

**RAILROAD COMMISSION OF TEXAS
GAS SERVICES DIVISION**

**GAS UTILITIES
INFORMATION BULLETIN**

No. 858



**RAILROAD COMMISSION
OF TEXAS**

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

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

December 29, 2008

December 29, 2008

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Orders were issued in the following dockets:

GUD No. 9791: Statement of Intent Filed by Centerpoint Energy Entex to Increase the Rates in the Unincorporated Areas of the Texas Coast Division and all Consolidated Dockets – *Order on Rehearing*.

GUD No. 9797: Statement of Intent Filed by Universal Natural Gas, Inc. to Increase Rates in Montgomery, Walker, and Houston Counties, Texas, and all Consolidated Dockets – *Final Order*.

GUD No. 9802: Application of Atmos Energy Corp., Mid-Tex Division for the Test Year 2007 Annual Interim Rate Adjustment Program for the Environs Areas – *Interim Rate Adjustment Order*.

GUD No. 9837: Statement of Intent Filed by LDC, LLC to Change Rates in the Unincorporated Areas in the Vicinity of Montgomery, Texas – *Suspension Order*.

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

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SECTION 1
NEW APPEALS AND APPLICATIONS FILED

DOCKET NO. -- 9842
CAPTION -- Application of LDC, LLC for Review of the Relocation Cost Recovery for the Environs of Montgomery County, Texas.
DATE FILED -- December 1, 2008
FILED BY -- Larry D. Corley
EXAMINER -- Rose Ruiz

DOCKET NO. -- 9843
CAPTION -- Application of Crosstex North Texas Pipeline, L.P. Pursuant to Section 311 of the Natural Gas Policy Act for the Review of a Rate Being Charged Under an Existing Gas Sales Contract.
DATE FILED -- December 15, 2008
FILED BY -- Matthew C. Henry
EXAMINER -- Mark Brock

DOCKET NO. -- 9844
CAPTION -- Commission Inquiry into the Cost Basis and Reasonableness of Rates Charged by XTX Pipeline.
DATE FILED -- December 16, 2008
FILED BY -- Commission's Own Motion
EXAMINER -- John Chakales

DOCKET NO. -- 9845
CAPTION -- Commission Inquiry into the Cost Basis and Reasonableness of Expenses Charged by MoGas Operating Company to Universal Gas, Inc.
DATE FILED -- December 16, 2008
FILED BY -- Commission's Own Motion
EXAMINER -- John Chakales

DOCKET NO. -- 9846
CAPTION -- Rate Case Expenses for Universal Natural Gas, Inc. Severed from Docket No. 9779.
DATE FILED -- December 17, 2008
FILED BY -- Commission's Own Motion
EXAMINER -- John Chakales

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SECTION 2

APPEALS AND APPLICATIONS SET FOR HEARING OR PREHEARING CONFERENCE

None at this time.

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

STATEMENT OF INTENT FILED BY :
CENTERPOINT ENERGY ENTEX TO :
INCREASE THE RATES IN THE : **GAS UTILITIES DOCKET NO. 9791**
UNINCORPORATED AREAS OF THE :
TEXAS COAST DIVISION AND ALL :
CONSOLIDATED DOCKETS :

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

FINDINGS OF FACT

1. CenterPoint Energy Resources Corp. d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas (“CenterPoint”) is a utility as that term is defined in the Texas Utility Code.
2. CenterPoint owns and operates a gas distribution system, referred to as the Texas Coast Division (“TCD”).
3. The TCD includes the cities of Alvin, Angleton, Baytown, Beach City, Beasley, Brookshire, Brookside Village, Clear Lake Shores, Clute, Danbury, Dickinson, East Bernard, El Lago, Freeport, Friendswood, Hillcrest Village, Hitchcock, Jones Creek, Katy, Kemah, Kendleton, La Marque, La Porte, Lake Jackson, League City, Liverpool, Manvel, Morgan=s Point, Mont Belvieu, Needville, Orchard, Oyster Creek, Pearland, Pleak, Richmond, Richwood, Rosenberg, Santa Fe, Seabrook, Shoreacres, Sugar Land, Taylor Lake Village, Texas City, Wallis, Webster, West Columbia, Wharton and their surrounding environs.
4. On March 6, 2008, CenterPoint filed a statement of intent to increase rates in the unincorporated areas of the TCD.
5. On April 15, 2008, CenterPoint filed an appeal of the actions of the Cities of Baytown, Clute and Shoreacres, Texas, and was originally docketed by the Commission as Gas Utilities Docket No. 9796.
6. On June 4, 2008, CenterPoint filed an appeal of the actions of the Cities of Freeport, Pearland, West Columbia, and Angleton, Texas, and was originally docketed by the Commission as Gas Utilities Docket No. 9803.
7. On July 9, 2008, CenterPoint filed an appeal of the actions of the Cities of League City and Wharton, and was originally docketed by the Commission as Gas Utilities Docket No. 9808.
8. On April 8, 2008, the Commission suspended the implementation of CenterPoint’s proposed rate changes on environs customers for up to 150 days pursuant to TEX. UTIL. CODE ANN. ' 104.107(a)(2).
9. The Examiners consolidated Gas Utilities Docket Nos. 9791, 9796, 9803 and 9808 into one docket, Gas Utilities Docket No. 9791 (AGUD No. 9791”), because the four dockets request rates for the TCD and involve common questions of law and fact pursuant to 16 TEX. ADMIN. CODE § 1.125 (1991).

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10. CenterPoint agreed to extend the statutory deadline for Commission action on GUD No. 9791 until October 21, 2008.
11. CenterPoint requested that the proposed new rates for all customer classes become effective on April 10, 2008.
12. On July 25, 2008, the Examiners severed Commission consideration of rate case expenses into a separate docket for consideration by the Commission, Gas Utilities Docket No. 9811: Rate Case Expenses Severed from GUD No. 9791.
13. On April 15, 2008, the Texas Coast Utilities Coalition (ATCUC@) intervened as a party to this proceeding.
14. On July 28, 2008, the State of Texas (ASTATE@) intervened as a party to this proceeding.
15. A final hearing was conducted in Austin by the Commission on August 18, 19, and 20, 2008, to take testimony, other evidence, and legal argument on all issues of law and fact that were raised in or relevant to CenterPoint's appeals and statement of intent, for the purpose of developing a record that the Commission will use in setting rates.
16. CenterPoint published public notice of the proposed rate changes once a week for four or more consecutive weeks in newspapers of general circulation in each county that contains territory affected by the proposed changes. CenterPoint completed its requirement to publish notice on or before April 10, 2008.
17. CenterPoint's publication of notice meets the statutory and rule requirements of notice and provides sufficient information to rate payers about the statement of intent.
18. There are approximately 231,256 residential, 12,180 general service-small, and 576 general service-large customers that will be affected by CenterPoint's rate changes for the TCD.
19. The data submitted by CenterPoint in this docket encompass a full test-year, i.e. the twelve-month period ending September 30, 2007.
20. It is reasonable to allow CenterPoint to update its test-year data with actual values as of May 31, 2008, in order to account for known and measurable changes.

Rate-Base

21. CenterPoint's proposed level of adjusted rate base is not reasonable.
22. CenterPoint proposed a *Apro-forma*@ test year, ending December 31, 2008.
23. CenterPoint's proposed adjustments are merely estimates of investments that may be made at some time in the future.
24. There was no evidence presented that indicated that these were known and measurable expenses.
25. CenterPoint did not establish that the amounts that are not known and measurable are just and reasonable.
26. CenterPoint updated test-year amounts with known and measurable changes through May 31, 2008.
27. The reasonableness of the updated amounts through May 31, 2008, were not challenged by the Intervenors and CenterPoint established that those amounts were just and reasonable.

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28. CenterPoint's proposed inclusion of storage gas in rate base is not reasonable.
29. It is reasonable to allow CenterPoint to recover storage gas costs through its purchased gas adjustment clause, attached hereto as Rate Schedule PGA-7, for use in the TCD.
30. It is reasonable to set CenterPoint's system-wide rate base at the level indicated in Schedule 2, attached hereto, for purposes of establishing CenterPoint's overall cost of service for its customers in the Texas Coast Division.
31. CenterPoint's proposed cost of plant is reasonable, as indicated in attached Schedule 2a.
32. CenterPoint's proposed accumulated depreciation reserve is reasonable, as indicated in attached Schedule 2b.
33. It is reasonable to set cash working capital at \$0.00, as proposed by CenterPoint.

Rate of Return

34. Prior to hearing, CenterPoint and TCUC executed a joint stipulation regarding a reasonable rate of return and capital structure for CenterPoint in this docket. The Commission finds that the Joint Stipulation is reasonable and sets a reasonable rate of return and capital structure for CenterPoint.
35. A capital structure of 55.4% common equity and 44.6% long-term debt is reasonable.
36. A cost of long-term debt for CenterPoint of 7.239% is reasonable.
37. A cost of equity of 10.06% for CenterPoint is reasonable.
38. A pre-tax rate of return of 11.8% is reasonable.

COSA

39. CenterPoint's proposed cost of service adjustment clause is not reasonable.
40. It is reasonable to allow CenterPoint to implement the revised cost of service adjustment clause attached hereto as Rate Schedule COSA-3, for use in the TCD.
41. The proposed COSA tariff contemplates that a regulatory authority would examine the prudence of additions made to rate base as part of the annual COSA filing.
42. The regulatory authority ultimately determines the reasonableness and necessity of expenses to be recovered in the COSA.
43. A regulatory authority may conduct a hearing on the COSA filing.
44. A regulatory authority may grant in part and deny in part the utility's request to implement a COSA adjustment.
45. With respect to the provision of information to support a change in rates under the COSA, the proposed tariff clearly provides that CenterPoint will produce information responsive to municipal requests.

Tax Adjustment Tariffs

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46. CenterPoint proposes to collect revenue-related taxes, including state gross receipts taxes and municipal franchise fees, through separate tariffs that will appear as a line-item on the customer=s bill rather than include these amounts in the cost of service.
47. Testimony was presented in the proceeding that taxes should be paid by those customers causing the taxes to be incurred. Gross receipts taxes do not apply to environs customers and municipal franchise fees are paid for access to municipal rights of ways.
48. It is not reasonable that environs customers should bear the burden of taxes that were not incurred by their consumption of natural gas, and by taxes intended to provide access in areas in which the environs customers do not reside.
49. The various cities in which CenterPoint provides service have different franchise fee rates.
50. The proposed tax adjustment rider allows the utility to accurately pass through the costs to the customers within the various cities served by it and the taxes are collected in the areas in which the tax liability originated.
51. The proposed treatment is consistent with this Commission’s determination in GUD No. 9533 and GUD No. 9534.
52. It is reasonable to allow CenterPoint to implement its Tax Adjustment tariffs attached hereto as Rate Schedule No. FFA-1 and Rate Schedule No. TA-7, for use in the TCD.

Purchased Gas Adjustment Tariff

53. CenterPoint proposes a Purchased Gas Adjustment (APGA@) tariff to recover all purchased gas costs through the PGA Rate Schedule rather than through base rates.
54. It is reasonable to allow CenterPoint to implement its Purchased Gas Adjustment clause attached hereto as Rate Schedule No. PGA-7, for use in the TCD.

Miscellaneous Service Charges

55. It is reasonable to allow CenterPoint to implement its Miscellaneous Service Charges attached hereto as Rate Schedule No. MISC- 8, for use in the TCD.

Revenues and Expenses

56. CenterPoint’s proposed level of adjusted test-year operating revenues is not reasonable.
57. It is reasonable to set CenterPoint’s system-wide operating revenues at the level indicated in Schedule 4a, attached hereto, for purposes of establishing CenterPoint’s overall cost of service for the Texas Coast Division.
58. CenterPoint’s proposed level of adjusted test-year operating expenses is not reasonable.
59. CenterPoint’s proposed uncollectible expense is not reasonable.
60. It is reasonable to average five years of uncollectible expense, 2003, 2004, 2005, 2006, and 2007, in order to determine a reasonable uncollectible expense for CenterPoint=s cost of service model.
61. CenterPoint’s proposed use of a general inflation adjustment to Texas Administrative Expense is unreasonable.

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62. CenterPoint's proposed use of a labor escalation adjustment to Texas Administrative Expense is unreasonable.
63. The labor escalation adjustment proposed by CenterPoint was based upon an estimate and CenterPoint did not establish that the estimate was just and reasonable.
64. CenterPoint's proposed recovery of severance pay expenses is unreasonable as the proposed expense is based, in part, upon a non-recurring event.
65. It is reasonable to allow CenterPoint to recover incentive compensation expenses for direct employees of the Texas Coast Division and for Houston support employees.
66. CenterPoint's proposed inclusion of investor services expense and investor relations expense as part of Allocated Corporate Overhead expense is unreasonable as these expenses are for the benefit of the shareholders of the utility and CenterPoint did not establish the necessity of those expenses to provide natural gas service to regulated customers.
67. It is reasonable to allow CenterPoint to use actual costs for the 12 months ended May 31, 2008, to recover call center expense.
68. CenterPoint's proposed customer allocation factor for meter reading expense (Account 902) is unreasonable. It is reasonable to allocate these expenses using an investment-weighted number of customer locations allocation factor.
69. CenterPoint's proposed customer allocation factor for uncollectible expense (Account 904) is unreasonable. It is reasonable to allocate these expenses using an investment-weighted number of customer locations allocation factor.
70. It is reasonable to set CenterPoint's system-wide operating expenses at the level indicated in Schedule 4a, attached hereto, for purposes of establishing CenterPoint's overall cost of service for the Texas Coast Division.
71. It is reasonable to set CenterPoint's depreciation expense and overall depreciation rate of 3.68 percent as indicated in Schedule 4a, attached hereto, for purposes of establishing CenterPoint's overall cost of service for its customers in the Texas Coast Division.
72. CenterPoint calculated its total federal income tax (FIT), based upon revenues and expenses and using the income tax rate of 35 percent.
73. It is reasonable to allow amounts for federal income tax based upon the statutory income tax rate of 35%, as proposed by CenterPoint.

Rate Design

74. CenterPoint's proposed rates for three (3) customer classes are not reasonable. These customer classes proposed by CenterPoint are the following: residential, general service-small, and general service-large.
75. Residential rates, as shown on the attached rate schedule, consisting of a monthly customer charge of \$13.50 and volumetric charges of \$0.03055 per Ccf on all gas volumes, are reasonable.
76. General Service-Small rates, as shown on the attached rate schedule, consisting of a monthly customer charge of \$12.50 and volumetric charges of \$0.06655 per Ccf on all gas volumes up to 150 Ccf, and \$0.03258 on all gas volumes above 150 Ccf, are reasonable.

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77. General Service-Large rates, as shown on the attached rate schedule, consisting of a monthly customer charge of \$12.50 and volumetric charges of \$0.09036 per Ccf on all gas volumes up to 1500 Ccf, \$0.05880 per Ccf on all gas volumes from 1501 to 10,000 Ccf, and \$0.04980 on all gas volumes above 10,000 Ccf, are reasonable.

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CONCLUSIONS OF LAW

1. CenterPoint Enrgy Entex (CenterPoint) is a “Gas Utility” as defined in TEX. UTIL. CODE ANN. ' 101.003(7) (Vernon 2007) and ' 121.001(2007) and is therefore subject to the jurisdiction of the Railroad Commission (Commission) of Texas.
2. The Railroad Commission of Texas (Commission) has jurisdiction over CenterPoint and CenterPoint’s statement of intent and appeals under TEX. UTIL. CODE ANN. ' ' 102.001, 103.022, 103.054, & 103.055, 104.001, 104.001 and 104.201 (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. This Statement of Intent and Appeals were 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. 2008) (APA).
5. In accordance with the stated purpose of the Texas Utilities Code, Subtitle A, expressed under TEX. UTIL. CODE ANN. ' 101.002 (Vernon 1998), 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) 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 constitute a major change as defined by TEX. UTIL. CODE ANN. ' 104.101 (Vernon 2007).
8. In accordance with TEX. UTIL. CODE ' 104.103 (Vernon 2007), 16 TEX. ADMIN. CODE ANN. ' 7.230 (2008), and 16 TEX. ADMIN. CODE ANN. ' 7.235 (2008), adequate notice was properly provided.
9. In accordance with the provisions of TEX. UTIL. CODE ANN. ' 104.102 (Vernon 1998 and Supp. 2008), 16 TEX. ADMIN. CODE ANN. ' 7.205 (2008), and 16 TEX. ADMIN. CODE ' 7.210 (2008), CenterPoint filed its Statement of Intent to change rates.
10. CenterPoint failed to meet its burden of proof in accordance with the provisions of TEX. UTIL. CODE ANN. ' 104.008 (Vernon 2007) on the elements of its requested rate increase identified in this order.
11. The rates proposed by CenterPoint are in accordance with TEX. UTIL CODE ANN. ' 104.006 (Vernon 1998) 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 CenterPoint in the same county.
12. The revenue, rates, rate design, and service charges proposed by CenterPoint are not found to be just and reasonable, not unreasonably preferential, prejudicial, or discriminatory, and are not sufficient, equitable, and consistent in application to each class of consumer, as required by TEX. UTIL. CODE ANN. ' 104.003 (Vernon 1998).
13. The revenue, rates, rate design, and service charges proposed by CenterPoint, as amended by the Commission and identified in the schedules attached to this order, are just and reasonable, are 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 1998).

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14. The overall revenues as established by the findings of fact and attached schedules are reasonable; fix an overall level of revenues for CenterPoint 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 1998); and otherwise comply with Chapter 104 of the Texas Utilities Code.
15. The revenue, rates, rate design, and service charges proposed will not yield to CenterPoint 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 1998).
16. The rates established in this docket comport with the requirements of TEX. UTIL. CODE ANN. ' 104.053 (Vernon 1998) and are based upon the adjusted value of invested capital used and useful, where the adjusted value is a reasonable balance between the original cost, less depreciation, and current cost, less adjustment for present age and condition.
17. In accordance with TEX. UTIL. CODE ANN. ' 104.054 (Vernon 1998) and TEX. ADMIN. CODE ' 7.5252, book depreciation and amortization was calculated on a straight line basis over the useful life expectancy of CenterPoint's property and facilities.
18. In this proceeding, CenterPoint has the burden of proof under TEX. UTIL. CODE ANN. ' 104.008 (Vernon 1998) to show that the proposed rate changes are just and reasonable.
19. Rate case expenses for GUD No. 9791 will be considered by the Commission in accordance with TEX. UTIL. CODE ANN. ' 104.008 (Vernon 1998), and 16 TEX. ADMIN. CODE ' 7.5530 (2008), in a separate proceeding.
20. It is reasonable for the Commission to allow CenterPoint to include a Purchased Gas Adjustment Clause in its rates to provide for the recovery of all of its gas costs, in accordance with 16 TEX. ADMIN. CODE ' 7.5519 (2008).
21. All expenses for lost and unaccounted for gas in excess of 5.0 percent shall be disallowed, consistent with TEX. ADMIN. CODE ' 7.5519 (2008).
22. CenterPoint 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.
23. The rate setting methodologies set forth in TEX. UTIL. CODE ANN. ' 104.051 *et seq.* were used to set the rates in this proceeding.
24. Approval of a COSA tariff lies within the Commission's jurisdiction.
25. Approval of a COSA tariff does not conflict with the rate-setting provisions of GURA.
26. Approval of a COSA tariff does not prevent the utility or a regulatory authority from exercising the statutory right to initiate a rate case.

IT IS THEREFORE ORDERED that CenterPoint's proposed schedule of rates is hereby **DENIED**.

IT IS FURTHER ORDERED that the rates, rate design, and service charges established in the findings of fact and conclusions of law and in the Examiners' Recommendation shown on the attached Schedules for CenterPoint are **APPROVED**.

IT IS FURTHER ORDERED that, in accordance with 16 TEX. ADMIN. CODE ' 7.315, within 30 days of the date this

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Order is signed, CenterPoint shall file tariffs with the Gas Services Division. The tariffs shall incorporate rates, rate design, and service charges consistent with this Order, as stated in the findings of fact and conclusions of law and shown in the Examiners' Recommendation on 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 CenterPoint **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 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.

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 16th day of December, 2008.

RAILROAD COMMISSION OF TEXAS

/s/
CHAIRMAN MICHAEL L. WILLIAMS

/s/
COMMISSIONER VICTOR G. CARRILLO

/s/
COMMISSIONER ELIZABETH A. JONES

ATTEST:

Kim Williamson
SECRETARY

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RAILROAD COMMISSION OF TEXAS

STATEMENT OF INTENT FILED BY UNIVERSAL NATURAL GAS, INC. TO INCREASE RATES IN MONTGOMERY, WALKER AND HOUSTON COUNTIES, TEXAS, AND ALL CONSOLIDATED DOCKETS	' ; ' ; ' ; ' ; ' ;	GAS UTILITIES DOCKET NO. 9797
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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. 2004). The Railroad Commission of Texas adopts the following findings of fact and conclusions of law and orders as follows:

FINDINGS OF FACT

1. Universal Natural Gas, Inc. ("Universal") is a utility as that term is defined in the Gas Utility Regulatory Act.
2. Universal owns and operates a gas distribution system that provides gas service to customers in Montgomery, Walker and Houston Counties, Texas.
3. On April 21, 2008, Universal filed a statement of intent to increase rates on customers located in the unincorporated areas of Montgomery, Walker and Houston Counties, Texas.
4. On July 16, 2008, Universal filed an appeal of the action of the City of Huntsville, Texas, which was originally docketed by the Commission as Gas Utilities Docket No. 9809.
5. On April 22, 2008, Universal agreed to change its requested effective date to May 31, 2008.
6. On May 29, 2008, the Commission suspended the implementation of Universal's proposed rate changes for environs customers for up to 150 days pursuant to TEX. UTIL. CODE ANN. §104.107(a)(2).
7. On July 21, 2008, the Examiners consolidated Gas Utilities Docket Nos. 9797 and 9809 into one docket, Gas Utilities Docket No. 9797 ("GUD No. 9797"), because the two dockets request the same rates and involve common questions of law and fact pursuant to 16 TEX. ADMIN. CODE § 1.125 (1991).
8. The statutory deadline for Commission action on this docket originally was October 28, 2008. At the October 21, 2008, Commission conference, Universal agreed to extend the statutory deadline for Commission action on this docket until November 13, 2008. By subsequent letter Universal extended the statutory deadline for Commission action on this docket until December 17, 2008.
9. No protests were filed with the Commission regarding the proposed new rate schedules for Universal; no customers or municipality filed a petition to intervene or otherwise participated in this proceeding.
10. A final hearing was conducted in Austin on August 14, 2008, to take testimony, other evidence, and legal argument on all issues of law and fact that were raised in or relevant to Universal's appeal and statement of intent, for the purpose of developing a record that the Commission will use in setting rates.
11. Universal completed its notice requirements by mailing notice directly to each affected customer on July 12,

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2008.

12. The data submitted by Universal in this docket encompass a full test-year, i.e. the twelve-month period ending September 30, 2007.

13. Universal proposed rates for the following three classes of customers: residential, commercial sales, and independent school district.

14. There are approximately 4,814 residential, 81 commercial and 7 independent school district customers that will be affected by Universal's rate changes.

15. Texas Gas Utility Services, Inc. (ATGUS@) is an affiliate of Universal, as that term is defined under the Gas Utility Regulatory Act. TGUS provides utility management services to Universal.

16. Robert Barnwell III, Joane Barnwell, and Robert Barnwell IV are employees of TGUS and receive a salary from TGUS. Robert Barnwell III and Joanne Barnwell are also employees of Universal and receive salaries from Universal.

17. There is no evidence that the services provided by Robert Barnwell III and Joanne Barnwell for Universal are separate and distinct from the services they provide to TGUS. There is no evidence that the compensation paid by Universal to Robert Barnwell III and Joanne Barnwell is reasonable and necessary for the provision of gas service to Universal's customers. Therefore the compensation paid by Universal to Robert Barwell III and Joanne Barnwell should be disallowed by the Commission for purposes of setting the required revenue for Universal.

18. XTX Pipeline (AXTX@) is an affiliate of Universal, as that term is defined under the Gas Utility Regulatory Act, Robert Barnwell IV and his sister are the majority shareholders of XTX.

19. XTX transports gas from the Timbergreen subdivision to the Indigo subdivision and makes a city-gate delivery at the Indigo subdivision. XTX charges a \$1.75 per MMBtu fee to Universal.

20. The XTX fee has not been set by the Commission in a rate case proceeding and there is no evidence in the record establishing the reasonableness of the charge. It is reasonable for the Commission to initiate an inquiry into the reasonableness of the rate and suspend the charge until the rate can be reviewed.

21. MoGas Operating Company (AMoGas@) is an affiliate of Universal, as that term is defined under the Gas Utility Regulatory Act. MoGas is owned entirely by Robert Barnwell III and has no employees.

22. MoGas leases a 5 mile pipeline to Universal. During the test year, Universal made \$81,619.59 in lease payments to MoGas pipeline. There is no evidence in the record that establishes the reasonableness of the test year lease payment. It is reasonable for the Commission to disallow this expense in Universal's revenue requirement and to initiate and inquiry into the appropriate level of lease expense for the MoGas pipeline.

23. A capital structure of 67.78 percent long-term debt, 3.87 percent short-term debt, and 28.35 percent common equity is reasonable.

24. A cost of long-term debt for Universal of 9.65 percent is reasonable.

25. A cost of short-term debt for Universal of 4.00 percent is reasonable.

26. A cost of common equity for Universal of 12.50 percent is reasonable.

27. An overall rate of return of 10.24 percent based on the weighted average cost of capital is reasonable.

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28. Universal's proposed level of adjusted test-year operating revenues is not reasonable.
29. It is reasonable to set Universal's system-wide operating revenues at the level indicated in Examiners= Exhibit 4, attached hereto, for purposes of establishing Universal's overall cost of service for the South Texas Service Area.
30. Universal's proposed level of test-year operating expenses is not reasonable.
31. It is reasonable to set Universal's system-wide operating expenses at the level indicated in Examiners= Exhibit 4, attached hereto, for purposes of establishing Universal's overall cost of service for customers in Montgomery, Walker and Houston Counties, Texas.
32. Universal's proposed level of accumulated depreciation expense is not reasonable.
33. It is reasonable to set Universal's system-wide accumulated depreciation at the level indicated in Examiners= Exhibit 4, attached hereto, for purposes of establishing Universal's overall cost of service for customers in Montgomery, Walker and Houston Counties, Texas.
34. It is reasonable to set Universal's system-wide rate base at the level indicated in Examiners= Exhibit 4, attached hereto, for purposes of establishing Universal's overall cost of service for customers in Montgomery, Walker and Houston Counties, Texas.
35. It is reasonable to allow amounts for federal income tax based upon the actual income tax rate of 22%.
36. Universal's proposed new miscellaneous service charges and fees are not reasonable.
37. It is reasonable to approve the miscellaneous service charges and fees, as shown on Examiners= Exhibit A, attached hereto, for customers in Montgomery, Walker and Houston Counties, Texas.
38. Universal's proposal to design three different rates for residential, commercial sales and independent school district customer classes is reasonable.
39. The residential service rate, as shown on Examiners= Exhibit A, is reasonable.
40. The commercial sales rate, as shown on Examiners= Exhibit A, is reasonable.
41. The independent school district rate, as shown on Examiners= Exhibit A, is reasonable.
42. Universal was allowed in an administrative docket, GUD No. 9735, to collect relocation expenses from customers. It is reasonable to credit back to the customer by means of an adjustment to rate-base, amounts collected by Universal pursuant to GUD No. 9735. It is reasonable for the Commission to deny further collection of relocation expenses from customers and to order refunds of amounts collected by Universal since June 30, 2008.

CONCLUSIONS OF LAW

1. Texas Gas Service Company (Universal) is a "Gas Utility" as defined in TEX. UTIL. CODE ANN. ' 101.003(7) (Vernon 2007) and ' 121.001(2007) and is therefore subject to the jurisdiction of the Railroad Commission (Commission) of Texas.
2. The Railroad Commission of Texas (Commission) has jurisdiction over Universal and Universal's statement of intent and appeals under TEX. UTIL. CODE ANN. ' ' 102.001, 103.022, 103.054, & 103.055, 104.001, 104.001 and 104.201 (Vernon 2007).

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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. This Statement of Intent and Appeals were 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 1998), 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) 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. In accordance with TEX. UTIL. CODE ' 104.103 (Vernon 2007), 16 TEX. ADMIN. CODE ANN. ' 7.230 (2002), and 16 TEX. ADMIN. CODE ANN. ' 7.235 (2002), adequate notice was properly provided.
8. In accordance with the provisions of TEX. UTIL. CODE ANN. ' 104.102 (Vernon 1998 and Supp. 2003), 16 TEX. ADMIN. CODE ANN. ' 7.205 (2002), and 16 TEX. ADMIN. CODE ' 7.210 (2002), Universal filed its Statement of Intent to change rates.
9. Universal failed to meet its burden of proof in accordance with the provisions of TEX. UTIL. CODE ANN. ' 104.008 (Vernon 2007) on the elements of its requested rate increase identified in this order.
10. The rates proposed by Universal are in accordance with TEX. UTIL CODE ANN. ' 104.006 (Vernon 1998) 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 Universal in the same county.
11. The revenue, rates, rate design, and service charges proposed by Universal are not found to be just and reasonable, not unreasonably preferential, prejudicial, or discriminatory, and are not sufficient, equitable, and consistent in application to each class of consumer, as required by TEX. UTIL. CODE ANN. ' 104.003 (Vernon 1998).
12. The revenue, rates, rate design, and service charges proposed by Universal, as amended by the Examiners and identified in the schedules attached to this order, are just and reasonable, are 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 1998).
13. The overall revenues as established by the findings of fact and attached schedules are reasonable; fix an overall level of revenues for Universal 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 1998); and otherwise comply with Chapter 104 of the Texas Utilities Code.
14. The revenue, rates, rate design, and service charges proposed will not yield to Universal more than a fair return on the adjusted value of the invested capital used and useful in rendering service to the public to the public, as required by TEX. UTIL. CODE ANN. ' 104.052 (Vernon 1998).
15. The rates established in this docket comport with the requirements of TEX. UTIL. CODE ANN. ' 104.053 (Vernon 1998) and are based upon the adjusted value of invested capital used and useful, where the adjusted value is a

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reasonable balance between the original cost, less depreciation, and current cost, less adjustment for present age and condition.

16. In accordance with TEX. UTIL. CODE ANN. ' 104.054 (Vernon 1998) and TEX. ADMIN. CODE ' 7.5252, book depreciation and amortization was calculated on a straight line basis over the useful life expectancy of Universal's property and facilities.

17. In this proceeding, Universal has the burden of proof under TEX. UTIL. CODE ANN. ' 104.008 (Vernon 1998) to show that the proposed rate changes are just and reasonable.

18. It is reasonable for the Commission to sever consideration of rate case expenses incurred by Universal in this docket into a separate docket in accordance with TEX. UTIL. CODE ANN. ' 104.008 (Vernon 1998), and 16 TEX. ADMIN. CODE ' 7.5530 (2002).

19. It is reasonable for the Commission to allow Universal to include a Purchase Gas Adjustment 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).

20. 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).

21. Universal 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.

22. The rate setting methodologies set forth in TEX. UTIL. CODE ANN. ' 104.051 et seq. were used to set the rates in this proceeding.

IT IS THEREFORE ORDERED that Universal's proposed schedule of rates is hereby **DENIED**.

IT IS FURTHER ORDERED that the rates, rate design, and service charges established in the findings of fact and conclusions of law and in the Examiners' Recommendation shown on the attached Schedules for Universal 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, Universal shall file tariffs with the Gas Services Division. The tariffs shall incorporate rates, rate design, and service charges consistent with this Order, as stated in the findings of fact and conclusions of law and shown in the Examiners' Recommendation on 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 Universal **SHALL** electronically file tariffs and rates schedules in proper form that accurately reflect the rates approved by the Commission in this Order.

IT IS FURTHER ORDERED THAT within 45 days of this order Universal **SHALL** file evidence of its rate case expenses incurred in this docket, in such form and format as that required by the Gas Service Division to be reviewed and considered by the Commission in a separate docket.

IT IS FURTHER ORDERED THAT Universal **SHALL CEASE** collecting relocation surcharges and refund amounts collected after June 30, 2008.

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 16th day of December, 2008.

RAILROAD COMMISSION OF TEXAS

/s/ _____
CHAIRMAN MICHAEL L. WILLIAMS

/s/ _____
COMMISSIONER VICTOR G. CARRILLO

/s/ _____
COMMISSIONER ELIZABETH A. JONES

ATTEST:

Kim Williamson
SECRETARY

December 29, 2008

RAILROAD COMMISSION OF TEXAS

**APPLICATION OF ATMOS ENERGY
CORP., MID-TEX DIVISION FOR THE
TEST YEAR 2007 ANNUAL INTERIM
RATE ADJUSTMENT PROGRAM FOR
THE ENVIRONS AREAS** :
:
:
:
:
GAS UTILITIES DOCKET NO. 9802

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 Energy Corporation, Mid-Tex Division (Distribution), a division of Atmos, owns and operates a gas distribution system.
3. On May 23, 2008, Distribution filed an application for an annual interim rate adjustment 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 July 22, 2008.
5. On May 27, 2008, the Commission suspended implementation of Atmos' proposed interim rate adjustments until September 5, 2008, which would be 45 days following the 60th day after the application would be considered complete.
6. On August 1, 2008, Distribution filed an amended Interim Rate Adjustment filing updating the filing for key GRIP factors and certain other balances specific to GUD No. 9762.
7. On August 4, 2008, the Commission suspended implementation of Atmos' proposed interim rate adjustments based upon the amended filing until November 14, 2008, which would be 45 days following the 60th day after the application would be considered complete.
8. On October 31, 2008, Distribution filed its second amended Interim Rate Adjustment filing removing references to GUD No's. 9670 and 9734, updating the key GRIP factors for GUD No. 9762.

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9. The application was considered complete on October 31, 2008 with this the second amended filing.
10. The statutory deadline is 45 days following the 60th day after the application would be considered complete or February 13, 2009.
11. On November 24, 2008, Distribution filed its third amended Interim Rate Adjustment filing removing three (3) additional projects at the examiners request.
12. TEXAS UTILITIES CODE, §104.301 (Vernon 2007) does not provide a remedy for parties that oppose an annual interim rate adjustment.
13. 16 TEX. ADMIN. CODE, §7.7101 (2008) allows written comments or a protest concerning the proposed interim rate adjustment to be filed with the Gas Services Division.
14. Neither TEXAS UTILITIES CODE, §104.301 (Vernon 2007) nor 16 TEX. ADMIN. CODE, §7.7101 (2008) provides the opportunity for parties to intervene in the Commission's review of an application for an annual interim rate adjustment.
15. 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.
16. This docket is the first annual interim rate adjustment for the distribution system environs of Atmos Energy Corp., Mid-Tex Division following GUD No. 9762.
17. Until promulgation of TEXAS UTILITIES CODE, §104.301 (Vernon 2007), 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.
18. 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. 9762, without the necessity of filing a statement of intent rate case and without review by the Commission of Atmos' comprehensive cost of service.

Applicability

19. This docket applies to only those rates over which the Commission has original jurisdiction, including all of the Distribution system environs customers.
20. As of year-end 2007, Distribution environs customers included approximately 43,414 Residential customers, 2,016 Commercial customers, and 74 Industrial Sales and Transport customers.

Most Recent Comprehensive Rate Case

21. Atmos' most recent rate case for the area in which the interim rate adjustment will be implemented is GUD No. 9762, *Statement of Intent Filed by Atmos Energy Corporation to Increase Utility Rates within the Unincorporated Areas Served by the Atmos Energy Corp., Mid-Tex Division.*
22. GUD No. 9762 was filed on October 26, 2007.
23. The data used in GUD No. 9762 was based on a test-year ending June 30, 2007.

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24. The Commission signed the GUD No. 9762 final Order on June 24, 2008, and the rates became effective the same day.
25. The rates currently charged by Atmos were set by the Commission in GUD No. 9762.
26. The following chart shows the factors that were used for Distribution to establish or used in the Final Order setting rates in GUD No. 9762 to calculate the return on investment, depreciation expense, incremental federal income tax, and ad valorem taxes.

GUD 9762 CALCULATION FACTORS

Factor	Distribution
Rate of return	7.98%
Mid-Tex Depreciation Rate	3.43%
SSU Depreciation Rate	10.323%
Federal Income Tax Rate	35%
Mid-Tex Ad Valorem Tax Rate	1.308%
SSU Ad Valorem Tax Rate	0.306%

Interim Rate Adjustment

27. 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.
28. 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. 9762.
29. Atmos 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 Atmos' calculation of the interim rate adjustments.
30. 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 (June 30, 2007) and the invested capital at the end of the calendar-year following the end of the most recent rate case test-year (December 31, 2007).
31. This docket is the first annual interim rate adjustment for Atmos. Therefore, to request its interim rate adjustments in this docket, Atmos submitted data for the 6-months ending December 31, 2007.
32. 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.
33. Atmos' incremental net utility plant investment increase is \$10,223,501 for Distribution, as shown in Exhibit B.
34. 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.

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35. 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.
36. 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.
37. Atmos is required to show its annual interim rate adjustments on its customers' monthly billing statements as a surcharge.
38. The proposed interim rate adjustment does not require an evidentiary proceeding; rather, TEXAS UTILITIES 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.
39. Due process protections are deferred until Atmos files its next full statement of intent rate case.

Notice

40. Atmos provided adequate notice to its Distribution Residential (R) and Commercial (C) customers between June 4, 2008 and July 1, 2008.
41. Atmos provided adequate notice to its Distribution Industrial (I) and Transportation (T) customers on June 12, 2008.

Comprehensive Rate Case Required

42. Atmos is not required to initiate a rate case supporting a statement of intent, at the time it applies for an interim rate adjustment.
43. 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

44. Atmos' proposed allocation methodology complies with TEXAS UTILITIES CODE, §104.301, and with 16 TEX. ADMIN. CODE, §7.7101.
45. 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)	0.789060
Commercial (C)	0.184305
Industrial Sales & Transport (I & T)	0.026636

46. Atmos' proposed customer and meter counts comply with TEXAS UTILITIES CODE, §104.301, and with 16 TEX. ADMIN. CODE, §7.7101.

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47. For calculating the number of customer charges or meter charges per year, it is reasonable for the Commission to approve use of Distribution's 2007 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)	17,041,932
Commercial (C)	1,454,316
Industrial Sales & Transport (I & T)	11,808
Total	18,508,056

48. 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:	\$ 10,223,501	
Residential (R)	8,066,955	\$ 0.47
Commercial (C)	1,884,238	\$1.23
Industrial (I & T)	272,308	\$23.06

49. The amended filings resulted in an increase in the incremental rate to the Commercial customer from that originally noticed, i.e., and increase from \$1.23 to \$1.30.
50. Atmos has chosen to maintain the incremental commercial rate at \$1.23.

Reimbursements of Expense

51. 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.
52. 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.
53. 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.
54. 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.

December 29, 2008

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 interim adjustments 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 (Vernon 2008) and 16 TEX. ADMIN. CODE § 7.7101 (2008), 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 ANN. §104.301 (Vernon 2008) and 16 TEX. ADMIN. CODE § 7.7101 (2008).
6. Atmos’ application for an interim rate adjustment was processed in accordance with the requirements of TEX. UTIL. CODE ANN. §104.301 (Vernon 2008) and 16 TEX. ADMIN. CODE §7.7101 (2008).
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, 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 ANN. § 102.151 and 104.002 (Vernon 2008) and 16 TEX. ADMIN. CODE § 7.315 (2008).
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, 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) (Vernon 2007) and 16 TEX. ADMIN. CODE § 7.7101(d) (2008), 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) (Vernon 2007) and 16 TEX. ADMIN. CODE § 7.7101(e) (2008), to file with the Commission an annual earnings monitoring report demonstrating the Utility’s earnings during the preceding calendar year.

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13. Atmos is required, under 16 TEX. ADMIN. CODE §7.7101(h) (2008), 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) (2008), 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 ANN. § 104.301(a) (Vernon 2007) and 16 TEX. ADMIN. CODE § 7.7101(e) (2008).
17. Atmos 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' applications for interim rate adjustments, as proposed, comply with all provisions of TEX. UTIL. CODE ANN. § 104.301 (Vernon 2007) and 16 TEX. ADMIN. CODE § 7.7101 (2008).
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 (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 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) (Vernon 2007) and 16 TEX. ADMIN. CODE § 7.7101(m)(2008), 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 December 16, 2008.

IT IS FURTHER ORDERED THAT Atmos **SHALL** file with the Commission no later than October 17, 2009, 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 October 17, 2009, for Distribution, a relocation project report, which provides additional information about relocation costs included in investment projects, in the format provided in this docket.

December 29, 2008

IT IS FURTHER ORDERED THAT Atmos **SHALL** file with the Commission no later than October 17, 2009, 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 October 17, 2009, 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 16th day of December, 2008.

RAILROAD COMMISSION OF TEXAS

/s/
CHAIRMAN MICHAEL L. WILLIAMS

/s/
COMMISSIONER VICTOR G. CARRILLO

/s/
COMMISSIONER ELIZABETH A. JONES

ATTEST:

Kim Williamson
SECRETARY

December 29, 2008

Kim Williamson
SECRETARY

RAILROAD COMMISSION OF TEXAS

**STATEMENT OF INTENT FILED BY TEXAS
GAS SERVICE COMPANY TO CHANGE THE
RATES WITHIN THE ENVIRONS OF THE
NORTH TEXAS SERVICE AREA** :
: **GAS UTILITIES DOCKET NO. 9839**
:

SUSPENSION ORDER

Notice of Open Meeting to consider this Order was duly posted with the Secretary of State within the time provided by law pursuant to TEX. GOV=T CODE ANN. Chapter 551 (Vernon 2008).

On December 1, 2008, Texas Gas Service Company filed with the Railroad Commission of Texas (ACommission@) a statement of intent to change rates in the environs of the North Texas Service Area. Texas Gas Service Company has proposed that the rates become effective on January 5, 2009.

The Commission has the authority to suspend the proposed rates for a period of one hundred fifty (150) days from the date on which the rates would otherwise become effective, under TEX. UTIL. CODE ANN. ' 104.107(a)(2) (Vernon 2007 & Supp. 2008). The Commission requires further time to consider the propriety of the proposed rate change. A Commission order is necessary to suspend the operation of the proposed rate schedules for a period of one hundred fifty (150) days from the date on which the schedules would otherwise become effective.

IT IS THEREFORE ORDERED BY THE RAILROAD COMMISSION OF TEXAS that the rates proposed in the statement of intent filed by Texas Gas Service Company are hereby **SUSPENDED** for a period of one hundred fifty (150) days from the date the rates would otherwise go into effect.

SIGNED this 16th day of December, 2008.

RAILROAD COMMISSION OF TEXAS

/s/ _____
CHAIRMAN MICHAEL L. WILLIAMS

/s/ _____
COMMISSIONER VICTOR G. CARRILLO

/s/ _____
COMMISSIONER ELIZABETH A. JONES

ATTEST:

Kim Williamson
SECRETARY

December 29, 2008

**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.capitol.state.tx.us/statutes/uttoc.html>
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:
<http://www.rrc.state.tx.us/data/gasservices/annualrpt/2001/index.php>
 - h. Annual Report for Fiscal Year 2000 - \$17.00 (includes statistical data for 1999)
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>

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Anyone who wishes to obtain a copy of any of the publications or maps listed in Section A should contact the Central Records Section at 512-463-6887 OR 512-463-6882 P. O. Box 12967, Austin, Texas 78711-2967.

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, 2007 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	Telephone (512) 463-7022
Ed Abrahamson, Director, Utility Audit Section	Fax (512) 475-3180
Shannon Miller, Program Specialist	
Pearl Rodriguez, Program Specialist	

Dallas District- 1546 Rowlett Rd., Suite 107, Garland, Texas 75043	Telephone (972) 240-5757
Yolandra Davis, Auditor	Fax (972) 303-1897
Josh Settle, Auditor	

Austin District- P. O. Box 12967, Austin, Texas 78711-2967	Telephone (512) 463-7022
Stephen Cooper, Senior Auditor	Fax (512) 475-3180

Houston District- 1706 Seamist Drive. Suite 501 Houston, TX 77008-3135	Telephone (713) 869-8425
Margie Stoney, Senior Auditor	Fax (713) 869-3219
Larry Alcorn, Auditor	
Dale Francis, Auditor	
LaToya Johnson, Auditor	
Konata Uzoma, Auditor	

B. Gas Utility Tax, Annual Reports and Audit Reports

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

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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. **Curtailments**

Curtailment questions should be referred to (512) 463-7167. Curtailment reports made Monday through Friday, 8:00 a.m. to 5:00 p.m., should be made to (512) 463-7167. Curtailment 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 Curtailment 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.

