

**RAILROAD COMMISSION OF TEXAS  
GAS SERVICES DIVISION**

**GAS UTILITIES  
INFORMATION BULLETIN**

**No. 768  
*REVISED***



**RAILROAD COMMISSION  
OF TEXAS**

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

**Stephen L. Pitner  
Director  
Gas Services Division**

**March 25, 2005**

MARCH 25, 2005

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Orders were issued in the following dockets:

**GUD DOCKET NO. 9463** RIDER CIAF SEVERED FROM GAS UTILITIES DOCKET NO. 9400

**GUD DOCKET NO. 9519** APPLICATION OF DESOTO PIPELINE COMPANY, INC. PURSUANT TO SECTION 311 OF THE NATURAL GAS POLICY ACT FOR REVIEW OF THE REASONABLENESS OF A TRANSPORTATION RATE

**GUD DOCKET NO. 9524** ETC KATY PIPELINE, LTD.'s APPLICATION PURSUANT TO SECTION 311 OF THE NATURAL GAS POLICY ACT FOR REVIEW OF A RATE BEING CHARGED UNDER AN EXISTING GAS SALES CONTRACT

**GUD DOCKET NO. 9539** STATEMENT OF INTENT FILED BY ATMOS ENERGY CORPORATION TO CHANGE GAS RATES IN THE ENVIRONS OF AMARILLO, TEXAS

**GUD DOCKET NO. 9572** STATEMENT OF INTENT FILED BY SI ENERGY, L.P. TO CHANGE THE GAS COST RECOVERY MECHANISM FOR RESIDENTIAL, COMMERCIAL AND PUBLIC SCHOOL CUSTOMERS IN FORT BEND COUNTY

**GUD DOCKET NO. 9573** STATEMENT OF INTENT FILED BY ATMOS ENERGY CORPORATION TO INCREASE RATES AND CHANGE TARIFFS IN THE ENVIRONS OF THE WEST TEXAS SERVICE AREA.

**GUD DOCKET NO. 9560** APPLICATION OF ATMOS ENERGY CORP., MID-TEX DIVISION AND ATMOS PIPELINE-TEXAS FOR ANNUAL GAS RELIABILITY INFRASTRUCTURE PROGRAM RATE ADJUSTMENT FOR THE ENVIRONS AREA AND PIPELINE SYSTEM

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**SECTION 1**  
**NEW APPEALS AND APPLICATIONS FILED**

**DOCKET NO.** -- 9576  
**CAPTION** -- Rate Case Expense Severed From Gas Utilities Docket Nos. 9533 and 9534.  
**DATE FILED** -- March 22, 2005  
**FILED BY** -- Commission's Own Motion  
**EXAMINER** -- John Chakales

**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**

**DOCKET NO.** -- 9463  
**CAPTION** -- Rider CIAF Severed From Gas Utilities Docket No. 9400  
**DATE DISMISSED** -- March 15, 2005

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**SECTION 5**  
**ORDERS OF THE COMMISSION**

**RAILROAD COMMISSION OF TEXAS**

**RIDER CIAF SEVERED FROM GAS §  
UTILITIES DOCKET NO. 9400 § GAS UTILITIES DOCKET NO. 9463  
§**

**ORDER OF DISMISSAL**

On May 23, 2003, TXU Gas Company filed a statement of intent to increase rates on its statewide gas distribution and transmission system which was docketed as Gas Utilities Docket No. 9400. On October 9, 2003, the Hearings Examiners in GUD No. 9400 severed TXU Gas Company's proposed Rider 18: Rider CIAF - Capital Investment Adjustment Factor from GUD No. 9400 into Gas Utilities Docket No. 9463. On February 11, 2005, Atmos Energy Corporation ("Atmos"), the successor-in-interest to TXU Gas Company, filed with the Railroad Commission of Texas a request to withdraw the proposed Rider 18: Rider CIAF - Capital Investment Adjustment Factor and dismiss Gas Utilities Docket No. 9463. No parties filed objections to Atmos' motion to withdraw.

Without ruling on the merits of Atmos Energy Corporation's proposed Rider 18: Rider CIAF - Capital Investment Adjustment Factor, it is accordingly ordered that the Application in this docket is hereby **DISMISSED** without prejudice, under the provisions of 16 TEX. ADMIN. CODE § 1.126(3) (2002), on this the 15<sup>TH</sup> day of March, 2005.

/s/  
\_\_\_\_\_  
Lindil C. Fowler, Jr.  
General Counsel  
Railroad Commission of Texas

MARCH 25, 2005

**RAILROAD COMMISSION OF TEXAS**

<b>APPLICATION OF DESOTO PIPELINE          COMPANY, INC. PURSUANT TO SECTION 311          OF THE NATURAL GAS POLICY ACT FOR          REVIEW OF THE REASONABLENESS OF A          TRANSPORTATION RATE</b>	§ § § § § § §	<b>GAS UTILITIES DOCKET NO. 9519</b>
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**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 and Supp. 2003). The Railroad Commission of Texas adopts the following findings of fact, conclusions of law, and orders as follows:

**FINDINGS OF FACT**

1. Desoto Pipeline Company, Inc. (Applicant) owns and operates an intrastate natural gas pipeline within the State of Texas.
2. Applicant is desirous of transporting natural gas on behalf of others pursuant to '311(a)(2) of the Natural Gas Policy Act of 1978, 15 U.S.C. '3371, *et seq.*
3. On April 28, 2004, Applicant filed with the Railroad Commission of Texas (Commission) an application for review of the reasonableness of a transportation rate.
4. On August 30, 2004, Applicant filed direct testimony and exhibits with the Commission supporting the application.
5. Applicant does not seek to change or modify any existing intrastate rates.
6. This docket was processed informally without an evidentiary hearing. No motion to intervene or statement of protest was filed.
7. At present, Applicant does not have any customers being charged the proposed rate.
8. Applicant has shown that the rate of \$0.2050 per MMBtu, plus 0.5% fuel retention, for providing natural gas transportation service is fair and equitable and not in excess of a cost-based rate.

**CONCLUSIONS OF LAW**

Applicant is an intrastate "gas utility" pursuant to TEX. UTIL. CODE ' '101.003, 121.001 (Vernon 1998 and Supp. 2004).

The application is properly before the Commission pursuant to 15 U.S.C. '3371, *et seq.*, and TEX. UTIL. CODE ' '121.151 (Vernon 1998).

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A transportation rate of \$0.2050 per MMBtu, plus 0.5% fuel retention, is fair and equitable and not in excess of a cost-based rate.

**THE RAILROAD COMMISSION OF TEXAS** hereby finds that the rate of \$0.2050 per MMBtu, plus 0.5% fuel retention, for transportation service by Desoto Pipeline Company, Inc. is fair and equitable and not in excess of a cost-based rate.

**IT IS HEREBY ORDERED** that Desoto Pipeline Company, Inc. shall comply with all applicable curtailment orders of the Commission.

**IT IS FURTHER ORDERED** that all proposed findings of fact and conclusions of law not specifically adopted herein are **DENIED**.

**SIGNED** this 22<sup>nd</sup> day of March, 2005.

**RAILROAD COMMISSION OF TEXAS**

/s/ \_\_\_\_\_  
**VICTOR G. CARRILLO, CHAIRMAN**

/s/ \_\_\_\_\_  
**MICHAEL L. WILLIAMS, COMMISSIONER**

/s/ \_\_\_\_\_  
**ELIZABETH A. JONES, COMMISSIONER**

**ATTEST:**

/s/ Kim Williamson \_\_\_\_\_  
**SECRETARY**

MARCH 25, 2005

**RAILROAD COMMISSION OF TEXAS**

<p><b>ETC KATY PIPELINE, LTD.'s APPLICATION PURSUANT TO SECTION 311 OF THE NATURAL GAS POLICY ACT FOR REVIEW OF A RATE BEING CHARGED UNDER AN EXISTING GAS SALES CONTRACT</b></p>	<p>§ § § § §</p>	<p><b>GAS UTILITIES DOCKET NO. 9524</b></p>
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**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 and Supp. 2003). The Railroad Commission of Texas adopts the following findings of fact, conclusions of law, and orders as follows:

**FINDINGS OF FACT**

1. ETC Katy Pipeline, Ltd. (Applicant) owns and operates an intrastate natural gas pipeline within the State of Texas.
2. Applicant desires to transport natural gas on behalf of others pursuant to ' 311(a)(2) of the Natural Gas Policy Act of 1978, 15 U.S.C. ' 3371, *et seq.*
3. On July 15, 2004, Applicant filed with the Railroad Commission of Texas (Commission) an application for review of the reasonableness of the transportation component of a natural gas sales rate being charged under an existing gas sales contract.
4. On September 9, 2004, Applicant filed direct testimony and exhibits with the Commission supporting the application.
5. On March 1, 2005, and on March 9, 2005, Applicant filed additional documentation and exhibits to support the direct testimony.
6. Applicant does not seek to change or modify any existing intrastate rates.
7. This docket was processed informally without an evidentiary hearing. No motion to intervene or statement of protest was filed.
8. At present, Applicant does not have any ' 311 transportation customers being charged the proposed rate.
9. Applicant has shown that the rate of \$0.20 per MMBtu plus 1½ percent retainage for lost and unaccounted-for gas and system fuel for the transportation component of a natural gas sales rate is fair and equitable and not in excess of a cost-based rate.

**CONCLUSIONS OF LAW**

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1. Applicant is an intrastate "gas utility" pursuant to TEX. UTIL. CODE ' ' 101.003. 121.001 (Vernon 1998 and Supp. 2004).
2. The application is properly before the Commission pursuant to 15 U.S.C. ' 3371, *et seq.*, and TEX. UTIL. CODE ' ' 121.151 (Vernon 1998).
3. A rate of \$0.20 per MMBtu plus 1½ percent retainage for lost and unaccounted-for gas and system fuel for the transportation component of a natural gas sales rate is fair and equitable, and not in excess of a cost-based rate.

**THE RAILROAD COMMISSION OF TEXAS** hereby finds that the rate of \$0.20 per MMBtu plus 1½ percent retainage for lost and unaccounted-for gas and system fuel for the transportation component of a natural gas sales rate being charged under an existing gas sales contract by ETC Katy Pipeline, Ltd. is fair and equitable and not in excess of a cost-based rate.

**IT IS HEREBY ORDERED** that ETC Katy Pipeline, Ltd. shall comply with all applicable curtailment orders of the Commission.

**IT IS FURTHER ORDERED** that all proposed findings of fact and conclusions of law not specifically adopted herein are **DENIED**.

**SIGNED** this 22<sup>nd</sup> day of March, 2005.

**RAILROAD COMMISSION OF TEXAS**

/s/  
**VICTOR G. CARRILLO, CHAIRMAN**

/s/  
**MICHAEL L. WILLIAMS, COMMISSIONER**

/s/  
**ELIZABETH A. JONES, COMMISSIONER**

**ATTEST:**

/s/ Kim Williamson  
**SECRETARY**

MARCH 25, 2005

**BEFORE THE  
RAILROAD COMMISSION OF TEXAS**

**STATEMENT OF INTENT FILED BY ATMOS §  
ENERGY CORPORATION TO CHANGE GAS §                   GAS UTILITIES DOCKET  
RATES IN THE ENVIRONS OF AMARILLO, §                   NO. 9539  
TEXAS §**

**ORDER NUNC PRO TUNC**

In conference in its office in Austin, Texas, the Railroad Commission of Texas took up for consideration the matter of correcting the Final Order entered on March 8, 2005, in Gas Utilities Docket No. 9539. The Final Order Contains two clerical errors in the identification of dates. Finding of Fact No. 6, incorrectly refers to October 15, 2005. The correct date is October 15, 2004. Finding of Fact No. 7, incorrectly refers to October 20, 2005. The correct date is October 20, 2004.

Additionally, the Final Order adopted a Conclusion of Law which contained a clerical error in the identification of the utility which is the subject of this case. Conclusion of Law No. 17 refers to Entex. Instead, the correct entity name in this case is Atmos.

**IT IS THEREFORE ORDERED THAT** the Final Order in Gas Utilities Docket No. 9539, dated March 8, 2005, is hereby amended *nunc pro tunc* to reflect the corrected dates and entity name as, stated above.

**SIGNED** this 22<sup>nd</sup> day of March, 2005.

**RAILROAD COMMISSION OF TEXAS**

/s/  
**CHAIRMAN VICTOR CARRILLO**

/s/  
**COMMISSIONER MICHAEL L. WILLIAMS**

/s/  
**COMMISSIONER ELIZABETH A. JONES**

**ATTEST**

/s/ Kim Williamson

MARCH 25, 2005

SECRETARY

**RAILROAD COMMISSION OF TEXAS**

<b>STATEMENT OF INTENT FILED BY SI</b>	<b>§</b>	
<b>ENERGY, L.P. TO CHANGE THE GAS COST</b>	<b>§</b>	<b>GAS UTILITIES DOCKET NO. 9572</b>
<b>RECOVERY MECHANISM FOR</b>	<b>§</b>	
<b>RESIDENTIAL, COMMERCIAL AND PUBLIC</b>	<b>§</b>	
<b>SCHOOL CUSTOMERS IN FORT BEND</b>	<b>§</b>	
<b>COUNTY</b>	<b>§</b>	

**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 2004).

On February 24, 2005, SiEnergy, L.P. (SiEnergy) filed with the Railroad Commission of Texas (Commission) a statement of intent to change rates charged to customers located in the environs of Fort Bend County, under TEX. UTIL. ANN. §104.102 (Vernon 1998 and Supp. 2004-2005). Entex's proposed effective date is March 31, 2005.

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 1998 and Supp. 2004-2005). The Commission requires further time to consider the propriety of the proposed rate schedule change.

A suspension order is necessary to extend the implementation of the proposed rate for a period of one hundred fifty (150) days from the date on which the rates would otherwise become effective.

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

SIGNED this 22<sup>nd</sup> day of March 2005.

**RAILROAD COMMISSION OF TEXAS**

/s/  
\_\_\_\_\_  
**VICTOR G. CARRILLO, CHAIRMAN**

/s/  
\_\_\_\_\_  
**MICHAEL L. WILLIAMS, COMMISSIONER**

MARCH 25, 2005

/s/  
**ELIZABETH A. JONES, COMMISSIONER**

ATTEST:

/s/ Kim Williamson  
**SECRETARY**

**RAILROAD COMMISSION OF TEXAS**

**STATEMENT OF INTENT FILED BY ATMOS ENERGY CORPORATION TO INCREASE RATES AND CHANGE TARIFFS IN THE ENVIRONS OF THE WEST TEXAS SERVICE AREA.** §  
§  
§ **GAS UTILITIES DOCKET NO. 9573**  
§  
§

**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 1994 and Supp. 2004).

On February 25, 2005, Atmos Energy Corporation filed with the Railroad Commission of Texas (Commission) a statement of intent to change rates in the environs of the West Texas Service Area. Atmos Energy Corporation has proposed that the rates become effective on April 1, 2005.

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 1998 and Supp. 2004). 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 Atmos Energy Corporation are hereby **SUSPENDED** for a period of one hundred fifty (150) days from the date the rates would otherwise go into effect.

SIGNED this 22<sup>nd</sup> day of March, 2005.

**RAILROAD COMMISSION OF TEXAS**

/s/  
**CHAIRMAN VICTOR G. CARRILLO**

s/  
**COMMISSIONER MICHAEL L. WILLIAMS**

MARCH 25, 2005

/s/  
**COMMISSIONER ELIZABETH A. JONES**

**ATTEST:**

/s/ Kim Williamson  
**SECRETARY**

**BEFORE THE  
RAILROAD COMMISSION OF TEXAS**

<b>APPLICATION OF ATMOS ENERGY CORP.,</b>	<b>§</b>	
<b>MID-TEX DIVISION AND ATMOS PIPELINE-</b>	<b>§</b>	<b>GAS UTILITIES DOCKET NO. 9560</b>
<b>TEXAS FOR ANNUAL GAS RELIABILITY</b>	<b>§</b>	
<b>INFRASTRUCTURE PROGRAM RATE</b>	<b>§</b>	
<b>ADJUSTMENT FOR THE ENVIRONS AREA AND</b>	<b>§</b>	
<b>PIPELINE SYSTEM</b>	<b>§</b>	

**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 (Vernon 2004). 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 (Pipeline), a division of Atmos, owns and operates a gas pipeline transportation system.
3. Atmos Energy Corporation, Mid-Tex Division (Distribution), a division of Atmos, owns and operates a gas distribution system.
4. On December 17, 2004, Distribution filed an application for an annual interim rate adjustment applicable to customers located in its Mid-Tex System environs area.
5. On December 17, 2004, Pipeline filed an application for an Annual Interim Rate Adjustment applicable to customers located on its pipeline system.
6. The two applications, for Distribution and Pipeline, are addressed in this docket.
7. Atmos requested that the interim rate adjustments for all customer classes become effective on February 15, 2005.

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8. On January 26, 2005, the Commission suspended implementation of Atmos' proposed interim rate adjustments until April 1, 2005, which is 45 days following the 60<sup>th</sup> day after the applications were complete.
9. The Commission completed its initial review of the interim rate adjustment applications within sixty days from the date the filings were complete, i.e., February 15, 2005.
10. The Commission completed its review of the interim rate adjustment applications, following suspension, within 45 days from the 60<sup>th</sup> day after the applications were complete.
11. The Atmos Texas Municipalities (ATM) filed with the Commission a Plea of Intervention in the cause of Atmos Energy Corp., Mid-Tex Division's application for an interim rate adjustment.
12. Neither TEXAS UTILITIES CODE, §104.301 (Vernon Supp 2004-2005) nor 16 TEX. ADMIN. CODE, §7.7101 (2004) provides the opportunity for parties to intervene in the Commission's review of an application for an annual interim rate adjustment.
13. This docket establishes the first annual interim rate adjustment for the distribution system environs of Atmos Energy Corp., Mid-Tex Division.
14. This docket establishes the first annual interim rate adjustment for the intrastate pipeline system of Atmos Pipeline - Texas.
15. Until promulgation of TEXAS UTILITIES CODE, §104.301 (Vernon Supp 2004-2005), 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.
16. Atmos' proposed interim rate adjustments will allow Pipeline and 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, without the necessity of filing a statement of intent rate case and without review by the Commission of Atmos' comprehensive cost of service.

Applicability

17. This docket applies to only those rates over which the Commission has original jurisdiction, including the entire Pipeline system, with the exception of rates negotiated separately, and all of the Distribution system environs customers.
18. As of year-end 2003, Pipeline included 798 City Gate meters and 180 Pipeline Transportation rate meters.
19. As of year-end 2003, Distribution environs customers included 32,059 Residential customers, 2,095 Commercial customers, and 67 Industrial Sales and Transport customers.

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Most Recent Comprehensive Rate Case

20. Atmos' most recent rate case for the area in which the interim rate adjustment 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*.
21. GUD No. 9400 was filed on May 23, 2003.
22. The data used in GUD No. 9400 was based on a test-year ending December 31, 2002.
23. The Commission signed the GUD No. 9400 final Order on May 25, 2004, and the rates became effective the same day.
24. The rates currently charged by Atmos were set by the Commission in GUD No. 9400.
25. The following chart shows the factors that were used for both Pipeline and Distribution to establish or used in the final Order setting rates in GUD No. 9400 to calculate the return on investment, depreciation expense, incremental federal income tax, and ad valorem taxes.

**GUD 9400 CALCULATION FACTORS**

<b>Factor</b>	<b>Pipeline</b>	<b>Distribution</b>
Rate of Return	8.258 %	8.258 %
Depreciation Rate	2.097 %	3.539 %
Federal Income Tax Rate	35 %	35 %
Ad Valorem Tax Rate	1.305 %	1.550 %

Interim Rate Adjustment

26. 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.
27. 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. 9400.
28. 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. 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 interim rate adjustment.
29. To request its interim rate adjustments in this docket, Atmos submitted data for the calendar year ending December 31, 2003.
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 Pipeline and Distribution's invested capital at the end of the most recent rate case test-year and the invested capital at the end of the calendar-year following the end of the most recent rate case test-year.
31. 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 both Pipeline and Distribution interim rate adjustments.
32. Atmos' incremental net utility plant investment is \$11,038,027 for Pipeline and \$32,518,365 for Distribution.

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33. 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.
34. 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.
35. 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.
36. Atmos is required to show its annual interim rate adjustments on its customers' monthly billing statements as a surcharge.
37. 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.
38. Due process protections are deferred until Atmos files its next rate case.

Notice

39. Atmos provided adequate notice to its Distribution customers by January 31, 2005.
40. Atmos provided adequate notice to its Pipeline transportation customers that are subject to Rate PT by January 31, 2005.
41. Atmos provided adequate notice to two non-affiliated city gate customers on March 4, 2005. It is therefore reasonable that the interim rate adjustment applicable to the two non-affiliated city-gate customers not to go into effect until 45 days after notice was complete, or April 19, 2005.

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 does not comply with TEXAS UTILITIES CODE, §104.301, and with 16 TEX. ADMIN. CODE, §7.7101.
45. It is reasonable for the Commission to deny Atmos' allocation methodology, as proposed in its application.
46. 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:

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<b>Customer Class</b>	<b>Allocation Factors</b>
<b>Distribution:</b>	
Residential (R)	0.7066
Commercial (C)	0.2147
Industrial Sales & Transport (I & T)	0.0788
<b>Pipeline:</b>	
City Gate Service (CGS)	0.7317
Pipeline Transport (PT)	0.2683

47. Atmos' proposed customer and meter counts do not comply with TEXAS UTILITIES CODE, §104.301, and with 16 TEX. ADMIN. CODE, §7.7101.
48. It is reasonable for the Commission to deny Atmos' customer and meter counts, as proposed in Atmos' interim rate adjustment applications.
49. For calculating the number of customer charges or meter charges per year, it is reasonable for the Commission to approve use of Pipeline and Distribution's 2003 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:

<b>Customer Class</b>	<b>Total Number of Customer Charges / Meters</b>
<b>Distribution:</b>	
Residential (R)	16,275,888
Commercial (C)	1,497,828
Industrial Sales & Transport (I & T)	16,548
Total	17,790,264
<b>Pipeline:</b>	
City Gate Service (CGS)	9,576
Pipeline Transport (PT)	2,160
Total	11,736

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

<b>Customer Class</b>	<b>Interim Rate Adjustment Revenue</b>	<b>Additional Customer / Meter Charges</b>
<b>Distribution:</b>		
Residential (R)	\$6,691,224	
Commercial (C)	4,727,865	\$0.29
Industrial Sales & Transport (I & T)	1,436,291	\$0.96
Total	527,068	\$31.85
<b>Pipeline:</b>		
City Gate (CGS)	\$1,801,725	
Transport (PT)	1,318,244	\$137.66
Total	483,481	\$223.83

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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.

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**CONCLUSIONS OF LAW**

1. Atmos Energy Corporation (Atmos) is a “gas utility” as defined in TEX. UTIL. CODE ANN. § 101.003(7) (Vernon 1998 and Supp. 2004) and § 121.001 (Vernon 1998 and Supp. 2004-2005), 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 1998 and Supp. 2004-2005).
3. Under TEX. UTIL. CODE ANN. §102.001 (Vernon 1998 and Supp. 2004-2005), 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 and 16 TEX. ADMIN. CODE § 7.7101 (2004), 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 Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101 (2004).
6. Atmos’ application for an interim rate adjustment was processed in accordance with the requirements of TEX. UTIL. CODE ANN. §104.301 (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE §7.7101 (2004).
7. In accordance with 16 TEX. ADMIN. CODE § 7.315 (2002), 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. In accordance with TEX. UTIL. CODE ANN. §104.301(a) (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101(a) (2004), 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.
9. Atmos is required, under TEX. UTIL. CODE ANN. §104.301(e) (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101(d) (2004), 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.
10. 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.
11. Atmos is required, under TEX. UTIL. CODE ANN. §104.301(f) (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101(e) (2004), to file with the Commission an annual earnings monitoring report demonstrating the Utility’s earnings during the preceding calendar year.
12. Atmos is required, under 16 TEX. ADMIN. CODE §7.7101(h) (2004), 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.

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13. In accordance with 16 TEX. ADMIN. CODE § 7.7101(i) (2004), 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.
14. In accordance with 16 TEX. ADMIN. CODE § 7.7101(j) (2004), 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.
15. The Commission has authority to suspend the implementation of the interim rate adjustment, under TEX. UTIL. CODE ANN. § 104.301(a) (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101(e) (2004).
16. Atmos provided adequate notice, in accordance with TEX. UTIL. CODE ANN. § 104.301(a) (Vernon Supp. 2004 – 2005) and 16 TEX. ADMIN. CODE § 7.7101(b) (2004).
17. Atmos' applications for interim rate adjustments, as proposed, do not comply with all provisions of TEX. UTIL. CODE ANN. § 104.301 (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101 (2004).
18. Atmos' interim rate adjustments, as modified by the Commission and established in the findings of fact and conclusions of law, comply with the provisions of TEX. UTIL. CODE ANN. § 104.301 (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101 (2004).
19. In accordance with TEX. UTIL. CODE ANN. § 104.301(h) (Vernon Supp. 2004 – 2005) and 16 TEX. ADMIN. CODE § 7.7101(l) (2004), 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.
20. The Commission has authority, under TEX. UTIL. CODE ANN. § 104.301(j) (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101(m) (2004), 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 after March 22, 2005.

**IT IS FURTHER ORDERED THAT** Atmos **SHALL** file with the Commission no later than December 16, 2005, for both Pipeline and 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 December 16, 2005, for both Pipeline and Distribution, a relocation project report, which provides additional information about relocation costs included in investment projects, in the format provided in this docket.

**IT IS FURTHER ORDERED THAT** Atmos **SHALL** file with the Commission no later than December 16, 2005, for both Pipeline and Distribution, an annual earnings monitoring report demonstrating Pipeline and Distribution's earnings during the preceding calendar year.

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**IT IS FURTHER ORDERED THAT** Atmos **SHALL** file with the Commission no later than December 16, 2005, for both Pipeline and 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 approved by the Commission in this Order.

**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 22<sup>nd</sup> day of March , 2005.

**RAILROAD COMMISSION OF TEXAS**

/s/  
\_\_\_\_\_  
**VICTOR G. CARRILLO**  
**CHAIRMAN**

/s/  
\_\_\_\_\_  
**MICHAEL L. WILLIAMS**  
**COMMISSIONER**

/s/  
\_\_\_\_\_  
**ELIZABETH A. JONES**  
**COMMISSIONER**

**ATTEST**

MARCH 25, 2005

/s/ Kim Williamson  
SECRETARY

**SECTION 6**  
**MISCELLANEOUS**

**STEPHEN L. PITNER, GAS SERVICES DIVISION DIRECTOR**

**1. OFFICE OF THE DIRECTOR**

**A. Publications**

1. Texas Utilities Code Titles 3 and 4. Special Rules of Practice and Procedure and Substantive Rules - \$15.00
2.
  - a. Annual Report for Fiscal Year 2002 – Now available via the Commission’s website at:  
<http://www.rrc.state.tx.us/divisions/gs/tablecontents02.html>
  - b. Annual Report for Fiscal Year 2001 – available via the Commission’s website at:  
<http://www.rrc.state.tx.us/divisions/gs/tablecontents01.html>
    - a. Annual Report for Fiscal Year 2000 - \$17.00 (includes statistical data for 1999)
    - b. Annual Report for Fiscal Year 1999 - \$9.00 (includes statistical data for 1998)
    - c. Annual Report for Fiscal Year 1998 - \$7.00 (includes statistical data for 1997)
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/divisions/gs/rap/sixmcf.html>

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 2004 is 6.00%. All gas utilities should use this rate.

**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		
Rachel Hampton, Administrative Assistant		
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
		Fax (512) 475-3180

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Stephen Cooper, Senior Auditor

Houston District- 1706 Seamist Drive, Suite 501  
Houston, TX 77008-3135

Telephone (713) 869-8425

Fax (713) 869-3219

Margie Stoney, Senior Auditor  
Larry Alcorn, Auditor  
Dale Francis, Auditor  
Bryan L. Sparkman, Auditor  
Konata Uzoma, Auditor**B. Gas Utility Tax, Annual Reports and Audit Reports**

1. Questions relating to gas utility tax, call Rachel Hampton at (512) 463-7022.
2. Questions relating to annual reports, call Rachel Hampton or 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 (1999 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 five 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  
William O. Geise, Director

Telephone (512) 463-7164

**B. Gas Utilities Information Bulletin**Published on the Commission's web site at: <http://www.rrc.state.tx.us/divisions/gs/rap/rapbls.html>.**C. Proposals For Decision**Published on the Commission's web site at: <http://www.rrc.state.tx.us/divisions/gs/rap/pfds.html>.**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) 463-7164.

**E. Curtailments**

Curtailment questions should be referred to (512) 463-7164. Curtailment reports made Monday through Friday, 8:00 a.m. to 5:00 p.m., should be made to (512) 463-7164. 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

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at (512) 463-7164.

**H. Pending RRC Rules and Regulations:**

GUD No. 9275 Amendments to §7.512 NGPA Section 311 Rate Review

GUD No. 9276 Amendments to §7.511 TUC Section 102.054 Sale, Transfer, Merger Reviews

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.