

**BEFORE THE
RAILROAD COMMISSION OF TEXAS**

RATE CASE EXPENSES SEVERED	§	
FROM GAS UTILITIES DOCKET	§	GAS UTILITIES DOCKET
NO. 10000	§	NO. 10132
	§	

FINAL ORDER

Notice of Open Meeting to consider this Order was duly posted with the Secretary of State within the time period provided by law pursuant to TEX. GOV'T CODE ANN. Chapter 551, et seq. (Vernon 2012). The Railroad Commission of Texas adopts the following findings of fact and conclusions of law and orders as follows:

FINDINGS OF FACT

1. Atmos Pipeline-Texas ("ATP") is a utility as that term is defined in the Texas Utility Code, and is subject to the jurisdiction of the Railroad Commission of Texas ("Commission"). Atmos Energy Corporation is engaged in the regulated natural gas distribution, transmission and storage businesses, as well as other non-regulated natural gas businesses. Throughout its various service territories, Atmos Energy directly employs approximately 4,900 people and distributes natural gas through regulated sales and transportation arrangements to over three million customers in twelve states. Through its unincorporated division, Atmos Pipeline-Texas, the applicant in this proceeding, Atmos Energy operates one of the largest intrastate pipelines in Texas.
2. On September 17, 2010, ATP filed a statement of intent to increase rates on customers located in its service area which was docketed by the Commission as Gas Utilities Docket No. 10000 ("GUD No. 10000").
3. The following entities intervened in this proceeding: The Atmos Cities' Steering Committee ("ACSC") representing Abilene, Addison, Allen, Alvarado, Angus, Anna, Argyle, Arlington, Bedford, Bellmead, Benbrook, Beverly Hills, Blossom, Blue Ridge, Bowie, Boyd, Bridgeport, Brownwood, Buffalo, Burkburnett, Burleson, Caddo Mills, Carrollton, Cedar Hill, Celeste, Celina, Cisco, Cleburne, Clyde, College Station, Colleyville, Colorado City, Comanche, Coolidge, Coppell, Corinth, Corral City, Crandall, Crowley, Dalworthington Gardens, Denison, DeSoto, Duncanville, Eastland, Edgecliff Village, Emory, Ennis, Eules, Everman, Fairview, Farmers Branch, Farmersville, Fate, Flower Mound, Forest Hill, Fort Worth, Frisco, Frost, Gainesville, Garrett, Garland, Grand Prairie, Grapevine, Haltom City, Harker Heights, Haslet, Hewitt, Highland Park, Highland Village, Honey Grove, Hurst, Iowa Park, Irving, Justin, Kaufman, Keene, Keller, Kemp, Kennedale, Kerrville, Killeen, Krum, Lakeside, Lake Worth, Lancaster, Lewisville, Lincoln Park, Little Elm, Lorena, Madisonville, Malakoff, Mansfield, McKinney, Melissa, Mesquite, Midlothian, Murphy, Nacona, North Richland

Hills, Northlake, Oak Leaf, Ovilla, Palestine, Pantego, Paris, Parker, Pecan Hill, Plano, Ponder, Pottsboro, Prosper, Quitman, Reno (Parker County), Red Oak, Richardson, Richland, Richland Hills, River Oaks, Roanoke, Robinson, Rockwall, Roscoe, Rowlett, Royce City, Sachse, Saginaw, Seagoville, Sherman, Snyder, Southlake, Springtown, Stamford, Stephenville, Sulphur Springs, Sweetwater, Temple, Terrell, The Colony, Tyler, University Park, Venus, Vernon, Waco, Watauga, Waxahachie, Westlake, Whitesboro, White Settlement, Wichita Falls, Woodway, and Wylie; the Atmos Texas Municipalities ("ATM") representing Austin, Balch Springs, Bandera, Bartlett, Belton, Blooming Grove, Bryan, Cameron, Cedar Park, Clifton, Commerce, Copperas, Cove, Corsicana, Denton, Electra, Fredericksburg, Gatesville, Georgetown, Goldwaite, Granbury, Greenville, Groesbeck, Hamilton, Henrietta, Hickory Creek, Hico, Hillsboro, Hutto, Kerens, Lampasas, Leander, Lometa, Longview, Mart, Mexia, Olney, Pflugerville, Ranger, Rice, Riesel, Rogers, Round Rock, San Angelo, Sanger, Somerville, Star Harbor, Trinidad, Trophy Club, Whitney; the City of Dallas; CoServ Gas, Ltd. ("Coserv"); the State of Texas ("State") and Staff of the Railroad Commission ("Staff"); the Industrial Gas Users ("IGU") representing large industrial gas users that receive natural gas service from Atmos Pipeline – Texas, and Fowler Energy, collectively referred to hereafter as "parties".

4. On April 18, 2011, the Examiners severed rate case expense issues in GUD No. 10000 into this docket.
5. On April 18, 2011, the Commission issued a final order in GUD No. 10000.
6. On January 13, 2012, The parties filed a *Unanimous Stipulation and Settlement Agreement* ("Agreement") addressing all issues of the request for reimbursement of rate case expenses, and for the purpose of developing a record that the Commission will in part use in making a determination on the parties rate case expense requests.
7. The evidence established that the hourly rates charged by consulting attorneys identified by each of the parties were reasonable; the number of consulting attorneys working on the underlying docket was minimized; the invoices accurately documented hours worked and services provided; there were no time entries exceeding 12.0 hours per day; and there were no disbursements for hotels, valet parking, designer coffee, airfare, or meals requiring special scrutiny or disallowance.
8. The Examiners reviewed all invoices supporting the rate case expenses incurred by the parties and did not find any duplication of services or testimony. There is no evidence in the record that any of the expenses set forth in the *Unanimous Stipulation and Settlement Agreement* were not necessarily incurred in the prosecution of ATP's rate case proceeding before the Commission.

9. The parties propose that the expense be collected by a fixed-priced surcharge from ratepayers over an approximate 12 month period by application of a rate case expense surcharge on each customer's bill commencing within a reasonable period from the effective date of the final order in this proceeding. The fixed-priced surcharge shall be in effect until rate case expenses are recovered.

10. The parties' rate case expenses shall be allocated to Rate CGS-Mid-Tex, Rate CGS-Other and Rate PT customer classes in the same proportion as the revenue requirements were allocated to each class in GUD No. 10000 and those allocated amounts shall be further allocated to each customer within the Rate CGS-Mid-Tex, Rate CGS-Other and Rate PT customer classes based on the customer's maximum daily quantity (MDQ) as a percentage of total MDQ in a class.

11. The Examiners find that the requested rate case expenses are necessary, just and reasonable as set forth in the Rate Case Expense Surcharge Tariff, which is "Attachment A" to the proposed Final Order.

CONCLUSIONS OF LAW

1. Atmos Pipeline-Texas ("ATP") is a gas utility as defined in TEX. UTIL. CODE ANN. §§ 101.003(7), 121.001 (Vernon 2007 & Supp. 2012) and is subject to the Commission's jurisdiction under TEX. UTIL. CODE ANN. §§ 104.001, 121.051 (Vernon 2007 & Supp. 2008).
2. Each party seeking reimbursement for its rate case expenses has the burden to prove the reasonableness of such rate case expenses by a preponderance of the evidence, under 16 TEX. ADMIN. CODE § 7.5530 (2012).
3. The rate case expenses enumerated in the findings of fact herein are reasonable and comply with 16 TEX. ADMIN. CODE ANN. § 7.5530 (2012).
4. The Commission has the authority to allow ATP to recover rate case expenses through a surcharge on its rates, under TEX. UTIL. CODE ANN. § 104.051 (Vernon 2007 & Supp. 2012).

IT IS THEREFORE ORDERED that ATP is authorized to recover all rate case expenses incurred in GUD No. 10000 and approved by this order by means of a surcharge on its rates charged to ratepayers subject to the final orders entered in GUD No. 10000. A fixed – rate surcharge on rates shall be charged, commencing with the date this final order becomes effective. The fixed –rate surcharge shall be a separate line item on each customer's bill clearly identifying the recovery rate and amount recovered each month. The parties' rate case expenses shall be allocated to Rate CGS-Mid-Tex, Rate CGS-Other and Rate PT customer classes in the same proportion as the revenue requirements were allocated to each class in GUD No. 10000 and those allocated amounts shall be further allocated to each customer within the Rate CGS-Mid-Tex, Rate CGS=Other and Rate PT customer classes based on the customer's maximum daily quantity (MDQ) as a percentage of total MDQ in a class. The Rate Case Expense Surcharge Tariff, is "Attachment A" to the proposed Final Order.

IT IS FURTHER ORDERED that any proposed findings of fact and conclusions of law not specifically adopted herein are **DENIED**. **IT IS ALSO ORDERED** that each exception to the Examiners' Proposal for Decision not expressly granted herein is overruled and all pending motions and requests for relief not previously granted herein are hereby **DENIED**.

IT IS FURTHER ORDERED THAT ATP may begin surcharging rates for rate case expenses on and after the date of this Order. This Order will not be final and appealable 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.

Each exception to the examiners' proposal for decision not expressly granted herein is overruled. All requested findings of fact and conclusions of law which are not expressly adopted herein are denied. All pending motions and requests for relief not previously granted or granted herein are denied.

SIGNED this 13th day of June, 2013.

RAILROAD COMMISSION OF TEXAS



CHAIRMAN BARRY T. SMITHERMAN



COMMISSIONER DAVID PORTER



COMMISSIONER CHRISTI CRADDICK

ATTEST:




SECRETARY

RIDER:	SUR – SURCHARGES	
APPLICABLE TO:	Rate CGS – Mid-Tex, Rate CGS – Other and Rate PT	
EFFECTIVE DATE:	02/10/2012	PAGE: 18

Applicability

This Rider is applicable to customer classes as authorized by the state or any governmental entity or regulatory authority pursuant to any statute, order, rule, contract, or agreement.

Monthly Calculation

Surcharges will be calculated in accordance with the applicable statute, order, rule, contract, or agreement.

GUD 10132

The following surcharges as authorized in GUD 10132 shall be recovered from the Rate CGS – Mid-Tex and Rate CGS – Other customers by adding the amounts designated below to their otherwise applicable total customer charge for each month in an approximate 12-month period:

Rate CGS – Mid-Tex	\$329,390.87
Rate CGS - Other (CoServ)	\$12,037.33
Rate CGS – Other (Rising Star)	\$30.25
Rate CGS – Other (West Texas Gas)	\$25.55

A surcharge as authorized in GUD 10132 shall be recovered from the Rate PT customers by adding an amount equal to each customer's MDQ times \$0.0745 per MMBtu of MDQ to their otherwise applicable total customer charge for each month in an approximate 12-month period.