

RAILROAD COMMISSION OF TEXAS

**STATEMENT OF INTENT FILED BY §
ATMOS ENERGY CORPORATION TO §
INCREASE UTILITY RATES WITHIN §
THE UNINCORPORATED AREAS §
SERVED BY THE ATMOS ENERGY § GAS UTILITIES DOCKET NO. 9762
CORP., MID-TEX DIVISION AND § AND CONSOLIDATED CASES
PETITION FOR DE NOVO REVIEW OF §
THE DENIAL OF THE STATEMENT OF §
INTENT FILED BY ATMOS IN §
VARIOUS MUNICIPALITIES. §**

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. GOVT. CODE ANN. Chapter 551, *et seq.* (Vernon 1994 & Supp. 2007). The Railroad Commission of Texas adopts the following findings of fact and conclusions of law and orders as follows:

FINDINGS OF FACT

1. On October 26, 2007, Atmos Energy Mid-Tex filed a *Statement of Intent* to increase gas utility rates in the unincorporated areas of its Mid-Tex Division. The filing was docketed as Gas Utilities Docket No. 9762.
2. In addition to the Statement of Intent that was filed to change rates within the unincorporated areas served by Atmos Mid-Tex, GUD No. 9762, Atmos Mid-Tex also filed a *Statement of Intent* with all of the municipalities served by the utility.
3. Several municipalities reached an agreement with Atmos Mid-Tex regarding the proposed rate increase and several municipalities denied the proposed rate increase. Atmos Mid-Tex filed the following petitions for *de novo* review of the denial of the *Statement of Intent* by various municipalities that denied that rate request:
 - A. GUD No. 9763 Petition for De Novo Review of the Denial of the Statement of Intent filed by Atmos Energy Corp., Mid-Tex Division by the Cities of Balch Springs, Belton, Caldwell, *et al.* The appeal was filed on October 26, 2007, and consolidated with GUD No, 9762 on November 15, 2007.
 - B. GUD No. 9764 Petition for De Novo Review of the Denial of the Statement of Intent filed by Atmos Energy Corp., Mid-Tex Division by the Cities of Austin, Bandera,

Chillicothe *et al.* The appeal was filed on November 1, 2007, and was consolidated with GUD No, 9762 on November 15, 2007.

- C. GUD No. 9771, Petition for De Novo Review of the Denial of the Statement of Intent filed by Atmos Energy Corp., Mid-Tex Division by the Cities of Bartlet, Bryan, Cedar Park *et al.* The appeal was filed on November 14, 2007, and consolidated with GUD No, 9762 on November 15, 2007.
 - D. GUD No. 9777, Petition for De Novo Review of the Denial of The Statement of Intent filed by Atmos Energy Corp., Mid-Tex Division by the City of Lampasas. The appeal was filed on December 13, 2007, and consolidated with GUD No. 9762 on December 19, 2007.
 - E. GUD No. 9781, Petition for De Novo Review of the Denial of the Statement of Intent filed by Atmos Energy Corp., Mid-Tex Division by the Cities of Fredricksburg and Hutto. The appeal was filed on January 10, 2008, and was consolidated with GUD No. 9762 on February 22, 2008.
 - F. GUD No. 9785, Petition for De Novo Review of the Denial of the Statement of Intent Filed by Atmos Energy Corp., Mid-Tex Division by the Cities of Bloomberg Grove and Rogers. The appeal was filed on January 31, 2008, and consolidated with GUD No. 9762 on February 22, 2008.
 - G. GUD No. 9786, On February 12, 2008, Atmos filed its Petition for De Novo Review of the Denial of the Statement of Intent filed by Atmos Energy Corp., Mid-Tex Division by the City of Dallas. The appeal was filed on February 12, 2008, and consolidated with GUD No. 9762 on February 22, 2008.
- 4. The Atmos Texas Municipality (ATM) intervened in these proceedings: Austin, Balch Springs, Bandera, Belton, Bryan, Burnet, Cameron, Cisco, Clifton, Coleman, Copperas Cove, Corsicana, Denton, Dublin, Electra, Fredericksburg, Frost, Gatesville, Georgetown, Goldthwaite, Granbury, Grandview, Greenville, Groesbeck, Hamilton, Henrietta, Hillsboro, Hutto, Lampasas, Leander, Llano, Longview, Lometa, Mexia, Olney, Pflugerville, Ranger, Riesel, Round Rock, San Saba, Somerville, Star Harbor, Thorndale, Trinidad, Whitney, and Wortham. In addition to ATM the City of Dallas also intervened.
 - 5. The State of Texas intervened in this case on behalf of State agencies. The Industrial Gas Users (IGU), Railroad Commission of Texas (Staff), and Coserv Gas, Ltd also intervened.
 - 6. On February 11, 2008, Atmos Mid-Tex reached an agreement with several municipalities (February Settlement). As a direct result of the settlement agreement Atmos Mid-Tex filed a notice of withdrawal of petitions for review from the actions of the following municipalities: Austin, Balch Springs, Bandera, Bartlett, Belton, Blooming Grove, Bryan, Caldwell, Cameron, Cedar Park, Clifton, Chandler, Chillicothe, Commerce, Copperas Cove,

Corsicana, Denton, Electra, Fredericksburg, Gatesville, Georgetown, Goldthwaite, Granger, Granbury, Greenville, Groesbeck, Hamilton, Henrietta, Hickory Creek, Hico, Hillsboro, Hutto, Kerens, Lampasas, Leander, Lometa, Longview, Mart, Mexia, Nevada, Olney, Pflugerville, Ranger, Reenville, Rice, Riesel, Rogers, Robert Lee, Round Rock, San Angelo, Sanger, Somerville, Star Harbor, Saint Joe, Sunnyvale, Talty, Trinidad, Trophy Club, Whitehouse, and Whitney.

7. As a result of the February Settlement, Atmos Mid-Tex filed a motion to dismiss the following proceedings: GUD Nos. 9763, 9764, 9771, 9777, 9781 and 9785.
8. On March 14, 2008, CoServ filed a Motion to Withdraw as an Intervenor indicating that CoServ and Atmos had resolved and settled the matters in dispute between them.
9. On, or about, January 23, 2008, the City of Dallas denied the requested rate increase, and reduced the rates currently charged by Atmos Mid-Tex.
10. Atmos Mid-Tex appealed from the decision of the City of Dallas denying the increase requested in the Statement of Intent and filed a request for acceptance of supersedes bond and reinstatement of preexisting rates.

Notice

11. Atmos Mid-Tex published notice of the proposed rate changes once a week for four or more consecutive weeks in newspapers of general circulation in each county that contains territory affected by the proposed changes.
12. The publication of notice meets the statutory and rule requirements of notice and provides sufficient information to ratepayers about the statement of intent.
13. A notice of hearing was issued on February 14, 2008.
14. The Hearing in this matter was conducted from March 28, 2008 through April 1, 2008.
15. The evidentiary record was closed on May 16, 2008.

Test Year

16. The test year in this case was the 12-month period ending June 30, 2007.

Books and Records

17. Atmos Mid-Tex maintains its books and records in accordance with the requirements of the Federal Energy Regulatory Commission's (FERC) Uniform System of Accounts.

Interim Order

18. On February 12, 2007, the Commission issued an Interim Order (February 12th Interim Order) limiting certain issues in this proceeding.
19. In the February 12th Interim Order, the Commission found that use of the equal life group (ELG) as a method of calculating depreciation expense was reasonable. The Commission found that the methodology has been previously reviewed and in each of those cases the Commission concluded that it was reasonable for this utility to have used the ELG depreciation method in the following dockets:
 - A. Tex. R.R. Comm'n, *Petition for De Novo Review of the Reduction of the Gas Utility Rates of Atmos Energy Corp., Mid-Tex Division, by the Cities of Blue Ridge, Caddo Mills, et al, Atmos Energy Corporation Statement of Intent to Change Rates in the Atmos Energy Corp., Mid-Tex Division Gas Utility System, and Petition of Review from the Actions of Municipalities Denying Rate Request*, Docket No. 9670 (Gas Utils. Div. June 13, 2007) (final order granting application) ("GUD No. 9670").
 - B. Tex. R.R. Comm'n, *TXU Gas Company Statement of Intent to Change Rates in the Company's Statewide Gas Utility System*, Docket No. 9400 (Gas Utils. Div. May 25, 2004) (final order granting application) ("GUD No. 9400");
 - C. Tex. R.R. Comm'n, *Appeal of TXU Gas Distribution From the Action of the City of Dallas, the City of University Park, and the Town of Highland Park, Texas and the Statement of Intent filed by TXU Gas Distribution*, Docket Nos. 9145 - 9148 (Gas Utils. Div. November 20, 2000) (final order granting application) ("GUD Nos. 9145 - 9148");
 - D. Tex. R.R. Comm'n, *Statement of Intent to Change the City-Gate Rate of TXU Lone Star Pipeline, Formerly Known as Lone Star Pipeline Company Established in GUD No. 8664*, Docket No. 8976 (Gas Utils. Div. November 20, 2000) (final order granting application) ("GUD No. 8976"); and,
 - E. Tex. R.R. Comm'n, *Statement of Intent of Lone Star Gas Company and Lone Star Pipeline Company, Divisions of Enserch Corporation and Ensar Pipeline Company to Increase the Intracompany City Gate Rate*, (November 25, 1997) (Second Order Nunc. Pro Tunc) ("GUD No. 8664").
20. In the February 12th Interim Order, the Commission found that Atmos Mid-Tex has previously proposed that the accrual of depreciation expense should cease once an account is fully accrued. This methodology for the treatment of fully accrued depreciation accounts has been affirmed as a just and reasonable depreciation methodology for Atmos Mid-Tex and its predecessors in interest by the Commission in the following dockets: (1) GUD No. 9670,

(2) GUD No. 9400, (3) GUD Nos. 9145 - 9148, and (4) GUD No. 8976. The continued use of this depreciation methodology is reasonable in this case.

21. In the February 12th Interim Order, the Commission found that Atmos Mid-Tex has previously proposed that sales, transfers of property, outliers, and reimbursed retirements should be excluded from the life and salvage analysis used to calculate depreciation. The Commission determined that the methodology for the treatment of sales, transfers of property, outliers, and reimbursed retirements in determining the life and salvage analysis used to calculate depreciation has been affirmed as a just and reasonable depreciation methodology for Atmos Mid-Tex and its predecessors in interest by the Commission in the following dockets: (1) GUD No. 9670, (2) GUD No. 9400, (3) GUD Nos. 9145 - 9148, (4) GUD No. 8976. It is reasonable to remove sales, transfers of property, outliers, and reimbursed retirements in the calculation of life and salvage analysis for this utility.
22. In the February 12th Interim Order, the Commission found that Atmos Mid-Tex proposed that a thirteen-month time period be applied for the calculation of the average balance of materials, supplies, and prepayments for purposes of its test-year analysis. This methodology was adopted for Atmos Mid-Tex and its predecessors in interest in GUD No. 9670 and GUD No. 9400 and is reasonable in this case.
23. In the February 12th Interim Order, the Commission found that it was reasonable that an income tax factor of 0.5385 be applied to the taxable component of return included in the revenue requirements. The Commission determined that the income tax factor is computed based upon the statutory income tax rate of 35 percent and is just and reasonable. The Commission determined that the proposed income tax rate and factor reflected in Schedule F-6 have been determined by the Commission to be just and reasonable in the following dockets: (1) GUD No. 9670, (2) GUD No. 9400, (3) GUD Nos. 9145 - 9148, and (4) GUD No. 8976.
24. In the February 12th Interim Order, the Commission found that Atmos Mid-Tex sought the approval of the use of a minimum distribution system with two-inch pipe as a method for allocation of a portion of the distribution system. The Commission found that the concept of a minimum distribution system with two-inch pipe as the minimum system to allocate certain components of rate base has been approved in GUD No. 9670 and GUD No. 9400, and is just and reasonable in this case.
25. As reflected in the *Statement of Intent*, Atmos Mid-Tex proposed that a system-wide rate design be applied in this case. In the February 12th Interim Order, the Commission found a system-wide rate design was proposed for Atmos Mid-Tex in GUD No. 9670 and GUD No. 9400 and adopted by order of the Commission on May 25, 2004. As noted in GUD No. 9400, the Company's intent to set system-wide rates is consistent with 16 TEX. ADMIN. CODE § 7.220 (2005), and is just and reasonable.
26. In the February 12th Interim Order, the Commission severed the following issues: Rate case

expenses for GUD No. 9670 (and consolidated cases) to be considered by the Commission in accordance with TEX. UTIL. CODE ANN. § 103.022 (Vernon 2005), § 104.008 (Vernon 2005), and Tex. Admin. Code § 7.5530, in a separate proceeding.

27. Atmos Mid-Tex has established that for purposes of this case the intracompany divisions are not affiliates and the affiliate standard does not apply.
28. Atmos Mid-Tex has established that Blueflame is an affiliate of Atmos Energy Corporation and the expenses related to Blueflame for property insurance are reasonable and necessary. Additionally, the price charged by Blueflame to Atmos Mid-Tex is not higher than the prices charged by it to other affiliates or division or to a nonaffiliated person or entity for property insurance.

Hearing

29. A notice of hearing was issued on February 7, 2008 and March 14, 2008.
30. The Hearing convened on March 28, 2008 and was concluded on April 1, 2008.

Compliance with Reporting Requirements of GUD No. 9670.

31. The Commission ordered that rate cases seeking approval of rates included in interim rate adjustment filings made after GUD No. 9670 include the following items: (1) Project number, (2) Costs, (3) Capitalized portion of the costs, (4) Description of the capitalized cost, (5) Description of Completed Projects Placed in Service or Retired During the report year, (6) Customers Benefitted, (7) Location, and (8) Purpose of the Project.
32. Atmos Mid-Tex filed a report that included all of the information required by GUD No. 9670.

Interim Rate Adjustments

33. Atmos Mid-Tex has established that the interim rate adjustments made in 2006 were just and reasonable.
34. Atmos Mid-Tex established that the interim rate adjustment request made in 2006 was carefully scrutinized to include only appropriate expenses.

Rate Base

35. The net plant amounts shown in the attached Schedule B are reasonable for the plant that is used and useful in providing gas utility service.

36. Atmos Mid-Tex requested a cash working capital amount of \$8,450,672. Atmos Mid-Tex has not established that this was a reasonable cash working capital request.
37. Atmos Mid-Tex prepared a lead-lag study to determine an amount of cash working capital.
38. Although the lead-lag study contained certain errors it was not so flawed as to be unreliable.
39. The lead-lag study established that the cash working capital was greater (more positive) than a negative \$154,504,503.
40. As a result, cash working capital requirement based upon a negative 1/8 of operation and maintenance is not reasonable.
41. Collection lag measures the period of time between the mailing of the customer's bill until the utility receives payment.
42. In GUD No. 9400, the Company calculated the collection lag component of revenue lag using samples of one hundred customer transactions for both residential and commercial customers and a sample of fifty transactions for each of the other customer classes.
43. The Commission previously approved the calculation of a collection lag of this utility through the use of billing samples.
44. The same methodology results in a collection lag of 16.43 days.
45. Atmos Mid-Tex calculated the collection lag by dividing the average daily accounts receivable balance by the average daily revenue and the utility asserted that the appropriate collection lag was 22.28 days.
46. Atmos Mid-Tex has not established that the change in collection lag was not due primarily to a change in the calculation methodology.
47. Evidence in the record indicates that Atmos Mid-Tex has an aggressive collection policy that would result in a relative low collection lag.
48. Atmos Mid-Tex failed to establish that a collection lag of 22.28 days is reasonable. A collection lag of 16.65 days is reasonable and is consistent with GUD No. 9670.
49. The billing lag is the period of time between when a meter is read and a bill is issued.
50. Evidence presented at the hearing indicated that a meter route is generated four days before bills are due and meters must be read within that period of time.
51. Evidence in the record indicated that the utility is able to bill a customer on the same day that

the meter is read and the utility did not establish that a billing lag of 2.72 days is reasonable. A billing lag of one day is reasonable.

52. The average billing lag was established by analyzing the billing lag for January and June of the test year.
53. Evidence presented at the hearing established that the meter reading process and resulting billing lag for the Company averaged 2.72 days and is reasonable.
54. Evidence presented at the hearing established that a bank lag of one day is reasonable, and is less than the bank lag that was approved in GUD No. 9670.
55. The gas cost payment lag requested by Atmos Mid-Tex did not include an adjustment for early payments.
56. An adjustment for early payments is reasonable and a gas cost lead of 41.93 is reasonable.
57. Other operations and maintenance labor lead days measures the payment lag, the average number of days between the end of the pay period and the payment date.
58. The evidence in the record does not support the calculation made by Atmos Mid-Tex regarding paid time off (PTO) and the utility failed to properly account for PTO carried over from one year to the next. The correct labor lead days is 30.12.
59. It is reasonable to include prepayments separately as a rate base item and not include it in the calculation of the cash working capital component. Atmos Mid-Tex established that it included a check lag in its calculation of other O&M non-labor and the evidence presented did not indicate that prepayments were included in other O&M non-labor.
60. Atmos Mid-Tex has properly matched the service period with the payroll service period.
61. A large portion of the municipal franchise fees are paid in arrears and Atmos Mid-Tex failed to establish that those fees are paid in advance.
62. A negative cash working capital requirement of \$41,641,049 as set out in the attached Schedule E-1 is just and reasonable.

Expenses

63. It is important that the cost allocation methodology for SSU generate cost allocations that are just and reasonable. An allocation methodology that ignores operating income and revenues ignores an important indicator of resource allocation.
64. The following factors should be included in the composite allocation factor (1) Gross Plant, (2) average number of customers, (3) operations and maintenance expense, and (4) operating

income.

65. The evidence in the record indicated that Atmos Pipeline has 262 customers and no adjustment is required.
66. The allocation of costs as set out in the attached schedule SSU_1 Allocation, Allocation Approved, is reasonable.
67. Atmos Mid-Tex has not established that the proposed allocation for Cost Center 1203, Amarillo Customer Support Center is just and reasonable. The Amarillo Customer Support Center handles a small volume of calls for Atmos Mid-Tex and it is not reasonable on that basis alone to allocate \$7,661,045 of expenses to Atmos Mid-Tex.
68. Removal of expense related to the volume of calls made by the Waco Call Center on behalf of other divisions is reasonable.
69. Subject to the adjustment set out in Finding of Fact 63 through Finding of Fact 68, the total costs of Cost Center 1203 and 1210, as shown in the attached Schedule WP_F-2.7 are reasonable.
70. Atmos Mid-Tex established that the allocation of costs related to Cost Center 1116 - Taxation is just and reasonable, subject to the change in the cost allocation factor for shared services. These costs should not be adjusted further and the total costs of Cost Center 1116, as shown in the attached Schedule WP_F-2.7 are reasonable.
71. Atmos Mid-Tex established that the allocation of costs related to Cost Center 1129 - Income Tax is just and reasonable, subject to the change in the cost allocation factor for shared services. These costs should not be adjusted further and the total costs of Cost Center 1129, as shown in the attached Schedule WP_F-2.7 are reasonable.
72. Atmos Mid-Tex has not established that the allocation of costs related to Cost Center 1132 - Investor Relations is just and reasonable. Evidence was not presented that the costs that are included in this cost center are reasonable and necessary to the provision of natural gas services. It is not appropriate to allocate any of the costs associated with this cost center to Atmos Mid-Tex.
73. Atmos Mid-Tex established that the allocation of costs related to Cost Center 1142 - Rates is just and reasonable, subject to the change in the cost allocation factor for shared services. These costs should not be adjusted further and the total costs of Cost Center 1142, as shown in the attached Schedule WP_F-2.7 are reasonable.
74. Atmos Mid-Tex established that the allocation of costs related to Cost Center 1154 - Rates and Regulatory is just and reasonable, subject to the change in the cost allocation factor for shared services. These costs should not be adjusted further and the total costs of Cost Center 1154, as shown in the attached Schedule WP_F-2.7 are reasonable.

75. Atmos Mid-Tex has not established that the allocation of costs related to Cost Center 1350 - Non-Utility Operations is just and reasonable. Evidence was not presented that the costs that are included in this cost center are reasonable and necessary to the provision of natural gas services. It is not appropriate to allocate any of the costs associated with this cost center to Atmos Mid-Tex.
76. Atmos Mid-Tex has not established that the allocation of costs related to Cost Center 1904 - Performance Plan is just and reasonable. Evidence was not presented that the costs that are included in this cost center are reasonable and necessary to the provision of natural gas services. It is not appropriate to allocate any of the costs associated with this cost center to Atmos Mid-Tex and an adjustment to the proposed SSU expense and payroll related taxes is necessary to remove all expenses associated with this cost center.
77. Atmos Mid-Tex has established that the allocation of costs related to Cost Center 1905 - Outside Director is just and reasonable. Evidence was presented that the costs that are included in this cost center are reasonable and necessary to the provision of natural gas services. These costs should not be adjusted further and the total costs of Cost Center 1905, as shown in the attached Schedule WP_F-2.7 are reasonable.
78. Atmos Mid-Tex has not established that the allocation of costs related to Cost Center 1908 - Dallas Sepb is just and reasonable. Evidence was not presented that the costs that are included in this cost center are reasonable and necessary to the provision of natural gas services. It is not appropriate to allocate any of the costs associated with this cost center to Atmos Mid-Tex and an adjustment to the proposed SSU expense and payroll related taxes is necessary to remove all expenses associate with this cost center.
79. The allocation of SSU costs reflected in the attached Schedule WP_F-2.7 is reasonable.
80. Atmos Mid-Tex has established that the adjustment related to merit increases are known and measurable.
81. The City of Dallas alleged that Atmos Mid-Tex included \$983,400 for direct incentive compensation expenses for Atmos Mid-Tex direct in the revenue requirement requested. The record does not establish how the alleged amount was derived.
82. Atmos Mid-Tex has established that the depreciation expense for Account 397 is just and reasonable. The evidence indicated that a service life of twelve years and a dispersion curve of S5 was reasonable for this account.
83. Atmos Mid-Tex has established that the depreciation expense for Account 399.01 - 399.03 is just and reasonable. The evidence indicated that a service life of ten years and a dispersion curve of SQ was reasonable for this account.
84. Atmos Mid-Tex has established that the depreciation expense for Account 399.08 is just and

reasonable. The evidence indicated that a service life of ten years and a dispersion curve of S3 was reasonable for this account.

85. Atmos Mid-Tex has established that the depreciation expense for Account 399.24 is just and reasonable. The evidence indicated that a service life of ten years and a dispersion curve of SQ was reasonable for this account.
86. The depreciation expense, as reflected in the attached Schedule F-3 is just and reasonable.
87. During the test year Atmos Mid-Tex cancelled an insurance policy in order to procure alternate insurance at a lower rate. Atmos Mid-Tex incurred a cancellation fee which was reasonable as the alternate insurance was at a lower rate.
88. The property insurance expense as reflected in the attached Schedule F-1 is just and reasonable.
89. The level of injuries and damages expenses for accidents that occurred during the test year is reasonable. Atmos Mid-Tex established that the test-year level of expense was reasonable and the injuries and damage expense reflected in the attached Schedule F-1 is just and reasonable.
90. Atmos Mid-Tex established that its method of calculating uncollectible expense is reasonable and the uncollectible expense rate set out in the attached Schedule WP_F-2.10 is just and reasonable.
91. Atmos Mid-Tex has not established that expenses for outside services, Account No. 923, is just and reasonable. Specifically, Atmos Mid-Tex has not established that expenses related to spousal and dependant travel in the amount of \$5,606 are just and reasonable, and necessary to the provision of natural gas service.
92. Further, Atmos Mid-Tex has not established that expenses related to access of business records in the amount of \$5,942 is a recurring expense. Therefore, inclusion of that expense in the calculation of rates is not just and reasonable.
93. Other than the adjustments in Findings of Fact No. 91 and 92 above, the expenses related to Account No. 923 as reflected in the attached Schedule F-1 are just and reasonable.
94. Atmos Mid-Tex has not established that the expense for *ad valorem* taxes reflected in the cost of service study are reasonable. The proposed expenses do not reflect known and measurable changes to the *ad valorem* tax rate.
95. The *ad valorem* taxes reflected in the attached Schedule F-5 are just and reasonable.
96. Atmos Mid-Tex has established that the use of credit facility financing of customer payments is not just and reasonable.

Rate of Return

97. Atmos Mid-Tex proposed that the capital structure should be based upon the actual capital structure of the company.
98. Atmos Mid-Tex established that the actual capital structure of the company is 51.73% long-term debt and 48.27% common equity.
99. Atmos Mid-Tex has not established that a proposed cost of equity of 11.00% is reasonable.
100. In determining the cost of equity, the decision of Atmos Mid-Tex not to include the results of findings regarding comparable companies in its DCF analysis is not reasonable.
101. The DCF analysis prepared by Atmos Mid-Tex for a comparable set of companies indicated that a cost of equity range of 9.46% to 10.00% is reasonable.
102. The suggested DCF range identified by Atmos Mid-Tex was 9.89% to 11.36%.
103. The City of Dallas indicated that a range of 7.75% to 9.53% was reasonable and the State of Texas argued that a 9.00% cost of equity was reasonable.
104. A cost of equity of 10.00% is reasonable.
105. An overall rate of return of 7.98% is reasonable.

Functionalization, Classification, and Cost Allocation

106. Atmos Mid-Tex has established that the proposed functionalization and classification of costs is just and reasonable as reflected in the attached class cost of service study.
107. The allocation of FERC Accounts 870, 880, and 881 is just and reasonable.
108. The allocation of FERC Accounts 885 and 894 is just and reasonable.
109. The allocation of non-standard customers proposed by Atmos Mid-Tex is reasonable. The proposed treatment is a substantial benefit to all regulated customers because it reduces the overall revenue that must be generated from each class.
110. An alternate treatment, proposed by the State of Texas, may ultimately result in a loss of the non-standard customers on the system.
111. The cost of service model and the class cost of service study is reasonable and the impact of the costs on the separate classes has been clearly set out by Atmos Mid-Tex.

112. Atmos Mid-Tex has not established that the allocation of expenses associated with the Conservation and Energy Efficiency (CEE) Tariff is just and reasonable. The proposed allocation would impose 91.52% of the expense on the residential customers.
113. Conservation benefits the entire system and an allocation of the CEE expense based upon total throughput is reasonable.

Rate Design and Tariffs

114. Recovery of the gas cost portion of uncollectible expenses through the purchase gas adjustment clause is reasonable.
115. Atmos Mid-Tex is able to identify the gas cost portion of uncollectible expenses and Atmos Mid-Tex has established that the recovery of the gas cost portion of uncollectible expense through the purchase gas adjustment clause has not resulted in reduced recovery of uncollectible expenses in other divisions where the proposed methodology has been adopted.
116. The gas cost recovery rider attached to this order is just and reasonable
117. It is reasonable to allow Atmos Mid-Tex to recover 5% of the metered volume of natural gas as lost and unaccounted for gas as set out in 16 Tex. Admin. Code § 7.5525.
118. In order to minimize future expenses, it is reasonable that all future filings made by Atmos Mid-Tex include an electronic version of the filings. Specifically, for those filings that either require a date stamp for verification of filings, or are required by statute, the utility shall file an original copy with four copies in the form of a readable CD disk, or other electronic medium approved by the Gas Services Division Director. In the event that the utility requires a date stamped copy for verification of filing, an original first page may be supplied and date stamped. Compliance filings may be filed by CD disk with the Gas Services Division Director. All electronic filings should include a hard copy cover page.
119. Atmos Mid-Tex has established that the CEE tariff is just and reasonable. It is reasonable to require that Atmos Mid-Tex file an annual report that provides details of the cost to administer the program with details of the amounts paid out of the program for energy conservation assistance.
120. A weather normalization adjustment tariff based upon five regional stations is reasonable and the attached tariff is just and reasonable.
121. The following rates are just and reasonable for residential customers: \$14.00 Customer Charge and Single Usage Block of \$0.6164 per Mcf, shown in Rate Schedule R.
122. The following rates are just and reasonable for commercial customers: \$25.00 Customer Charge and Single Usage Block of \$0.6109 per Mcf, shown in Rate Schedule C.

123. The following rates are just and reasonable for industrial and transportation customers: \$450.00 Customer Charge and 3 Declining Usage Blocks with specific charges of 0.2200 per MMBtu for 0 - 1,500 MMBtu, 0.1600 per MMBtu for the next 3,500 MMBtu, and 0.0255 per MMBtu for all MMBtu over 5,000 MMBtu, shown in Rate Schedule I and T.
124. It is reasonable that franchise fees be assessed solely to customers within the municipal limits.
125. The attached cost of service, cost allocation and rate design schedules and rates are just and reasonable.

CONCLUSIONS OF LAW

1. Atmos Mid-Tex is a "Gas Utility" as defined in TEX. UTIL. CODE ANN. §101.003(7) (Vernon 2007) and §121.001 (Vernon 1998 and Supp. 2007) and is therefore subject to the jurisdiction of the Railroad Commission of Texas.
2. The Railroad Commission of Texas has jurisdiction over Atmos and the Company's *Statement of Intent* under TEX. UTIL. CODE ANN. §102.001 (Vernon 2007), §103.001 (Vernon 2007), §103.003 (Vernon 2007), §103.051 (Vernon 2007), §104.001 (Vernon 2007), §104.001 (Vernon 2007), §104.102 (Vernon 2007), §121.051 (Vernon 2007) and §121.052 (Vernon 2007).
3. Under TEX. UTIL. CODE ANN. §102.001 (Vernon 2007), the Railroad 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. In addition, TEX. UTIL. CODE ANN. §102.001 (Vernon 2007) also provides that the Commission has exclusive appellate jurisdiction to review an order or ordinance of a municipality.
5. Under TEX. UTIL. CODE ANN. §103.003 (Vernon 2007), a municipality may have the Commission exercise original jurisdiction over gas utility rates, operations, and services in the municipality.
6. Under TEX. UTIL. CODE ANN. §103.001 (Vernon 2007) and §103.051 (Vernon 2007), a municipality has exclusive original jurisdiction and the Commission has appellate jurisdiction over the rates, operations, and services of a utility within the municipality.
7. Under TEX. UTIL. CODE ANN. §103.003 (Vernon Supp. 2007), a municipality may have the Commission exercise original jurisdiction over gas utility rates, operations, and services in the municipality.

8. This Statement of Intent was processed in accordance with the requirements of the Gas Utility regulatory Act (GURA), and the Administrative Procedure ACT, TEX. GOV'T CODE ANN. §§2001.001-2001.902 (Vernon 2000 and Supp. 2006) (APA).
9. In accordance with the stated purpose of the Texas Utilities Code, Subtitle A, expressed under TEX. UTIL. CODE ANN. §101.002 (Vernon 1998), the Commission has assured that the rates, operations, and services established in this docket are just and reasonable to customers and to the utility.
10. TEX. UTIL. CODE ANN. §104.107 (Vernon 1998 and Supp. 2007) provides the Commission's authority to suspend the operation of the schedule of proposed rates for 150 days from the date the schedule would otherwise go into effect.
11. TEX. UTIL. CODE ANN. §104.107 (Vernon 1998 and Supp. 2007) provides authority for the local regulatory authority to suspend the operation of the schedule of proposed rates for 90 days from the date the schedule would otherwise go into effect.
12. A municipality has standing in a case before the Commission that relates to a gas utility's rates and services in the municipality. The Commission has the right to consolidate a municipality with any other party on an issue of common interest. TEX. UTIL. CODE ANN. §103.023 (Vernon 1998).
13. In accordance with TEX. UTIL. CODE ANN. §103.051 (Vernon 1998 and Supp. 2007), Atmos Mid-Tex acted appropriately in its appeal of municipal decisions.
14. Atmos Mid-Tex filed with the Commission its petitions for review within thirty days of the final decision by the municipality, in accordance with the requirements of TEX. UTIL. CODE ANN. §103.054 (Vernon 1998).
15. The proposed rates constitute a major change as defined by TEX. UTIL. CODE ANN. §104.101 (Vernon 1998).
16. In accordance with TEX. UTIL. CODE §104.103 (Vernon 1998), 16 TEX. ADMIN. CODE ANN. §7.230 (2006), and 16 TEX. ADMIN. CODE ANN. §7.235 (2005), adequate notice was properly provided.
17. In accordance with the provisions of TEX. UTIL. CODE ANN. §104.102 (Vernon 1998 and Supp. 2006), 16 TEX. ADMIN. CODE ANN. §7.205 (2005), and 16 TEX. ADMIN. CODE §7.210 (2005), Atmos Mid-Tex filed its Statement of Intent to change rates.
18. Atmos Mid-Tex failed to meet its burden of proof in accordance with the provisions of TEX. UTIL. CODE ANN. §104.008 (Vernon 1998) on the elements of its requested rate increase identified in this order.

19. The revenue, rates, and rate design as proposed by Atmos Mid-Tex are not just and reasonable; unreasonably preferential, prejudicial, or discriminatory; and not sufficient, equitable, and consistent in application to each class of consumer, as required by TEX. UTIL. CODE ANN. §104.003 (Vernon 1998).
20. The revenue, rates, rate design, and service charges proposed by Atmos Mid-Tex, as amended and set out in this Order and accompanying schedules, are just and reasonable, are not unreasonably preferential, prejudicial, or discriminatory, and are sufficient, equitable, and consistent in application to each class of consumer, as required by TEX. UTIL. CODE ANN. §104.003 (Vernon 1998).
21. The overall revenues as established by the findings of fact and attached schedules are reasonable; fix an overall level of revenues for Atmos Mid-Tex that will permit the Company a reasonable opportunity to earn a reasonable return on its invested capital used and useful in providing service to the public over and above its reasonable and necessary operating expenses, as required by TEX. UTIL. CODE ANN. § 104.051 (Vernon 1998); and otherwise comply with Chapter 104 of the Texas Utilities Code.
22. The revenue, rates, rate design, and service charges approved herein will not yield to Atmos Mid-Tex more than a fair return on the adjusted value of the invested capital used and useful in rendering service to the public, as required by TEX. UTIL. CODE ANN. § 104.052 (Vernon 1998).
23. The rates established in this docket comport with the requirements of TEX. UTIL. CODE ANN. §104.053 (Vernon 1998) and are based upon the adjusted value of invested capital used and useful, where the adjusted value is a reasonable balance between the original cost, less depreciation, and current cost, less adjustment for present age and condition.
24. In accordance with TEX. UTIL. CODE ANN. §104.054 (Vernon 1998) and TEX. ADMIN. CODE §7.5252, book depreciation and amortization was calculated on a straight line basis over the useful life expectancy of Atmos Mid-Tex's property and facilities.
25. In this proceeding, Atmos Mid-Tex has the burden of proof under TEX. UTIL. CODE ANN. §104.008 (Vernon 1998) to show that the proposed rate changes are just and reasonable.
26. Pursuant to TUC §104.055(b), payments to affiliates are excluded from Atmos Mid-Tex's invested capital or operating expenses unless the Railroad Commission of Texas specifically finds each item or class of items reasonable and necessary and finds that the price to the Company is not higher than the prices charged by the supplying affiliate to its other affiliates or divisions or to a nonaffiliated person for the same item or class of items.
27. Pursuant to TUC §104.055(b), payments to affiliates are not presumed to be reasonable.

28. Rate case expenses for GUD 9762 will be considered by the Commission in accordance with TEX. UTIL. CODE ANN. §103.022 (Vernon 1998), §104.008 (Vernon 1998), and 16 TEX. ADMIN. CODE §7.5530 (2002), in a separate proceeding.
29. It is reasonable for the Commission to allow Atmos Mid-Tex to include a Gas Cost Recovery Factor in its municipal and environs rates to provide for the recovery of all of its gas costs, in accordance with 16 TEX. ADMIN. CODE § 7.5519 (2005).
30. Atmos Mid-Tex is required by 16 TEX. ADMIN. CODE §7.315 (2005) to file electronic tariffs incorporating rates consistent with this Order within thirty days of the date of this Order.
31. The rate setting methodologies set forth in TEX. UTIL. CODE ANN. §104.051 *et seq.* were used to set the rates in this proceeding.

IT IS THEREFORE ORDERED that the following dockets are hereby **DISMISSED**: GUD No. 9763, GUD No. 9764, GUD No. 9771, GUD No. 9777, GUD No. 9781, and GUD No. 9785.

IT IS FURTHER ORDERED that the Motion to Withdraw filed by CoServ is hereby **GRANTED**.

IT IS FURTHER ORDERED that Atmos Mid-Tex's proposed schedule of rates is hereby **DENIED**.

IT IS FURTHER ORDERED that the rates, rate design, and service charges established in the findings of fact and conclusions of law and in the attached schedules for Atmos Mid-Tex are hereby **APPROVED**.

IT IS FURTHER ORDERED that, in accordance with 16 TEX. ADMIN. CODE §7.315, within 30 days of the date this Order is signed, Atmos Mid-Tex shall file tariffs with the Gas Services Division. The tariffs shall incorporate rates, rate design, and service charges consistent with this Order, as stated in the findings of fact and conclusions of law and shown in the attached Schedules.

IT IS FURTHER ORDERED that Atmos Mid-Tex shall not charge any rate that has not been successfully filed and accepted as a tariff filing electronically pursuant to TEX. UTIL. CODE §§ 102.151 and 104.002 and 16 TEX. ADMIN. CODE ANN. § 7.315 (2008).

IT IS FURTHER ORDERED that this Order shall not be final and effective until twenty days after a party is notified of the Commission's Order. Under TEX. GOV'T CODE § 2001.142(c), a party shall be 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 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.

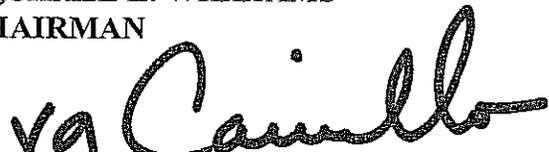
IT IS FURTHER ORDERED that all proposed findings of fact and conclusions of law not specifically adopted in this Order are hereby **DENIED**. **IT IS ALSO ORDERED** that all pending motions and requests for relief not previously granted or granted herein are hereby **DENIED**.

SIGNED this 24th day of June, 2008.

RAILROAD COMMISSION OF TEXAS



MICHAEL L. WILLIAMS
CHAIRMAN



VICTOR G. CARRILLO
COMMISSIONER



ELIZABETH A. JONES
COMMISSIONER

ATTEST



SECRETARY