

BEFORE THE  
RAILROAD COMMISSION OF TEXAS

<b>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</b>	§ § § § § § § §	<b>GAS UTILITIES DOCKET NO. 9615</b>
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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 (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 September 20, 2005, Distribution filed an application for an annual interim rate adjustment applicable to customers located in its Mid-Tex System environs area.
5. On September 20, 2005, 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 single docket.
7. Atmos requested that the interim rate adjustments for all customer classes become effective on November 19, 2005.

8. On September 28, 2005, the Commission suspended implementation of Atmos' proposed interim rate adjustments until January 3, 2006, which is 45 days following the 60<sup>th</sup> day after the applications were complete.
9. The Commission received one letter opposing the proposed increase. Cal-Tex Feed Yard filed a letter opposing the proposed rate increase by Pipeline.
10. TEXAS UTILITIES CODE, §104.301 (Vernon Supp 2004-2005) does not provide a remedy for parties that oppose an annual interim rate adjustment.
11. 16 TEX. ADMIN. CODE, §7.7101 (2004) allows written comments or a protest concerning the proposed interim rate adjustment to be filed with the Gas Services Division.
12. The Atmos Cities Steering Committee (ACSC) 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.
13. 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.
14. 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.
15. This docket is the second annual interim rate adjustment for the distribution system environs of Atmos Energy Corp., Mid-Tex Division and the intrastate pipeline system of Atmos Pipeline - Texas.
16. 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.
17. 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

18. 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.
19. As of year-end 2004, Distribution environs customers included approximately 32,059 Residential customers, 2,095 Commercial customers, and 67 Industrial Sales and Transport customers and Pipeline included approximately 798 City Gate meters and 180 Pipeline Transportation rate meters.

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. 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 (December 31, 2003) and the invested capital at the end of the calendar-year following the end of the most recent rate case test-year (December 31, 2002).
  30. This docket is the second annual interim rate adjustment for Atmos. Therefore, to request its interim rate adjustments in this docket, Atmos submitted data for the calendar year ending December 31, 2004.
  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 increase is \$10,640,163 for Pipeline and \$28,902,652 for Distribution.
  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 full statement of intent rate case.

#### Notice

39. Atmos provided adequate notice to its Distribution Residential (R) and Commercial (C) customers between October 5, 2005 and November 1, 2005.
40. Atmos provided adequate notice to its Distribution Industrial (I) and Transportation (T) customers on November 4, 2005.
41. Atmos provided adequate notice to its Pipeline transportation (PT) customers and City Gate Service (CGS) customers that are subject to Rate PT on November 4, 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 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:

<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

46. Atmos' proposed customer and meter counts comply with TEXAS UTILITIES CODE, §104.301, and with 16 TEX. ADMIN. CODE, §7.7101.
47. 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 2004 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)	16,430,676
Commercial (C)	1,494,108
Industrial Sales & Transport (I & T)	12,732
<b>Total</b>	<b>17,937,516</b>
<b>Pipeline:</b>	
City Gate Service (CGS)	9,204
Pipeline Transport (PT)	2,448
<b>Total</b>	<b>11,752</b>

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:

<b>Customer Class</b>	<b>Interim Rate Adjustment Revenue</b>	<b>Additional Customer / Meter Charges</b>
<b>Distribution:</b>	\$6,731,115	
Residential (R)	4,756,051	\$0.29
Commercial (C)	1,444,854	\$0.97
Industrial (I & T)	530,210	\$41.64
<b>Pipeline:</b>	\$1,918,699	
City Gate (CGS)	1,403,829	\$152.52
Transport (PT)	514,870	\$210.32

Reimbursements of Expense

49. 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.
50. 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.
51. 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.
52. Atmos is required to reimburse the Commission for the amount determined by the Director of the Gas Services Division and approved by the Commission, within thirty days after receipt of notice of the amount of the reimbursement.

CONCLUSIONS OF LAW

1. Atmos Energy Corporation (Atmos) is a "gas utility" as defined in TEX. UTIL. CODE 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. 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 and 16 TEX. ADMIN. CODE § 7.315 (2002).
  9. 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.
  10. 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.
  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 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.
13. 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.
14. 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.
15. 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.
16. 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).
17. 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).
18. Atmos' applications for interim rate adjustments, as proposed, comply with all provisions of TEX. UTIL. CODE ANN. § 104.301 (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101 (2004).
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 Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101 (2004).
20. In accordance with TEX. UTIL. CODE ANN. § 104.301(h) (Vernon Supp. 2004 – 2005) and 16 TEX. ADMIN. CODE § 7.7101(i) (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.

21. 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 December 13, 2005.

**IT IS FURTHER ORDERED THAT** Atmos **SHALL** file with the Commission no later than September 19, 2006, 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 September 19, 2006, 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 September 19, 2006, for both Pipeline and Distribution, an annual earnings monitoring report demonstrating Pipeline and Distribution's earnings during the preceding calendar year.

**IT IS FURTHER ORDERED THAT** Atmos **SHALL** file with the Commission no later than September 19, 2006, 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, as expressed in Exhibit A, approved by the Commission in this Order.

**IT IS FURTHER ORDERED THAT** Atmos West Texas **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 13<sup>th</sup> day of December, 2005.

RAILROAD COMMISSION OF TEXAS



ELIZABETH A. JONES  
CHAIRMAN

MICHAEL L. WILLIAMS  
COMMISSIONER



VICTOR G. CARRILLO  
COMMISSIONER

ATTEST



SECRETARY

**EXHIBIT A**

**IRA Rates**

**GAS UTILITIES DOCKET NO. 9615:**

Application of Atmos Energy Corp., Mid-Tex Division and Atmos Pipeline – Texas for Test Year 2004 Annual Gas Reliability Infrastructure Program Rate Adjustment for the Environs Area and Pipeline System.

Exhibit A

	GUD No. 9400	GUD No. 9560	Proposed Increase
Customer Class	Initial Rate	1 <sup>st</sup> IRA	2 <sup>nd</sup> IRA
<b>Distribution:</b>			
Residential (R)	\$9.00	\$0.29	<b>\$0.29</b>
Commercial (C)	\$15.50	\$0.96	<b>\$0.97</b>
Industrial & Transport (I & T)	\$150.00	\$31.85	<b>\$41.64</b>
<b>Pipeline:</b>			
City Gate Service (CGS)	\$200.00	\$137.66	<b>\$152.52</b>
Pipeline Transport (PT)	\$200.00	\$223.83	<b>\$210.32</b>

## CASE SUMMARY

**GAS UTILITIES DOCKET NO. 9615:** Application of Atmos Energy Corp., Mid-Tex Division and Atmos Pipeline – Texas for Test Year 2004 Annual Gas Reliability Infrastructure Program Rate Adjustment for the Environs Area and Pipeline System.

**PRESENTER:** Mark Brock

**ISSUE:** Should the Railroad Commission of Texas (Commission) approve the Interim Rate Adjustment (IRA) proposed by Atmos Energy Corp., Mid-Tex Division and Atmos Pipeline – Texas?

**PARTIES OF RECORD:**

Atmos Energy Corp., Mid-Tex Division and Atmos Pipeline – Texas, represented by John K. Arnold, Locke Liddell & Sapp LLP

**PROCEDURAL HISTORY:**

GRIP filed with the Commission:	September 20, 2005
Proposed Effective Date:	November 19, 2005
Notice to Customer:	October 5, 2005 through November 1, 2005
Statutory Deadline:	January 3, 2006
Current Status:	Protested

**KEY FACTS:**

1. On May 23, 2003, Atmos Energy Corp., Mid-Tex Division and Atmos Pipeline – Texas filed a Statement of Intent to change its rates system wide in Texas, GUD No. 9400. A Final Order approving system wide rates was signed on May 25, 2004.
2. On December 17, 2005, Atmos Energy Corp., Mid-Tex Division and Atmos Pipeline – Texas filed its first Interim Rate Adjustment IRA, GUD No. 9560, using a test year ended December 31, 2003. A Final Order approving the utility's first IRA was signed on March 22, 2005.
3. On September 20, 2005, Atmos Energy Corp., Mid-Tex Division and Atmos Pipeline – Texas filed its second IRA using a test year ended December 31, 2004, GUD No. 9615.
4. The proposed IRA will result in an interim increase in rates to all customer classes served by the utility, increasing the customer, or meter charge, to allow a return on incremental investment between the test year-end of December 31, 2004 and the test year-end from GUD No. 9560, December 31, 2003.
5. This IRA is calculated over the distribution system and the pipeline system where the Commission has original jurisdiction. This includes the entire pipeline system, with exception of rates negotiated separately, and the distribution system to the environs customers.
6. The proposed IRA will increase the customer charge and meter charge to Residential customers, Commercial customers, Industrial Sales and Transport customers on the distribution system and City Gate meters and transportation meters on the pipeline system.

7. The Commission received one letter from a customer opposing the rate increase from Cal-Tex Feed Yard (Cal-Tex). A letter was sent to Cal-Tex advising the customer of the statute and the Commission's review.
8. Pleas to intervene were received from the Atmos Texas Municipalities (ATM) and from the Atmos Cities Steering Committees (ACSC).
9. Determined in GUD No. 9400 and adopted in GUD No. 9560, the following Gas Reliability Infrastructure Program (GRIP) rates, factors and percentages were set:

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

10. Atmos West Texas filed the Railroad Commission of Texas' Annual Earnings Monitoring Report as required by 16 Texas Administrative Code § 7.7101.
11. Atmos West Texas filed its Annual Project Report as required by 16 Texas Administrative Code § 7.7101.

**LEGAL PRINCIPLE INVOLVED:**

Pursuant to Tex. Util. Code § 102.001, the Commission has exclusive original jurisdiction over the rates charged in an unincorporated area. The Commission must ensure that a gas utility's rates are just and reasonable; are not unreasonably preferential, prejudicial, or discriminatory; and are sufficient, equitable, and consistent in application to each class of customer, pursuant to Tex. Util. Code §§ 104.003(a), 104.004, 104.005, and 104.301.

**ACTION REQUESTED:**

Staff recommends that the proposed interim adjustment rates as presented Atmos Energy Corp., Mid-Tex Division and Atmos Pipeline – Texas in Exhibit A be approved.

**EXHIBIT A**

**IRA Rates**

**GAS UTILITIES DOCKET NO. 9615:**

Application of Atmos Energy Corp., Mid-Tex Division and Atmos Pipeline – Texas for Test Year 2004 Annual Gas Reliability Infrastructure Program Rate Adjustment for the Environs Area and Pipeline System.

Exhibit A

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Customer Class	Initial Rate	1 <sup>st</sup> IRA	2 <sup>nd</sup> IRA
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Residential (R)	\$9.00	\$0.29	<b>\$0.29</b>
Commercial (C)	\$15.50	\$0.96	<b>\$0.97</b>
Industrial & Transport (I & T)	\$150.00	\$31.85	<b>\$41.64</b>
<b>Pipeline:</b>			
City Gate Service (CGS)	\$200.00	\$137.66	<b>\$152.52</b>
Pipeline Transport (PT)	\$200.00	\$223.83	<b>\$210.32</b>