



RAILROAD COMMISSION OF TEXAS

HEARINGS DIVISION

GUD No. 10132

Rate Case Expenses Severed from Gas Utilities Docket No. 10000.

APPEARANCES:

FOR APPLICANT

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Procedural History

Docket Established:

March 14, 2012

Heard By:

Randall Collins, Hearings Examiner,

Gene Montes, Hearings Examiner

Suspension Order:

November 2, 2010

Record Closed:

October 23, 2012

PFD Circulation:

March 7, 2013

Statutory Deadline:

None

STATEMENT OF THE CASE

In GUD No. 10000, *Statement of Intent to Change the Rate CGS and Rate PT Rates of Atmos Pipeline-Texas*, Atmos Pipeline-Texas ("APT") requested an overall revenue requirement, offset by revenues derived from service provided to non-regulated customers of \$155,703,729. The examiners found APT had established a revenue requirement of \$143,049,141, which was just and reasonable, offset by revenues derived from service provided to non-regulated customers. This resulted in an overall increase in the company's revenue of \$26,150,965. Review of the rate case expenses and all related issues were severed into this proceeding, GUD No. 10132. The following entities are parties to this case: Atmos Pipeline-Texas ("APT"), Atmos Cities Steering Committee ("ACSC"), City of Dallas, and Staff of the Railroad Commission ("Staff") (collectively, the "Parties"). In this docket, the parties submitted evidence and arguments by written filings including a Unanimous Stipulation and Settlement Agreement.

All parties stipulate that the total amount of reasonably and necessarily incurred rate case expenses is \$4,199,136.88. Each party has filed expense reports and affidavits of future estimated expenses in order to support the total amount of reasonably and necessarily incurred rate case expenses. The Parties stipulate that the total amount of reasonably and necessarily incurred rate case expenses consists of the following respective costs: APT, \$2,852,124.14; ATM, \$362,851.09; ACSC, \$518,961.17; and the City of Dallas, \$465,200.48.

The Parties propose that the rate case expenses be collected by surcharge from ratepayers over a 12-month period by application of a fixed-price surcharge on the customer's bill commencing within a reasonable period from the effective date of the final order in this proceeding. Additionally, the Parties propose that 1) the rate case expense should be allocated to the Rate CGS-Mid-Tex, Rate CGS-Other, and Rate PT customer classes in the same proportion as the revenue requirement was allocated to each class in GUD No. 10000, and 2) those allocated amounts should 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 the total MDQ in the class.

As set forth below, the Examiners find that the Parties' actual and estimated rate case expenses of \$4,199,136.89 are necessary and reasonable and consist of the following respective amount APT, \$2,852,124.14; ATM, \$362,851.09; ACSC, \$518,961.17; and the City of Dallas, \$465,200.48. The Examiners recommend that each party be allowed to recover costs from ratepayers as the customers did benefit from the intervention and participation of ATM, ACSC, and the City of Dallas in GUD No. 10000. The Examiners recommend the Parties' proposal for a surcharge to ratepayers.

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1. Procedural History

a. Overview

Atmos Pipeline-Texas ("APT") is an unincorporated division of Atmos Energy Corporation and is an intrastate natural gas transmission pipeline operating solely in Texas. APT operates a large intrastate pipeline consisting of approximately 6,000 miles of transmission pipeline, approximately 700 city gate meters, five underground storage facilities, and forty-one (41) gas compressor stations.

On September 17, 2010, APT filed a *Statement of Intent* to increase rates with the Railroad Commission of Texas (RRC).¹ The case was docketed as GUD No. 10000.² The proposed rates were suspended on October 12, 2010.³ Notice of the proposed increase was provided by mailing to each applicable Rate PT and Rate CGS customer served from the pipeline system at their billing address by certified mail, postage paid on September 24, 2010 and publishing the notice each week for four consecutive weeks, beginning the week of September 26, 2010 and appearing through the week of October 24, 2010, in a publication having general circulation in each county containing territory affected by the proposed increase.⁴ Eight entities intervened in the proceeding, representing over 100 interested parties.⁵ There was a hearing in the matter on January 24, 2011, and the hearing concluded on January 28, 2011. A final order was issued on April 18, 2011. Review of the rate case expenses and all related issues were severed into this proceeding, GUD No. 10132, on October 11, 2010.

b. Filings

Unanimous Stipulation and Settlement Agreement. The parties have filed an unanimous settlement agreement and the proposed rate case expenses have not been contested. On January 13, 2012, the parties filed their direct invoices for rate case expenses. As of August 31, 2011 the parties' adjusted rate case expenses in GUD 1000 totaled \$4,199,136.88 as follows⁵:

Table 1.1
Original Filing
As of August 31, 2011
Adjusted Rate Case Expenses for GUD No. 10000

Total Adjusted Legal Expenses	\$1,717,485.67
Total Adjusted Consulting	\$1,784,639.04
Total Adjusted Other Expenses	\$697,012.17
TOTAL	\$4,199,136.88

2. Jurisdiction

The Commission has jurisdiction over the applicant, associated affiliates, the proposed

¹ Gas Utilities Docket No. 10000 *Statement of Intent to Change the Rate CGS and Rate PT Rates of Atmos Pipeline—Texas*.

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Unanimous Stipulation filed January 31, 2011.*

recovery of rate case expenses, and over the matters at issue in this proceeding pursuant to TEX. UTIL. CODE ANN. §§ 102.001, 103.003, 103.033, 103.051, 104.001, 121.051, 121.052, and 121.151 (Vernon 2007 and Supp. 2011). The statutes and rules involved in this proceeding include, but are not limited to TEX. UTIL. CODE ANN. §§ 104.051, 104.101, 104.102, 104.103, 104.105, 104.106, 104.107, 104.110, 104.301, and 16 TEX. ADMIN. CODE Chapter 7.

3 Overall Rate Case Expense Request of the Parties

a. Introduction

Rule 7.5530 provides that in any rate proceeding, any utility and/or municipality claiming reimbursement for its rate case expenses pursuant to Texas Utilities Code, § 103.022(b), shall have the burden to prove the reasonableness of such rate case expenses by a preponderance of the evidence. Each gas utility and/or municipality shall detail and itemize all rate case expenses and allocations. Each entity seeking recovery of rate case expenses must provide evidence showing the reasonableness of the cost of all professional services, including but not limited to:

- (1) the amount of work done;
- (2) the time and labor required to accomplish the work;
- (3) the nature, extent, and difficulty of the work done;
- (4) the originality of the work;
- (5) the charges by others for work of the same or similar nature; and
- (6) any other factors taken into account in setting the amount of the compensation.

Furthermore, Commission rules mandate that in determining the reasonableness of the rate case expenses, the Commission shall consider all relevant factors including but not limited to those set out previously, and shall also consider whether the request for a rate change was warranted, whether there was duplication of services or testimony, whether the work was relevant and reasonably necessary to the proceeding, and whether the complexity and expense of the work was commensurate with both the complexity of the issues in the proceeding and the amount of the increase sought as well as the amount of any increase granted.

b Overall Request

(1) ATMOS PIPELINE-TEXAS (APT)

The Utility has requested total actual and estimated rate case expenses of 2,852,124.14.⁶ The invoices submitted by APT covered services rendered through August 31, 2011.⁷ This includes a requested (1) \$887,499.27 in total legal expenses; (2) \$1,269,112.70 in total

⁶ Settlement agreement

⁷ *Id.*

consulting expenses; and (3) \$695,512.17 in total other expenses.⁹ These amounts are set forth in Table 3.1 below.

Table 3.1
As of August 31, 2011
Municipal Rate Case Expenses for GUD No. 10000

Total Legal Expenses	\$887,499.27
Total Consulting Expenses	\$1,269,112.70
Total Other Expenses	\$695,512.17
TOTAL REQUESTED	\$2,852,124.14

The Examiners find that the amount of time spent is commensurate with the number, complexity and gravity of the issues posed by APT's *Statement of Intent* filing and this rate case expense proceeding. The evidence shows that the law firms and the consulting experts limited the issues and the amount of time and personnel reviewing and participating in the proceeding in an effort to keep rate case expenses down. The time spent was commensurate with the minimum amount of time required to review a rate case of this size and to participate in the hearings.

As can be seen in Table 3.1 above, the expenses incurred on behalf of APT relate primarily to a combination of legal and consulting services. Ann M. Coffin with the firm of Parsley Coffin Renner LLP filed an affidavit stating that under 16 T.A.C. § 7.5530, municipalities are entitled to reimbursement of their reasonable rate case expenses. Ms. Coffin stated that based upon her personal knowledge, she concluded that the proposed fees and expenses are reasonable. Specifically, Ms. Coffin stated the following:

- The hourly rates charged by Parsley Coffin Renner LLP are reasonable rates charged by firms in cases addressing utility rate matters;
- No portion of the fees or expenses is or will be for luxury items, such as limousine service, sporting events, alcoholic beverages, hotel movies, or other entertainment;
- The amount of work done, as well as, the time and labor required to accomplish the work is reasonable given the nature of the issues addressed;
- The complexity and expense of the work was relevant and reasonably necessary to the proceeding, and was commensurate with both the complexity of the issues in the proceeding and the nature of the findings sought.⁸

Estimated Rate Case Expense: Based upon Ms. Julie Parsley's experience in proceedings of this type and his knowledge of the issues likely to be raised, the rate case expenses incurred for the completion of this docket and the prosecution of all related proceedings, including all

⁸ Affidavit of Ann Coffin

pending appeals, should be \$300,000.⁹

In response to Examiner's Letter No. 9, on October 12, 2012, Charles R. Yarbrough, II, Vice President of Rates and Regulatory Affairs for Atmos Pipeline Texas filed an affidavit setting out the attorneys/legal professionals that preformed work on GUD 10000, the number of hours worked and the billing rate per hour for the legal professionals that performed the work and the number of years of experience for each person identified in APT's legal fees through August 31, 2011. Additionally, the affidavit on behalf of APT sets out the consultants/expert witness that preformed services in GUD 1000 and for whom APT is seeking recovery. The names, billing rate, years of experience, and number of hours worked by the consultants/expert witnesses are set out in Attachment A.

(2) ATMOS TEXAS MUNICIPALITIES (ATM)

The Cities requested total actual and estimated rate case expenses of \$362,851.09.¹⁰ The invoices covered services rendered through August 31, 2011.¹¹ This includes a requested (1) \$221,330.27 in total adjusted legal expenses; and (2) \$141,520.82 in total consulting expenses.¹² These amounts are set forth in Table 3.3 below.

Table 3.3
As of August 31, 2011
Municipal Rate Case Expenses for GUD No. 10000

Total Legal Expenses	\$221,330.27
Total Consulting Expenses	\$141,520.82
Total Other Expenses	-----
TOTAL REQUESTED	\$362, 851.09

As can be seen in Table 3.3 above, the expenses incurred on behalf of ATM relate primarily to a combination of legal and consulting services. Alfred R. Herrera with the firm of Herrera & Boyle filed an affidavit stating:

- That his firm had been retained by the Atmos Texas Municipalities to represent ATM in GUD No. 10000 and the various pending appeals; and
- He has extensive experience in litigating numerous electric and gas rate matters.¹³

Estimated Rate Case Expenses. Based upon Mr. Herrera's experience in proceedings of this type and his knowledge of the issues likely to be raised, the rate case expenses incurred for the completion of this docket and the prosecution of all related proceedings, including all pending appeals, should be \$275,000.¹⁴

In response to Examiner's Letter No. 5, on October 12, 2012, Alfred R. Herrera, a

⁹ Settlement Agreement, Affidavit of Julie Caruthers Parsley

¹⁰ Settlement Agreement

¹¹ *Id.*

¹² *Id.*

¹³ Settlement Agreement, Affidavit of Alfred R. Herrera

¹⁴ *Id.*

principal partner at the Herrera & Boyle law firm filed an affidavit on behalf of ATM setting out the attorneys/legal professionals that preformed work on GUD 1000, the number of hours worked and the billing rate per hour for the legal professionals that performed the work and the number of years of experience for each person identified for ATM's legal fees through August 31, 2011. Additionally, the affidavit on behalf of ATM sets out the consultants/expert witness that preformed services in GUD 1000 and for whom ATM is seeking recovery. The names, billing rate and number of hours worked by the consultants/expert witnesses are set out in Attachment A. In response to Examiner's Letter No. 3, on October 12, 2012, Alfred R. Herrera filed an affidavit on behalf of ATM confirming that ATM is not seeking reimbursement for meal expenses over \$25 per person or hotel lodging over \$150.¹⁵

(3) ATMOS CITIES STEERING COMMITTEE (ACSC)

The Atmos Cities Steering Committee (ACSC) requested total actual and estimated rate case expenses of \$518,961.17.¹⁶ The invoices covered services rendered through August 31, 2011.¹⁷ This includes a requested (1) \$333,656.13 in total legal expenses; and (2) \$185,305.04 in total consulting expenses.¹⁸ These amounts are set forth in Table 3.5 below.

Table 3.5
As of August 31, 2011
Municipal Rate Case Expenses for GUD No. 10000

Total Legal Expenses	\$333,656.13
Total Consulting Expenses	\$185,305.04
Total Other Expenses	\$0.00
TOTAL REQUESTED	\$518,961.17

The Examiners find that the amount of time spent is commensurate with the number, complexity and gravity of the issues posed by APT's *Statement of Intent* filing and this rate case expense proceeding. The evidence shows that the law firms and the consulting experts limited the issues and the amount of time and personnel reviewing and participating in the proceeding in an effort to keep rate case expenses down. The time spent was commensurate with the minimum amount of time required to review a rate case of this size and to participate in the hearing and

As can be seen in Table 3.5 above, the expenses incurred on behalf of ACSC relate primarily to a combination of legal and consulting services.

Estimated Rate Case Expenses. Based upon Ms. Crump's experience in proceedings of this type and her knowledge of the issues likely to be raised, the rate case expenses incurred for the completion of this docket and the prosecution of all related proceedings, including all pending appeals, should be \$275,000.¹⁹

¹⁵ ATM's response to Examiner Letter No. 3

¹⁶ Settlement Agreement

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Settlement Agreement

In response to Examiner's Letter No. 6, on October 12, 2012, Georgia N. Crump, a principal with Lloyd Gosselink Rochelle & Townsend, P.C. filed an affidavit on behalf of ACSC setting out the attorneys/legal professionals that preformed work on GUD 10000, the number of hours worked and the billing rate per hour for the legal professionals that performed the work and the number of years of experience for each person identified, for ACSC's legal fees through August 31, 2011. Additionally, the affidavit on behalf of ACSC sets out the consultants/expert witness that preformed services in GUD 10000 and for whom ACSC is seeking recovery. The names, billing rate, years of experience, and number of hours worked by the consultants/expert witnesses are set out in Attachment A.

(4) CITY OF DALLAS.

The City has requested total actual and estimated rate case expenses of \$465,200.48.²⁰ The invoices covered services rendered through October 18, 2011.²¹ This includes a requested (1) \$275,000.00 in total legal expenses; (2) \$188,700.48 in total consulting expenses; and (3) \$1,500.00 in total other expenses.²² These amounts are set forth in Table 3.7 below.

Table 3.7
As of August 31, 2011
Municipal Rate Case Expenses for GUD No. 10000

Total Legal Expenses	\$275,000.00
Total Consulting Expenses	\$188,700.48
Total Other Expenses	\$1,500.00
TOTAL REQUESTED	\$465,200.48

As can be seen in Table 3.7 above, the expenses incurred on behalf of the City relate primarily to a combination of legal and consulting services. Norman J. Gordon with the firm of Mounce, Green, Myers, Safi, Paxson & Galatzan filed an affidavit stating that under 16 T.A.C. § 7.5530, municipalities are entitled to reimbursement of their reasonable rate case expenses. Mr. Gordon stated that based upon his personal knowledge, he concluded that the proposed fees and expenses are reasonable.²³ Specifically, Mr. Gordon stated, the following:

- The hourly rates charged by Mounce, Green, Myers, Safi, Paxson & Galatzan are reasonable rates charged by firms in cases addressing utility rate matters;
- Mounce, Green, Myers, Safi, Paxson & Galatzan did not charge any expenses for luxury items;
- The amount of work done, as well as, the time and labor required to accomplish the work is reasonable given the nature of the issues addressed;
- The complexity and expense of the work was relevant and reasonably necessary to the

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ Settlement Agreement

proceeding, and was commensurate with both the complexity of the issues in the proceeding and the nature of the findings sought.

- There were no expenses charged for any luxury items. There was no first-class airfare or charges for non-commercial aircraft, no luxury hotel charges, no limousine service, no meals charged in excess of \$25 per person, no charges for sporting events, alcoholic drinks, or other entertainment.
- The total amount billed identified as incurred and estimated as provided to the parties on October 18, 2011 was \$468,200.48. Of that amount \$383,232 had been billed and the difference between that amount and the total includes the completion of this case and \$85,000 was estimated for the completion of the case and the Appeal of GUD10000.²⁴

Using the same criteria, Mr. Gordon also reviewed the fees and expenses of the City's expert witnesses from Diversified Utility Consultants, Inc., Jacob Pous and Sara Coleman. Based upon Mr. Gordon's experience and knowledge of the case, the number of hours and hourly rates charged were reasonable to provide assistance to the city and the prosecution of the case, the total amounts charged by those firms were also reasonable, and there were no travel or meal expenses for those firms.³³

Estimated Rate Case Expenses. Mr. Gordon also stated that the total amount billed and identified as incurred and estimated, and provided to the parties on October 18, 2011 was \$464,200.48. Of that amount, \$383,282.00 had been billed. The difference between that amount and the total amount is made up of estimated expenses. The estimated expenses are expenses to be incurred for the completion of this case and the completion of the appeal of GUD No. 10000. Based on his experience in proceedings of the type and appeals, \$85,000 is reasonable.²⁵

In response to Examiner's Letter No. 7, on October 12, 2012, Norman J. Gordon, lead attorney of record on behalf of the City of Dallas filed an affidavit on behalf of the City of Dallas setting out the attorneys/legal professionals that preformed work on GUD 10000, the number of hours worked and the billing rate per hour for the legal professionals that performed the work and the number of years of experience for each person identified, the City of Dallas' legal fees through August 31, 2011. Additionally, the affidavit on behalf of the City of Dallas sets out the consultants/expert witness that preformed services in GUD 10000 and for whom the city is seeking recovery. The names, billing rate, years of experience, and number of hours worked by the consultants/expert witnesses are set out in Attachment A.

c Examiners' Recommendation

The Examiners reviewed all billings, invoices and evidence submitted by the City of Dallas, ACSC, ATM, and APT. The Examiners found no evidence of double-billing, excess charges, inappropriate documentation of work, or other charges that were not incurred as a direct

²⁴ *Id.*

²⁵ *Id.*

result of the parties prosecuting or defending GUD No. 10000 and the related proceeding. These filings demonstrate that no expenses were charged for any luxury items, that there were no first-class air fares or use of non-commercial aircraft, no luxury hotel charges, no limousine service, no meals in excess of \$25 per person, no charges for sporting events, alcoholic drinks or other entertainment.

Furthermore, the detailed billings and invoices have been reviewed and there are no instances of billing in excess of 12 hours per day or being charged more than once for a service or expenditure. Nor, was the hourly rate charged higher than the agreed upon rate.

The Examiners find that the amount of time spent is commensurate with the number, complexity and gravity of the issues posed by APT's Statement of Intent filing and this rate case expense proceeding. The evidence shows that the law firms and the consulting experts limited the issues and the amount of time and personnel reviewing and participating in the proceeding in an effort to keep rate case expenses down. The time spent was commensurate with the minimum amount of time required to review a rate case of this size and to participate in the hearing and briefing of the issues. Thus, the total fees and expenses incurred by the law firms and the consulting experts are proportionate to the efforts necessary to represent the parties, given the complexity of the issues, the originality of the work, and the magnitude of the rate increase proposed.

The Examiners find that the proposed \$4,199,136.88 for the Parties' total fees and expenses were reasonably incurred and necessary to the underlying proceeding and this rate case expense docket. The Parties should be reimbursed for the actual expenses incurred as updated through (Month) (Year), and any estimated expenses should be reimbursed if and when they occur up to the amounts listed per party in the Conclusion section.

Rule 7.5530(b) requires the Commission to consider whether the request for a rate change was warranted in granting rate case expenses. The Examiners recommend that APT be authorized to recover the costs of reimbursement to the parties for the rate case expenses through a surcharge to the city-gate customers represented in GUD No. 10000.

4. Conclusion

Rule 7.5530(b) requires the Commission to consider whether the request for a rate change was warranted in granting rate case expenses. The Examiners find that the parties have established that \$4,199,136.88 in actual and estimated rate case expenses were necessary and reasonable. The Examiners recommend approval of the recovery of the reasonable actual and estimated rate case expenses incurred in GUD No. 10000 in the amount of \$4,199,136.88.

APT proposes that the expense be collected by a fixed-price surcharge from ratepayers over a 12-month period based on test year bills. The Examiners believe that all of the utility's customers benefited from the parties scrutinizing the filing and providing evidence in GUD No. 10000. Thus, the Examiners recommend that APT be allowed to recover the parties' rate case expenses with a fixed-price surcharge to ratepayers.

The Examiners recommend this amount be recovered by APT by means of a fixed-price surcharge for an approximate 12-month period by application of a fixed price surcharge on the customer's bill. It is further recommended that the fixed monthly surcharge shall be a separate line item on each customer's bill clearly identifying the rate case expense recovery charge.

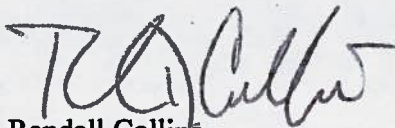
Estimated future expenses will be reimbursed by APT upon presentation of invoices evidencing that the amounts were actually incurred. Total reimbursement to a party will not exceed the following:

- a. APT: \$2,852,124.14
- b. ATM: \$362,851.09
- c. ACSC: \$518,961.17
- d. City of Dallas: 465,200.48

The use of a fixed-price surcharge is reasonable in this case and the Examiners recommend:

- a. 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;
- b. 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.

Respectfully submitted,



Randall Collins
Hearings Examiner
Hearings Division



Gene Montes
Hearings Examiner
Hearings Division

**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, Euless, 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 23rd day of April, 2013.

RAILROAD COMMISSION OF TEXAS

CHAIRMAN BARRY T. SMITHERMAN

COMMISSIONER DAVID PORTER

COMMISSIONER CHRISTI CRADDICK

ATTEST:

SECRETARY