

**BEFORE THE
RAILROAD COMMISSION OF TEXAS**

APPLICATION OF ATMOS ENERGY, WEST TEXAS DIVISION FOR TEST YEAR 2008 ANNUAL INTERIM RATE ADJUSTMENT FOR THE UNINCORPORATED AREAS OF THE WEST TEXAS RATE DIVISION	§ § § § § §	GAS UTILITIES DOCKET NO. 9877
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INTERIM RATE ADJUSTMENT ORDER

Notice of Open Meeting to consider this Order was duly posted with the Secretary of State within the time period provided by law pursuant to TEX. GOV'T CODE ANN. Chapter 551 (Vernon 2000 & Supp. 2007). The Railroad Commission of Texas (Commission) adopts the following findings of fact and conclusions of law and orders as follows:

FINDINGS OF FACT

Background

1. Atmos Energy Corporation, West Texas Division (Atmos) owns and operates a natural gas distribution system that provides natural gas to customers in the service area known as the West Texas Rate Division.
2. The West Texas Rate Division includes territories located within the boundaries of 66 incorporated cities and municipalities listed on Exhibit A, attached. (Atmos' July 23, 2009 response to Request for Information No. 2-6a)
3. The West Texas Rate Division includes these unincorporated territories, hereafter referred to as the West Texas unincorporated areas:
 - the environs surrounding 66 incorporated cities and municipalities listed on Exhibit A, attached, and
 - four unincorporated territories known as Greenwood, Southland, Welch, and Witharral, and
 - the environs surrounding Greenwood, Southland, Welch and Witharral. (Atmos' July 23, 2009 response to Request for Information Nos. 2-6b through 2-6e)
4. On May 8, 2009, Atmos filed with the Commission, pursuant to Texas Utilities Code Sec. 104.301 and Rule §7.7101, an application to recover \$288,375 of 2008 infrastructure investment costs through the implementation of a Gas Reliability Infrastructure Program (GRIP) Interim Rate Adjustment applicable to customers in West Texas unincorporated areas. (Atmos' July 23, 2009 response to Request for Information No. 1-12)

5. Atmos proposed the Interim Rate Adjustment applicable to customers in West Texas unincorporated areas become effective on July 7, 2009. (Application, Tab 2, IRA-4)
6. On May 12, 2009, the Gas Services Division suspended, pursuant to Texas Utilities Code Sec. 104.301(a) and Rule §7.7101(a)(6)(B), the effective date of the proposed Interim Rate Adjustment for up to 45 days from July 7, 2009 to August 21, 2009.
7. On May 20, 2009, the Gas Services Division notified Atmos that its application was incomplete and, therefore, the application did not entirely comport with Rule §7.7101(c).
8. On June 3, 2009, Atmos provided the Gas Services Division with a modified project report, to complete the application.
9. On June 4, 2009, the Gas Services Division notified Atmos that the application, as modified, was complete as of June 3, 2009.
10. Atmos' most recent Statement of Intent rate case for West Texas unincorporated areas was administered by the Commission in Gas Utilities 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*.
11. The territory described as the West Texas Service Area in Docket No. 9573 is the same territory described as the West Texas Rate Division in Docket No. 9877. (Atmos' July 23, 2009 response to Request for Information No. 2-5)
12. In Docket No. 9573, the Commission approved on July 11, 2005 rates designed to recover from customers in West Texas unincorporated areas a revenue requirement increase of \$470,651 annually, based upon data for a 12-month test year ending March 31, 2003. (*Final Order* at Finding of Fact Nos. 8 and 18)
13. The \$470,651 annual revenue increase approved in Docket No. 9573 originated from an agreement that preceded Docket No. 9573, in which Atmos and the West Texas municipalities agreed to a reduction of Atmos' revenue increase request applicable to the West Texas Service Area from \$7,683,862 to \$3.2 million. (*Final Order* at Finding of Fact Nos. 4, 5, and 8)
14. Of the \$3.2 million revenue increase agreed to between Atmos and the West Texas municipalities, \$2,729,349 was recovered from customers in incorporated areas, following approval by the municipalities, and \$470,651 was recovered from customers in unincorporated areas, following approval by the Commission, as shown in Table I.0, column A, following. (*Final Order* at Finding of Fact Nos. 5, 6, and 8)

15. Beginning in 2005, Atmos proposed five sequential Interim Rate Adjustments applicable to customers in the West Texas unincorporated areas. The applications were administered in Gas Utility Docket Nos. 9608, 9693, 9740, 9829 and 9877.
16. The total revenue requirement increase calculated by Atmos for the West Texas Rate Division and the revenue requirement increase attributable to West Texas unincorporated areas in each of the five Interim Rate Adjustments are shown in Table 1.0, columns B through F, following.

Table 1.0 Revenue Increase Summary - West Texas Rate Division

	A Most recent rate case	B 1st Interim Rate Adjustment	C 2nd Interim Rate Adjustment	D 3 rd Interim Rate Adjustment	E 4th Interim Rate Adjustment	F 5th Interim Rate Adjustment
Atmos' initial revenue increase request	\$7,683,862					
Revenue increase for total West Texas Rate Division	\$3,200,000 per settlement	\$2,539,525		\$1,234,326	\$1,315,318	\$2,311,698
Revenue increase for West Texas municipalities and cities, per settlement	\$2,729,349					Rate Review Mechanism (RRM)
Revenue increase for West Texas unincorporated areas	\$470,651 (Dkt. 9573)	\$347,087 (Dkt. 9608)	\$0 (Dkt. 9693)	\$131,760 (Dkt. 9740)	\$288,375 (Dkt. 9829)	\$288,375 (Dkt. 9877)

Source: Atmos' June 4, 2009 response to Request for Information Nos. 1-12 and 1-17 thru 1-19 and Atmos' July 23, 2009 response to Request for Information No. 2-3

17. The test year end dates and Interim Rate Adjustment effective dates for each of the five Interim Rate Adjustment cases applicable to Atmos' West Texas unincorporated areas are shown in Table 2.0, following.

Table 2.0 Interim Rate Adjustment Cases – West Texas Unincorporated Areas

	Docket No.	Test year end date	Interim Rate Adjustment effective date
1	9608	12/31/2004	12/13/2005
2	9693	12/31/2005	None*
3	9740	12/31/2006	1/2/2008
4	9829	12/31/2007	2/11/2009
5	9877	12/31/2008	8/18/2009 upon approval

* In 2005, Atmos' earnings exceeded the allowable level; Atmos forfeited its Interim Rate Adjustment.

18. Until promulgation of Sec. 104.301 of the Texas Utilities Code, a gas utility could initiate rate increases applicable to customers in unincorporated areas only by filing with the Commission a formal Statement of Intent rate case, including a comprehensive cost of service rate review.

19. Section 104.301 of the Texas Utilities Code provides Atmos an opportunity to recover, subject to refund, its annual infrastructure investment costs, including incremental depreciation expense, incremental ad valorem taxes, incremental revenue related taxes, incremental federal income taxes, and a return on its incremental investment, without the necessity of filing a Statement of Intent rate case and without an immediate review by the Commission of Atmos' comprehensive cost of service.

Applicability

20. This docket applies only to rates over which the Commission has original jurisdiction, including rates applicable to West Texas unincorporated areas, as identified in Finding of Fact No. 3.
21. During the 2008 calendar year, Atmos had approximately 14,617 customers in West Texas unincorporated areas. Of these, 12,622 were residential customers, 1,771 were commercial customers, 116 were industrial customers, 98 were public authority customers, and 10 were state authority customers. (Atmos June 4, 2009 response to Request for Information No. 1-8)

Most Recent Comprehensive Rate Case

22. In Docket No. 9573, the most recent rate case for Atmos' West Texas unincorporated areas, the Commission determined that a rate of return of 8.77% is reasonable for Atmos. (July 11, 2005 *Final Order* at Finding of Fact No. 25)
23. In Docket No. 9573, the Commission determined that Atmos' depreciation rates are reasonable and approved those rates, as described in the July 11, 2005 *Final Order*, Exhibit A, Depreciation Schedules 6, WP6-1, WP6-2, WP6-3, WP6-3, WP6-4 and WP6-5. (*Final Order* at Finding of Fact Nos. 26 and 42)
24. In the Interim Rate Adjustment applications filed by Atmos after Docket No. 9573, Atmos used a composite depreciation rate of 3.03% to calculate its change in revenue requirement.
25. Atmos' 3.03% composite depreciation rate is the result of dividing \$5,032,831 of depreciation expense by \$166,040,322 of Invested Capital – Gross Plant, as determined in Docket No. 9573. (Docket No. 9573 *Final Order* at Schedule 6, column (b), line 12 and Docket No. 9573 *Application* at Schedule WP 7-1, line 33)
26. In Docket No. 9573, the Commission approved Customer Charges applicable to West Texas unincorporated areas as listed in Table 3.0, column A, following.

Interim Rate Adjustments

27. Interim Rate Adjustments approved by the Commission for the 2004 – 2007 calendar years, applicable to Atmos' customers in West Texas unincorporated areas, are shown in Table 3.0, columns B through E, following.
28. Atmos' proposed Interim Rate Adjustment for the 2008 calendar year, applicable to customers in West Texas unincorporated areas, is shown in Table 3.0, column F, following.
29. When Atmos' Interim Rate Adjustments for 2004-2008 are added to monthly Customer Charges approved by the Commission in Docket No. 9573, the resulting totals are shown in Table 3.0, column G, following. (Application, Tab 2, IRA-4 tariffs)

Table 3.0 Atmos' Customer Charges and Interim Rate Adjustments

	A	B	C	D	E	F	G
	Customer Charge	2004	2005	2006	2007	2008	Total
Residential	\$8.50	\$1.09	\$-	\$0.49	\$0.58	\$1.00	\$11.66
Commercial	\$14.00	\$3.09	\$-	\$1.43	\$1.67	\$2.93	\$23.12
Public authority	\$42.00	\$7.67	\$-	\$3.52	\$3.92	\$7.87	\$64.98
State authority	\$40.74	\$11.91	\$-	\$7.07	\$6.44	\$11.72	\$77.88
Industrial	\$55.00	\$30.17	\$-	\$21.44	\$21.99	\$46.06	\$174.66
Docket No.	9573	9608	9693	9740	9829	9877	

30. Atmos represented that its proposed Interim Rate Adjustment for the 2008 calendar year is based upon the difference between the value of the Company's invested capital for the West Texas Rate Division as of December 31, 2008 and the value of the invested capital as of December 31, 2007. (Application, Tab 1, page 2)
31. Per Rule §7.7101(f)(3), the value of 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.
32. For 2008, Atmos reported an increase in Utility Plant Investment of \$15,468,457. (Application, Tab 2, IRA-3, column (c), line 1)
33. For 2008, Atmos reported an increase in Accumulated Depreciation of \$2,258,789. (Application, Tab 2, IRA-3, column (c), line 2)
34. In its June 4, 2009 response to Request for Information No. 1-5, Atmos represented that \$49,502 of costs for entertainment, alcoholic beverages, and meals were excluded from the revenue requirement calculation. (Application, Tab 2, IRA-3, column (c), line 5)
35. After reducing \$15,468,457 of incremental Utility Plant Investment by \$2,258,789 of incremental Accumulated Depreciation and \$49,502 of exclusions, the net increase in Rate

Base for 2008 for the West Texas Rate Division is \$13,160,165. (Application, Tab 2, IRA-3, column (c), line 9)

36. For 2008, Atmos reported an increase in depreciation expense of \$468,694, as permitted by Texas Utilities Code Sec. 104.301(d) and Rule §7.7101(f)(4)(B). (Application, Tab 2, IRA-3, column (c), line 13)
37. For 2008, Atmos reported incremental taxes of \$689,516, including ad valorem taxes of \$206,071, revenue-related taxes of \$110,018, and federal income taxes of \$373,427, as permitted by Texas Utilities Code Sec. 104.301(d) and Rule §7.7101(f)(4)(C) - (E). (Application, Tab 2, IRA-3, column (c), lines 14-16)
38. For 2008, Atmos' allowable after tax rate of return was 8.77%, resulting in an allowable increase in return of \$1,154,147, per Texas Utilities Code Sec. 104.301(d) and Rule §7.7101(f)(4)(A). Atmos used an increase in return of \$1,153,489 to calculate its increase in revenue requirement. (Application, Tab 2, IRA-3, column (c), line 11)
39. Atmos used the same factors to calculate the Docket No. 9877 return on investment, depreciation expense, and federal income tax as those used to set rates in the Company's most recent rate case, Docket No. 9573, consistent with Rule §7.7101(f)(5).
40. For 2008, Atmos reported an increase in West Texas Rate Division infrastructure investment of \$2,311,698. Of this amount, Atmos proposed to recover \$288,375 from customers in West Texas unincorporated areas. (Atmos' June 4, 2009 response to Request for Information No. 1-12)
41. To determine the 2008 incremental increase in revenue requirement of \$2,311,698 attributable to West Texas Rate Division infrastructure investment, Atmos summed its incremental increases in depreciation expense, taxes, and return, as shown in Exhibit C, attached.
42. As required by Sec. 104.301(a) of the Texas Utilities Code and Rule §7.7101(f)(6), Atmos allocated the incremental revenue requirement among customer classes in the same manner the cost of service was allocated among customer classes in Docket No. 9573, as shown in Table 4.0, following. (Application, Tab 2, IRA-16)

**Table 4.0 Revenue Requirement Allocation Factors
for the West Texas Rate Division**

Customer Class	Allocation Factors
Residential	70.389%
Commercial	18.597%
Industrial	4.854%
Public Authority	5.655%
State Authority	.505%

43. Atmos' application included an annual project report, as required by Texas Utilities Code Sec. 104.301(e) and Rule §7.7101(d). According to the report, which describes each investment project completed:
- The change in utility plant investment due to 2008 West Texas Rate Division investment projects is \$18,017,841 before retirements, transfers and adjustments and \$15,468,457 after retirements, transfers and adjustments. (Application, Tab 4, Summary Assets Activity)
 - The change in utility plant investment due to 2008 safety-related projects is \$7,023,359. (Atmos' June 4, 2009 response to Request for Information No. 1-21)
 - The change in utility plant investment for 2008 integrity testing projects is \$0 because Atmos expenses, rather than capitalizes, costs associated with integrity testing. (Atmos' June 4, 2009 response to Request for Information No. 1-20)
44. The Interim Rate Adjustment proposed by Atmos is a flat rate for each customer class to be added to monthly Customer Charges, as permitted by Sec. 104.301(a) of the Texas Utilities Code and Rule §7.7101(f)(7).
45. The 2008 Interim Rate Adjustment proposed by Atmos is based, in part, upon Atmos' customer counts for the West Texas Rate Division.
46. Atmos' customer counts for the West Texas Rate Division are shown in Exhibit B, attached, as presented by Atmos in Docket No. 9573, the most recent rate case, and as presented in Docket No. 9877, the instant case. (Atmos' June 4, 2009 response to Request for Information No. 1-8)
47. Atmos' 2008 customer counts were multiplied by 12 months to determine the annual number of bills. When the annual number of bills for each customer class is multiplied by the proposed Interim Rate Adjustment for each customer class, the approximate result is the proposed revenue requirement of \$288,375 for West Texas unincorporated areas.
48. Per Rule §7.7101(f)(7), Atmos is required to show an Interim Rate Adjustment on its customers' monthly billing statements as a surcharge.
49. As required by Texas Utilities Code Sec. 104.301(f), Atmos filed an annual earnings monitoring report with its application. The earnings monitoring report states that Atmos' actual rate of return in 2008 was 4.34% as compared with the 8.77% allowed rate of return established in Docket No. 9573. (Application, Tab 3)

Notice

50. On May 8, 2009, Atmos included in its Application copies of the bill insert notice mailed to customers, as written in English and Spanish. (Application, Tab 2, IRA-2)

51. As required by Rule §7.7101(b)(5), Atmos' notice of the Interim Rate Adjustment included the website address where information about the application could be publicly viewed via the Internet.
52. On May 18, 2009, Atmos notified the Gas Services Division that a copy of the application was successfully posted on the Company's website at: www.atmosenergy.com/grip.
53. On June 24, 2009, Atmos affirmed by letter that bill insert notice of the Interim Rate Adjustment applicable to customers in West Texas unincorporated areas was accomplished by June 22, 2009.
54. Per Rule §7.7101(b), mailed notice is deemed complete three days after the notice is mailed; thus, bill insert notice to affected customers was complete on June 25, 2009, three days after the final June 22, 2009 mailing date.
55. As required by Rule §7.7101(b)(6), Atmos' public notice to customers invited any affected person to provide written comments or protests concerning the proposed Interim Rate Adjustment to the Commission's Gas Services Division. (Application, Tab 2, page 3)
56. The Gas Services Division received zero (0) comments and protest letters from affected persons.
57. The Gas Services Division received zero (0) requests to intervene in Docket No. 9877 from affected persons.

Comprehensive Rate Case Requirement

58. Atmos is not required to file a Statement of Intent rate case at the time it applies for approval to implement an Interim Rate Adjustment.
59. If Atmos does not file a rate case for the West Texas unincorporated areas before December 13, 2010, which is the fifth anniversary of the date its initial Interim Rate Adjustment became effective, Atmos must file a rate case no later than June 11, 2011, which is the 180th day after the fifth anniversary. (Texas Utilities Code Sec. 104.301(h))
60. The reasonableness and prudence of investments, and related expenses and revenues, included in the 2008 Interim Rate Adjustment will be determined in the next rate case for the West Texas unincorporated areas, as required by 16 TEX. ADMIN. CODE §7.7101(j) (2004).
61. After issuance of a final order in the next rate case, Atmos' investments recovered through the 2008 Interim Rate Adjustment will no longer be subject to a subsequent review for reasonableness and prudence, in accordance with TEX. UTIL. CODE ANN. §104.301(a).

Review of Interim Rate Adjustment Application

62. Atmos filed its application with the Commission 60 days before the proposed implementation date of the Interim Rate Adjustment, in accordance with TEX. UTIL. CODE ANN. §104.301(a) (Vernon 2007) and 16 TEX. ADMIN. CODE §7.7101(a)(2) (2004).
63. Atmos' application included each of the components required by 16 TEX. ADMIN. CODE §7.7101(c) (2004).
64. Atmos' application included an annual report describing investment projects completed during 2008 and an annual earnings monitoring report, in accordance with TEX. UTIL. CODE ANN. §104.301(e) and (f). (Vernon 2007)
65. Notice was mailed, pursuant to TEX. UTIL. CODE ANN. §104.301(a) (Vernon 2007), to affected customers within 45 days from the date the application was filed.
66. The methodology used by Atmos to develop its Interim Rate Adjustment proposal is consistent with the methodology prescribed in TEX. UTIL. CODE ANN. §104.301 (Vernon 2007) and 16 TEX. ADMIN. CODE §7.7101(f) (2004).
67. Atmos allocated the 2008 revenue requirement among customer classes in the same manner the cost of service was allocated in the Company's most recent rate case for the West Texas unincorporated areas, pursuant to TEX. UTIL. CODE ANN. §104.301(a) (Vernon 2007) and 16 TEX. ADMIN. CODE §7.7101(f)(6) (2004).
68. Atmos' application to implement an Interim Rate Adjustment was reviewed in accordance with the requirements of TEX. UTIL. CODE ANN. §104.301 (Vernon 2007) and 16 TEX. ADMIN. CODE §7.7101(g) (2004).
69. Atmos' proposed Interim Rate Adjustment applicable to customers in West Texas unincorporated areas is consistent with TEX. UTIL. CODE ANN. §104.301 (Vernon 2007) and 16 TEX. ADMIN. CODE §7.7101 (2004).
70. It is reasonable for the Commission to approve Atmos' Interim Rate Adjustment, subject to refund until the conclusion of Atmos' next rate case for the West Texas unincorporated areas.

Reimbursement of Expenses Incurred by the Commission

71. Atmos is required to reimburse the Commission for expenses incurred by the Commission during the review of this Interim Rate Adjustment application.
72. The Director of the Gas Services Division will estimate Atmos' proportionate share of the Commission's annual costs related to the administration of Interim Rate Adjustment

applications and will notify Atmos of the amount to be reimbursed to the Commission, as outlined in Rule §7.7101(m).

CONCLUSIONS OF LAW

1. Atmos Energy Corporation, West Texas Division is a “gas utility” as that term is defined in TEX. UTIL. CODE ANN. §101.003(7) (Vernon 2007) and §121.001 (Vernon 2007) and is, therefore, subject to the jurisdiction of the Railroad Commission of Texas.
2. The Commission has jurisdiction over Atmos’ application to establish an Interim Rate Adjustment 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.
4. Under TEX. UTIL. CODE ANN. §104.301 (Vernon 2007) and 16 TEX. ADMIN. CODE §7.7101 (2004), Atmos is required to seek Commission approval before implementing an Interim Rate Adjustment applicable to customers in unincorporated areas.
5. The Commission has authority to suspend the implementation of an Interim Rate Adjustment, under TEX. UTIL. CODE ANN. §104.301(a) (Vernon 2007) and 16 TEX. ADMIN. CODE §7.7101(a)(6) (2004).
6. Neither TEX. UTIL. CODE ANN. §104.301 (Vernon 2007) nor 16 TEX. ADMIN. CODE §7.7101 (2004) allow a party to intervene in the Commission’s review of an Interim Rate Adjustment application.
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 its tariff with the Gas Services Division.
8. Atmos may not charge any rate that has not been electronically filed and successfully accepted by the Gas Services Division pursuant to TEX. UTIL. CODE ANN. §§102.151 and 104.002 (Vernon 2007) and 16 TEX. ADMIN. CODE §7.315 (2002).
9. Atmos is required, under TEX. UTIL. CODE ANN. §104.301(e) (Vernon 2007) and 16 TEX. ADMIN. CODE §7.7101(d) (2004), to file with the Commission an annual project report.
10. Atmos is required, under TEX. UTIL. CODE ANN. §104.301(f) (Vernon 2007) and 16 TEX. ADMIN. CODE §7.7101(e) (2004), to file with the Commission an annual earnings monitoring report.

11. In accordance with TEX. UTIL. CODE ANN. §104.301(a) (Vernon 2007) and 16 TEX. ADMIN. CODE §7.7101(i) (2004), all amounts collected from customers under Atmos' Interim Rate Adjustment tariffs are subject to refund until the conclusion of the next rate case for West Texas unincorporated areas.
12. Atmos' Interim Rate Adjustment, as set forth in the findings of fact and conclusions of law in this *Interim Rate Adjustment Order*, complies with the provisions of TEX. UTIL. CODE ANN. §104.301 (Vernon 2007) and 16 TEX. ADMIN. CODE §7.7101 (2004).
13. The Commission has authority, under TEX. UTIL. CODE ANN. §104.301(j) (Vernon 2007) and 16 TEX. ADMIN. CODE §7.7101(m) (2004), to recover from Atmos a proportionate share of the Commission's annual costs related to administration of the Interim Rate Adjustment mechanism.
14. Atmos is required under TEX. UTIL. CODE ANN. §104.301(h) and 16 TEX. ADMIN. CODE §7.7101(l) (2004) to file its next Statement of Intent rate case applicable to West Texas unincorporated areas in accordance with the Texas Utilities Code, Title 3, Subtitle A, Chapter 104, Subchapter C, no later than June 11, 2011.

IT IS THEREFORE ORDERED BY THE RAILROAD COMMISSION OF TEXAS THAT Atmos Energy Corporation, West Texas Division's Interim Rate Adjustment tariffs applicable to customers in unincorporated territories within the West Texas Rate Division, as shown in Exhibit D attached to this *Interim Rate Adjustment Order*, are **HEREBY APPROVED**, subject to refund, with an effective date of August 18, 2009.

IT IS FURTHER ORDERED THAT within 30 days from the date of this *Interim Rate Adjustment Order*, Atmos shall electronically file its Interim Rate Adjustment tariffs in proper form that reflects the effective date of August 18, 2009 and the rates shown in Exhibit D, attached.

IT IS FURTHER ORDERED THAT Atmos shall not charge any rate that has not been successfully electronically filed and accepted by the Commission.

IT IS FURTHER ORDERED THAT Atmos shall file with the Commission no later than June 11, 2011, a Statement of Intent rate case for unincorporated territories within the West Texas Rate Division.

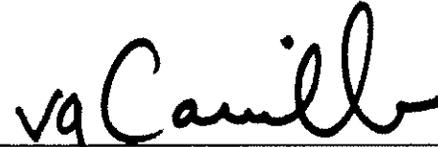
IT IS FURTHER ORDERED THAT Atmos shall reimburse the Commission for the Commission's expenses incurred during the review of this application and the Director of the Gas Services Division shall determine the amount of the reimbursement.

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)(Vernon 2000 & Supp. 2007), 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.

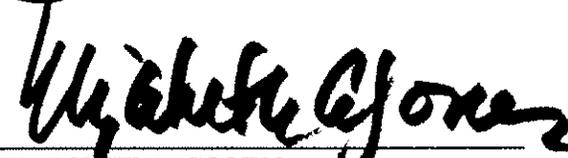
Any portion of Atmos' application not expressly granted herein is overruled. All requested findings of fact and conclusions of law, which are not expressly adopted herein, are denied. All pending motions and requests for relief not previously granted or granted herein are denied.

SIGNED this 18th day of August, 2009.

RAILROAD COMMISSION OF TEXAS



VICTOR G. CARRILLO
CHAIRMAN



ELIZABETH A. JONES
COMMISSIONER



MICHAEL L. WILLIAMS
COMMISSIONER

ATTEST



RUI WILLIAMS
SECRETARY



**Interim Rate Adjustment Order
EXHIBIT A**

66 Incorporated Cities and Municipalities in the West Texas Rate Division

Abernathy	New Deal
Amherst	New Home
Anton	Odessa
Big Spring	O'Donnell
Bovina	Olton
Brownfield	Opdyke West
Buffalo Springs	Palisades
Canyon	Pampa
Coahoma	Panhandle
Crosbyton	Petersburg
Dimmitt	Plainview
Earth	Post
Edmonson	Quitaque
Floydada	Ralls
Forsan	Ransom Canyon
Friona	Ropesville
Hale Center	Seagraves
Happy	Seminole
Hart	Shallowater
Hereford	Silverton
Idalou	Slaton
Kress	Smyer
Lake Tanglewood Village	Springlake
Lamesa	Stanton
Levelland	Sudan
Littlefield	Tahoka
Lockney	Timbercreek Canyon
Lorenzo	Tulia
Los Ybanez	Turkey
Meadow	Vega
Midland	Wellman
Muleshoe	Wilson
Nazareth	Wolfforth

Interim Rate Adjustment Order EXHIBIT B

West Texas Rate Division Customer Counts by Customer Class

1		Docket No. 9573 rate case	Docket No. 9877 5 th Interim Rate Adjustment	Percent change
2	Residential customers, West Texas unincorporated areas	15,071	12,622	-19%
3	Residential customers, West Texas incorporated areas	121,615	122,492	1%
4	Residential customers, West Texas Rate Division total	136,686	135,114	-1%
5	Commercial customers, West Texas unincorporated areas	1,916	1,771	-8%
6	Commercial customers, West Texas incorporated areas	10,835	10,443	-4%
7	Commercial customers, West Texas Rate Division total	12,751	12,214	-4%
8	Industrial customers, West Texas unincorporated areas**	182	116	-57%
9	Industrial customers, West Texas incorporated areas**	157	87	-80%
10	Industrial customers, West Texas Rate Division total**	339	203	-67%
11	Public authority customers, West Texas unincorporated areas	121	98	-23%
12	Public authority customers, West Texas incorporated areas	1,439	1,286	-12%
13	Public authority customers, West Texas Rate Division total	1,560	1,384	-13%
14	State authority customers, West Texas unincorporated areas	16	10	-60%
15	State authority customers, West Texas incorporated areas	74	73	-1%
16	State authority customers, West Texas Rate Division total	90	83	-8%
17	Total customers, West Texas unincorporated areas	17,306	14,617	-18%
18	Total customers, West Texas incorporated areas	134,120	134,381	0%
19	Total customers, West Texas Rate Division total	151,426	148,998	-2%

Source of customer counts: Atmos' June 4, 2009 response to Request for Information No. 1-7

** The industrial Interim Rate Adjustment applies to any industrial customer that purchases gas from Atmos' tariff and any commercial customer whose predominant use of natural gas is other than space heating, cooking, water heating or other such uses. The Interim Rate Adjustment does not apply to larger industrial customers that purchase gas at a customer-specific negotiated rate.



**Interim Rate Adjustment Order
EXHIBIT C
West Texas Rate Division
(incorporated and unincorporated areas)**

Net Increase in Rate Base					Net Increase in Revenue Requirement	
Increase in Utility Plant Investment	\$15,468,457	X	Depreciation rate, 3.03% composite	=	Increase in Depreciation Expense	\$468,694
Less: Exclusions	- \$49,502					
Less: Increase in Accumulated Depreciation	- \$2,258,789				Plus: Increase in Taxes	+ \$689,516
Equals: Net increase in Rate Base	\$13,160,166	X	Rate of return 8.77%	=	Plus: Increase In return	+ \$1,153,489
						\$2,311,698
					Equals: Net increase in Revenue Requirement	\$2,311,698

Reference: Finding of Fact Nos. 32-41



**Interim Rate Adjustment Order
EXHIBIT D**

Interim Rate Adjustment tariffs
applicable to Atmos Energy Corporation, West Texas Division
customers in unincorporated territories within the West Texas Rate Division
effective August 18, 2009

Residential Gas Service

Availability

This schedule is applicable to general use by Residential customers for heating, cooking, refrigeration, water heating and other similar type uses. This schedule is not available for service to premises with an alternative supply of natural gas.

Monthly Rate

Customer Charge:	\$ 8.50
2004 GRIP Charge:	\$ 1.09
2005 GRIP Charge	\$ 0.00
2006 GRIP Charge	\$ 0.49
2007 GRIP Charge	\$ 0.58
2008 GRIP Charge	<u>\$ 1.00</u>
Total Customer Charge:	\$11.66

Commodity Charge:

All Consumption	\$ 0.11035 per Ccf
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Rate Adjustment Provision

The West Texas System Gas Cost Adjustment Rider applies to this schedule except for service inside City limits of Odessa.

The West Texas System Weather Normalization Adjustment applies to this schedule.

The West Texas Rate Division 2004, 2005, 2006, 2007 and 2008 GRIP Adjustments apply to this schedule.

Commercial Gas Service

Availability

This schedule is applicable to Commercial type customers, including hospitals and churches, for heating, cooking, refrigeration, water heating and other similar type uses. This schedule is not available for service to premises with an alternative supply of natural gas.

Monthly Rate

Customer Charge:	\$ 14.00
2004 GRIP Charge	\$ 3.09
2005 GRIP Charge	\$ 0.00
2006 GRIP Charge	\$ 1.43
2007 GRIP Charge	\$ 1.67
2008 GRIP Charge	\$ 2.93
Total Customer Charge:	\$ 23.12

Commodity Charge:

All Consumption	\$ 0.0970 per Ccf
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Rate Adjustment Provision

The West Texas System Gas Cost Adjustment Rider applies to this schedule.

The West Texas System Weather Normalization Adjustment Rider applies to this schedule.

The West Texas Rate Division 2004, 2005, 2006, 2007 and 2008 GRIP Adjustments apply to this schedule.

Public Authority Gas ServiceAvailability

This schedule is applicable to general use by Public Authority type customers, including public schools, for heating, cooking, refrigeration, water heating and other similar type uses. This schedule is not available for service to premises with an alternative supply of natural gas.

Monthly Rate

Customer Charge:	\$ 42.00
2004 GRIP Charge	\$ 7.67
2005 GRIP Charge	\$ 0.00
2006 GRIP Charge	\$ 3.52
2007 GRIP Charge	\$ 3.92
2008 GRIP Charge	<u>\$ 7.87</u>
Total Customer Charge:	\$ 64.98

Commodity Charge:

All Consumption	\$ 0.08300 per Ccf
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Rate Adjustment Provision

The West Texas System Gas Cost Adjustment Rider applies to this schedule except for service inside City limits of Odessa.

The West Texas System Weather Normalization Adjustment Rider applies to this schedule.

The West Texas Rate Division 2004, 2005, 2006, 2007 and 2008 GRIP Adjustments apply to this schedule.

State Institution Gas Service

Availability

This schedule is applicable to gas service to state agencies (as provided in Texas Utilities Code, Section 104.202) including, but not limited to, state college and universities, MHMR schools, agriculture, highway and public safety departments, prisons, and other facilities owned or operated by the State of Texas for the purpose of heating, cooking, refrigeration, water heating and other similar type uses.

Monthly Rate

Customer Charge:	\$ 40.74
2004 GRIP Charge	\$ 11.91
2005 GRIP Charge	\$ 0.00
2006 GRIP Charge	\$ 7.07
2007 GRIP Charge	\$ 6.44
2008 Grip Charge	<u>\$ 11.72</u>
Total Customer Charge:	\$ 77.88

Commodity Charge:

All Consumption	\$ 0.08051 per Ccf
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Rate Adjustment Provision

The West Texas System Gas Cost Adjustment Rider applies to this schedule except for service inside City limits of Odessa.

The West Texas System Weather Normalization Adjustment Rider applies to this schedule.

The West Texas Rate Division 2004, 2005, 2006, 2007 and 2008 GRIP Adjustments apply to this schedule.

Industrial Gas Service

Availability

This schedule is applicable to the sales to any industrial or commercial customer whose predominant use of natural gas is other than space heating, cooking, water heating or other similar type uses. Service under this schedule is available to eligible customers following execution of a contract specifying the maximum hourly load. This schedule is not available for service to premises with an alternative supply of natural gas.

Monthly Rate

Customer Charge:	\$ 55.00
2004 GRIP Charge	\$ 30.17
2005 GRIP Charge	\$ 0.00
2006 GRIP Charge	\$ 21.44
2007 GRIP Charge	\$ 21.99
2008 GRIP Charge	<u>\$ 46.06</u>
Total Customer Charge:	\$174.66

Commodity Charge:

0-1000 Ccf	\$ 0.09650
All over 1000 Ccf	\$ 0.07500

Rate Adjustment Provision

The West Texas System Gas Cost Adjustment Rider applies to this schedule except for service inside City limits of Odessa.

The West Texas Rate Division 2004, 2005, 2006, 2007 and 2008 GRIP Adjustments apply to this schedule.