices/annualrpt/2005/index.php>

- d. Annual Report for Fiscal Year 2004 – Now available via the Commission's website at:

<http://www.rrc.state.tx.us/data/gasservices/annualrpt/2004/index.php>

- e. Annual Report for Fiscal Year 2003 – Now available via the Commission's website at:

<http://www.rrc.state.tx.us/data/gasservices/annualrpt/2003/index.php>

- f. Annual Report for Fiscal Year 2002 – Now available via the Commission's website at:

<http://www.rrc.state.tx.us/data/gasservices/annualrpt/2002/index.php>

- g. Annual Report for Fiscal Year 2001 – available via the Commission's website at:

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<http://www.rrc.state.tx.us/data/gasservices/annualrpt/2001/index.php>

3. Six MCF Monthly Residential Gas Bill Analysis for Twenty-five Texas Cities - \$2.00 – Now available via the Commission’s website at:

<http://www.rrc.state.tx.us/data/gasservices/sixmcf/index.php>

B. Interest Rate on Customer Deposits

We have been advised by the Public Utility Commission that the interest rate to be applied to customer deposits in calendar year 2009 is 2.09%. All gas utilities should use 4.69% through December 31, 2008 and use 2.09% effective January 1, 2009.

2. UTILITY AUDIT SECTION

A. Maintains headquarters and three district offices as follows:

Headquarters - William B. Travis Building

1701 North Congress, P. O. Box 12967, Austin, Texas 78701

Ed Abrahamson, Director, Utility Audit Section

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LaToya Johnson, Auditor

Konata Uzoma, Auditor

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Fax (713) 869-3219

B. Gas Utility Tax, Annual Reports and Audit Reports

1. Questions relating to gas utility tax, call Pearl Rodriguez at (512) 463-7022.

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2. Questions relating to annual reports, call Pearl Rodriguez at (512) 463-7022.
3. Inquiries relating to audit reports, call Pearl Rodriguez at (512) 463-7022.

C. Available Information

Copies of gas utility annual reports (2000 to present), as well as information relating to any of the above, A through C, are available for review at the William B. Travis Building, Gas Services Division, 9th Floor, 1701 North Congress. All requests for copies must be made in writing and should be addressed to the Audit Section. Copies will be provided for a fee, depending on the volume of copy work desired, allow a minimum of seven to ten business days for completion of requests. Inquiries regarding copies should be directed to the Audit Section at (512) 463-7022, or Fax your request to (512) 475-3180.

3. MARKET OVERSIGHT

A. Maintains the following office to assist you:

Headquarters - William B. Travis Building
1701 North Congress, P.O. Box 12967, Austin, Texas 78711
Mark Evarts, Director

Telephone (512) 463-7164

B. Gas Utilities Information Bulletin

Published on the Commission's web site at:

<http://www.rrc.state.tx.us/forms/newsletters/gasutilitybulletins/index.php>

C. Proposals For Decision

Published on the Commission's web site at: <http://www.rrc.state.tx.us/meetings/dockets/index.php>

D. Tariff Filings

Questions pertaining to the filing of tariffs and/or quality of service rules should be directed to Kathy Arroyo, Yolanda Lovelace or Marie Blanco at (512) 463-7167.

E. Curtailements

Curtailement questions should be referred to (512) 463-7167. Curtailement reports made Monday through Friday, 8:00 a.m. to 5:00 p.m., should be made to (512) 463-7167. Curtailement reports made during hours other than those specified above and holidays, should be made to (512) 463-6788.

F. Compliance Filings

Questions regarding gas utilities docket compliance filing requirements should be referred to Mark Brock at (512) 463-7164.

G. Complaints and Inquiries

All complaints and inquiries relating to the gas utility industry should be directed to the Market Oversight Section at (512) 463-7164.

H. Pending RRC Rules and Regulations:

GUD No. 9277 Amendments to §7.305 Curtailement Rule

4. HEARINGS AND LEGAL ANALYSIS

A. Miscellaneous

Anyone wishing to obtain copies of appendices to Orders appearing in Section 5 of this Bulletin should contact the Legal Division at (512) 463-7017.

B. Status of Pending Cases

The status of all pending cases listed in Section 3 of this Bulletin is for informational purposes only and is complete up to the time of printing of this Bulletin. For a more accurate status of pending cases, please call the Legal Division at (512) 463-7017.