

appeal;

- b. That reinstatement of the Company's gas rates that were in effect in the municipalities immediately prior to the effective date of the various ordinances was appropriate pursuant to Tex. Util. Code Ann. § 121.155 (Vernon 1998), and
- c. That the reinstated rates should remain in force and effect from the effective dates of the ordinance until the Commission issues a final and appealable order.

Consolidation of Dockets

4. The following Petitions for Review of City Rate Reductions and Request for Expedited Approval of Supersedeas Bond and Agreed Reinstatement of Preexisting Rates have been consolidated into this docket:
 1. GUD No. 9670, Petition for Review of City Rate Reductions and Request for Expedited Approval of Supersedeas Bond and Agreed Reinstatement of Preexisting Rates by the Cities of BenBrook, Crandall, et al.;
 2. GUD No. 9672, Petition for Review of City Rate Reductions and Request for Expedited Approval of Supersedeas Bond and Agreed Reinstatement of Preexisting Rates by the City of Justin, filed on May 11, 2006;
 3. GUD No. 9674, Petition for Review of City Rate Reductions and Request for Expedited Approval of Supersedeas Bond and Agreed Reinstatement of Preexisting Rates by the Cities of Benbrook, Crandall, et al.;
 4. GUD No. 9675, Petition for Review of City Rate Reductions and Request for Expedited Approval of Supersedeas Bond and Agreed Reinstatement of Preexisting Rates by the Cities of Blue Ridge, Caddo Mills, et al.;
 5. GUD No. 9677, Petition for Review of City Rate Reductions and Request for Expedited Approval of Supersedeas Bond and Agreed Reinstatement of Preexisting Rates by the Cities of Bedford and Colleyville;
 6. GUD No. 9678, Petition for Review of City Rate Reductions and Request for Expedited Approval of Supersedeas Bond and Agreed Reinstatement of Preexisting Rates by the Cities of Fort Worth and Sulphur Springs; and,
 7. GUD No. 9699, Petition for Review of City Rate Reductions and Request for Expedited Approval of Supersedeas Bond and Agreed Reinstatement of Preexisting Rates by the City of Dallas.
5. Atmos Mid-Tex simultaneously filed its Statement of Intent with various municipalities and several municipalities denied the requested rate increase. Those municipal decisions were

appealed and docketed as follows:

1. GUD No. 9679, Petition for Review of Atmos Energy Corporation from the Actions of Municipalities Denying a Rate Request;
2. GUD No. 9680, Petition for Review of Atmos Energy Corporation from the Actions of Municipalities Denying a Rate Request;
3. GUD No. 9681, Petition for Review of Atmos Energy Corporation from the Actions of Municipalities Denying a Rate Request;
4. GUD No. 9682, Petition for Review of Atmos Energy Corporation from the Actions of Municipalities Denying a Rate Request;
5. GUD No. 9683, Petition for Review of Atmos Energy Corporation from the Actions of Municipalities Denying a Rate Request;
6. GUD No. 9684, Petition for Review of Atmos Energy Corporation from the Actions of Municipalities Denying a Rate Request;
7. GUD No. 9697, Petition for Review of Atmos Energy Corporation from the Actions of Municipalities Denying a Rate Request;
8. GUD No. 9698, Petition for Review of Atmos Energy Corporation from the Actions of Municipalities Denying a Rate Request; and,
9. GUD No. 9700, Petition for Review of Atmos Energy Corporation from the Actions of Municipalities Denying a Rate Request.

Notice

6. 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.
7. The Applicant's publication of notice meets the statutory and rule requirements of notice and provides sufficient information to ratepayers about the statement of intent.

Intervening Parties and Protestants

8. The Atmos Cities Steering Committee (ACSC) intervened on behalf of the following municipalities: Abilene, Addison, Allen, Alvarado, Argyle, Arlington, Bedford, Benbrook, Beverly Hills, Blossom, Blue Ridge, Bowie, Boyd, Bridgeport, Brownwood, Buffalo, Burkburnett, Burleson, Caddo Mills, Carrollton, Cedar Hill, Celeste, Celina, 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, Everman, Fairview, Farmers Branch, Farmersville, Fate, Flower Mound, Forest Hill, Fort Worth, Frisco, Frost, Gainesville, Garland, Grand Prairie, Grapevine, Haltom City, Harker Heights, Haskell, Haslet, Heath, Hewitt, Highland Park, Highland Village, Honey Grove, Hurst, Iowa Park, Irving, Justin, Kaufman, Keene, Keller, Kemp, Kennedale, Kerrville, Killeen, Krum, Lake Worth, Lancaster, Lewisville, Little Elm, Malakoff, Mansfield, McKinney, Mesquite, Midlothian, Murphy, Newark, North Richland Hills, Northlake, Oak Leaf, Ovilla, Palestine, Pantego, Paris, Parker, Pecan Hill, Plano, Ponder, Pottsboro, Prosper, Quitman, Reno (Parker County), Red Oak, Richland Hills, Richardson, Roanoke, Robinson, Rockwall, Roscoe, Rowlett, Sachse, Saginaw, San Angelo, Seagoville, Sherman, Snyder, Southlake, Stephenville, Springtown, Stamford, Sulphur Springs, Sweetwater, Terrell, The Colony, Throckmorton, Trophy Club, Tyler, University Park, Vernon, Waco, Watauga, Waxahachie, Westlake, Westworth Village, Whitesboro, White Settlement, Wichita Falls, Woodway, and Wylie.

9. The Atmos Texas Municipalities (ATM): 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.
10. The following additional parties intervened: the City of Dallas (Dallas); Industrial Gas Users (IGU); Railroad Commission of Texas (Staff); State of Texas (State); and Coserv Gas, Ltd. (Coserv).
11. Avner Wolanow-President, Wash-n-Dry Laundries was admitted as a protestant.

Hearing

12. A notice of hearing was issued on June 16, 2006.
13. Pursuant to the notice of hearing that was issued on June 16, 2006, a technical hearing was conducted on June 28, 2006.
14. The subject of the technical hearing was to consider the schedules filed by Atmos Mid-Tex as part of its Statement of Intent, the mathematical calculations contained therein, the technical structure of the schedules, links, and interconnections of all calculations therein.
15. On October 5, 2006, the First Amended Notice of Hearing was issued in this case.
16. The Hearing convened on Tuesday, October 31, 2006.
17. There were 12 days of actual hearing on the merits; the last day of the hearing was

November 17, 2006.

18. The evidentiary record was closed on February 2, 2007.

Test Year

19. The test year in this case was the 12-month period ending December 31, 2005.

Books and Records

20. 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

21. On August 15, 2006, the Commission issued an Interim Order (August 15th Interim Order) limiting certain issues in this proceeding.
22. In the August 15th 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:
1. 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");
 2. 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");
 3. 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,
 4. Tex. R.R. Comm'n, *Statement of Intent of Lone Star Gas Company and Lone Star Pipeline Company, Divisions of Enserch Corporation and Ensat Pipeline Company to Increase the Intracompany City Gate Rate*, (November 25, 1997) (Second Order Nunc. Pro Tunc) ("GUD No. 8664").
23. In the August 15th 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. 9400, (2) GUD Nos. 9145 - 9148, and (3) GUD No. 8976. The continued use of this depreciation methodology is reasonable in this case.
24. In the August 15th 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. 9400, (2) GUD Nos. 9145 - 9148, (3) 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.
 25. In the August 15th 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 the Applicant and its predecessors in interest in GUD No. 9400 and is reasonable in this case.
 26. In the August 15th Interim Order, the Commission found that Atmos Mid-Tex seeks the approval of a Weather Normalization Adjustment (WNA) rider in this proceeding. The parties entered into an agreement approving an interim WNA rider and reserving certain issues for litigation in this proceeding.
 27. In the August 15th Interim Order, the Commission found that as reflected in the attached Schedule F-6, the Company sought approval of an income tax factor of 0.5385 to 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. 9400, (2) GUD Nos. 9145 - 9148, and (3) GUD No. 8976.
 28. In the August 15th Interim Order, the Commission found that Atmos Mid-Tex sought the approval of the use of a minimum distribution system with 2 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 2 inch pipe as the minimum system to allocate certain components of rate base has been approved in GUD No. 9400, and is just and reasonable in this case.
 29. As reflected in the *Statement of Intent*, Atmos Mid-Tex proposed that a system-wide rate

design be applied in this case. In the August 15th Interim Order, the Commission found a system-wide rate design was proposed for Atmos Mid-Tex in 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.

30. In the August 15th Interim Order, the Commission severed the following issues: Rate case expenses for GUD No. 9670 (and consolidated cases) will 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. That proceeding has been docketed as GUD No. 9695, *Rate Case Expenses, Severed from Gas Utilities Docket No. 9670*. Additionally, the Commission determined that it was reasonable that issues regarding Atmos' proposed revision to the gas cost review process be severed and considered in a separate docket. That proceeding has been docketed as GUD No. 9696, *Atmos Energy Corp., Mid-Tex Division Proposed Revisions to the Gas Cost Review Process Severed from Gas Utilities Docket No. 9670*.
31. On August 22, 2006, the Commission issued its second Interim Order (August 22nd Interim Order) wherein the Commission determined that the affiliate standards set out in Tex. Util. Code Ann. § 104.055(b) do not apply to intracompany transactions. On the other hand, the Company must establish that those intracompany transactions are just and reasonable. The Commission concluded that the status of a division of Atmos Mid-Tex as an affiliate or intracompany division was a question of fact to be determined at the hearing on the merits.
32. Atmos Mid-Tex has established that for purposes of this case, the intracompany divisions are not affiliates and the affiliate standard does not apply.

Shared Services

33. Atmos Energy Corporation consists of eight unincorporated divisions. Seven operating divisions are regulated gas distribution utilities. One is a regulated intrastate natural gas pipeline.
34. Atmos Mid-Tex is a Texas regulated division operating numerous natural gas distribution systems within Texas and Atmos Texas Pipeline is a Texas regulated pipeline.
35. Shared services are provided by a common business organization, the Shared Services Unit (SSU).
36. Expense reports of employees in the SSU included expenses for meals that ranged in prices from \$252 to \$3,556.72.
37. Atmos Mid-Tex capitalized up to 40% of these meal expenses.
38. Expense reports of employees in the SSU included expenses for entertainment that included funds for contributions and donations to charitable, religious or other nonprofit organizations

- or institutions such as symphony membership and university receptions.
39. Expense reports of employees in the SSU included expenses for symphony tickets and sporting events.
 40. Expense reports of employees in the SSU included expenses for alcohol.
 41. Expenses included in the expense reports of employees included expenses for lodging that ranged from \$195 per evening to \$961 per evening.
 42. Several of the lodging expenses included imbedded alcohol expenditures.
 43. Expense reports included expenditures for travel to legislative meetings.
 44. Expense reports included expenditures for first class travel. Of the expense reports submitted at the hearing, \$24,406, as shown in Schedule SSU 1, attached to this Final Order, was related to first class travel.
 45. Expense reports included expenditures for gifts and other categories of expenditures that were identified as employee welfare as shown in Schedule SSU 2, attached to this Final Order, and were not necessary to the provision of natural gas service.
 46. Atmos Mid-Tex proposed the removal of \$67,439 related to expenditures that are not necessary to the provision of natural gas service and are not just and reasonable. The removal of those expenses is reasonable and is reflected in the revised filing of the Company.
 47. The shared services witness that sponsored accounting records did not participate in the preparation of the proposed adjustment.
 48. Atmos Mid-Tex filed another exhibit at the hearing in which it proposed the removal of meals and entertainment expense in the amount of \$361,044. Of that amount, \$282,480 was allocated to the operations and maintenance expense component and \$78,564 was proposed to be removed from rate base.
 49. Atmos Mid-Tex has not filed a rate request that reflects the adjustment discussed in the above Finding of Fact. The amounts included in that adjustment had not been established by Atmos Mid-Tex to be necessary for the provision of natural gas service and should be removed from the rate request.
 50. Atmos Mid-Tex expense reports indicated that a total of \$24,406.80 was spent related to first class travel, as shown in Schedule SSU 1, attached to this Final Order. Atmos Mid-Tex has not established that those amounts are necessary to the provision of natural gas service and are, therefore, unreasonable.
 51. Travel expense included expenses related to attend an inaugural, astronaut dedication and

- other political activities. Atmos Mid-Tex has not established that those amounts are necessary to the provision of natural gas service and are, therefore, unreasonable.
52. Atmos Mid-Tex expense reports entered into evidence at the hearing indicated that a total of \$11,107 was spent on employee welfare as shown in Schedule SSU 2, attached to this Final Order.
 53. Atmos Mid-Tex has included expenditures related to social, recreational, fraternal or other religious clubs and organizations. Club dues are not necessary for the provision of natural gas service, are precluded by operation of Rule 7.515, and should be excluded.
 54. Atmos Mid-Tex has not established that the procedures in place to review expense requests of its employees are sufficient to ensure that only just and reasonable expenses are included in the following categories of expenses: (1) meals and entertainment, (2) lodging, (3) transportation, and (4) other.
 55. Accordingly, Atmos Mid-Tex did not establish that \$1,635,408 of the expenses related to these categories is just and reasonable, and the adjustment is included in the attached Schedule WP F-2.2b.
 56. Additionally, the category of meal and entertainment expenses for Atmos Mid-Tex direct expense should also be disallowed as proposed by the Company. Accordingly, Atmos Mid-Tex expenses should be reduced by \$215,244 and the capitalized portion of \$46,419 should be removed from rate base as expenses that were capitalized. Further, the category of meal and entertainment expenses for SSU should also be disallowed as proposed by the Company. Accordingly, SSU expenses should be reduced by \$67,236 and the capitalized portion in the amount of \$32,145 should be removed from rate base. Those SSU adjustments are included in the adjustment made in Finding of Fact No. 55.
 57. 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.
 58. The Company has not established that its proposed composite cost allocator is just and reasonable. It is unreasonable that the Company's proposed cost allocation methodology for SSU, for example, would allocate only 0.03% of costs to Atmos Energy Marketing, a non-regulated operating division of Atmos Energy when that division's contribution to net income is 11.77%.
 59. The following factors should be included in the composite allocation factor: (1) Gross Plant, (2) average number of customers, (3) operation and maintenance expense, and (4) operating income.
 60. Atmos Mid-Tex has not established that the allocation of costs related to Cost Center 1114, Dallas Vice President and Controller, is just and reasonable. The test year costs associated with this cost center were more than twice the amount in any of the prior years. Evidence

was not provided to substantiate the amount of the increase, or to substantiate the allegation that this is a recurring cost. Total costs of Cost Center 1114, as shown in the attached Schedule WP F-2.2 b are reasonable.

61. 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 and the disallowance set out in Finding of Fact No. 55. These costs should not be adjusted further and the total costs of Cost Center 1116, as shown in the attached Schedule WP F-2.2 b are reasonable.
62. 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 and the disallowance set out in Finding of Fact No. 55. These costs should not be adjusted further and the total costs of Cost Center 1129, as shown in attached Schedule WP F-2.2 b are reasonable.
63. 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 service. Removal of total costs of Cost Center 1132, as shown in the attached Schedule WP F-2.2 b is reasonable.
64. Atmos Mid-Tex has not established that the allocation of costs related to Cost Center 1203 Amarillo Customer Support Center, is just and reasonable. The only evidence in the record is that this call center handles only a small percentage, approximately .037%, of the calls on behalf of Atmos Mid-Tex customers. On the other hand, the Waco Customer Support Center, handles almost all calls exclusively for Atmos Mid-Tex customers. Allocation of 100% of the costs of Cost Center 1210, the Waco customer support center, is reasonable. Atmos Mid-Tex indicated that the Waco Customers Support Center costs of \$9,237,744 was only eight months of costs. Accordingly, it is reasonable to adjust those costs as follows and as set out in SSU 3:
 - a. Estimated labor expenses for the Waco Call Center at current allocation factors is \$5,181,461 and the estimated expenses associated with property insurance is \$70,634.
 - b. The non-labor costs of the Waco Call Center and costs associated with property insurance are estimated at \$3,316,640.
 - c. The total adjustment to annualize the Waco Call Center is \$1,658,320.
 - d. The total costs of the Waco Customer Support Center, as reflected in Schedule WP F-2.2 b is \$10,896,064 and is reasonable.
65. Atmos Mid-Tex has not established that the allocation of costs related to Cost Center 1350, Dallas Non-Utility Operations, are just and reasonable. Costs associated with the Senior

Vice President for Non-Utility Operations are, by definition, costs incurred on behalf of non-utility operations. There was no evidence provided that the services provided for \$398,260 were a just and reasonable expense. None of the costs of Cost Center 1350, should be allocated to Atmos Mid-Tex.

66. Atmos Mid-Tex has not established that the allocation of costs related to Cost Center 1904 Dallas Supplemental Executive Benefit Plan and Cost Center 1908 Dallas Supplemental Employee Benefits, is just and reasonable. The goal, as set out by the benefit plan is to advance the interest of shareholders, and the incentive compensation plans are driven by Company earnings. None of the costs of Cost Center 1904 and Cost Center 1908, should be allocated to Atmos Mid-Tex.
67. Atmos Mid-Tex has not established that the allocation of costs related to Cost Center 1905, Outside Director Retirement Cost, is just and reasonable. The expenses in this cost center are not necessary to the provision of natural gas service and no evidence was provided to support the contention that these expenses are just and reasonable. None of the costs of Cost Center 1905, should be allocated to Atmos Mid-Tex.
68. Atmos Mid-Tex has not established that the proposed allocation of costs to Atmos Mid-Tex related to Cost Center 1109, Dallas Payment Applications, Cost Center 1148, Dallas Revenue Support, and Cost Center 1200, Customer Revenue Collection, is just and reasonable. Atmos Mid-Tex has revised the allocation factors for these cost centers but has not provided testimony that is sufficient to explain that the increased allocation to Atmos Mid-Tex is just and reasonable. Total costs of these Cost Centers should be allocated to Atmos Mid-Tex as set out in attached Schedule WP F-2.2 b. The adjusted allocation of those costs is just and reasonable. Atmos established that the costs of Cost Centers 1115 and 1151 was reasonably allocated.
69. The proposed post-test year payroll adjustment for shared services labor reflected on the attached Schedule WP F-2.2c is just and reasonable.

Interim Rate Adjustments

70. Atmos Mid-Tex made three filings pursuant to the interim rate adjustment provisions of Tex. Util. Code Ann. § 104.301 (Vernon Supp. 2006) for calendar year 2003, 2004, and 2005.
71. The interim rate adjustments affecting areas within the municipal jurisdiction were filed with appropriate municipalities.
72. Several of the municipalities denied the requested interim rate adjustments and pursuant to those denials, Atmos Mid-Tex filed appeals with the Commission.
73. The appeals related to the 2003 interim rate adjustment were docketed as GUD Nos. 9575, 9585, 9588, 9589, 9590, 9594, 9595, 9596, 9598, 9599, 9603, 9606, 9607, and 9611; the appeals for the 2004 municipal denials of the interim rate adjustment were docketed as GUD Nos. 9619, 9623, 9628, and 9633; and, the appeal for the municipal denial of the 2005

interim adjustment filing was GUD No. 9671.

74. In GUD Nos. 9560, 9615, and 9671, the Commission determined that the Company's most recent rate case for the area in which the interim rate adjustment would be implemented was GUD No. 9400, *Statement of Intent Filed by TXU Gas Company to Change Rates in the Company's Statewide Gas Utility System*.
75. The Earnings Monitoring Reports that were filed with the interim rate adjustments in 2003, 2004, and 2005, were properly filed by Atmos Mid-Tex.
76. The interim rate adjustments affecting areas within the Commission's original jurisdiction were filed at the Commission and were docketed as GUD Nos. 9560, 9615, and 9658 for 2003, 2004, and 2005.
77. The Commission ordered a reduction to invested capital, or rate base, in GUD No. 9400 in the amount of \$87,837,109 and \$212,093 to disallow the costs of Poly 1 pipe or the Safety Compliance program. The Commission ordered that it was reasonable for the Commission to disallow going forward, inclusion of \$87,837,109 and \$212,093 as capitalized gas utility plant in service in invested capital.
78. At the time the order was issued, the accumulated depreciation account reflected \$10,646,065 in accumulated depreciation associated with Poly 1 pipe and safety compliance program software costs.
79. An adjustment to accumulated depreciation in the amount of \$10,646,065 modifies the order issued in GUD No. 9400.
80. The Company made an adjustment to accumulated depreciation in the interim adjustment filings of 2004 and 2005 that reflected the \$10,646,065 amount in accumulated depreciation which must be reversed based upon the prior order of the Commission.
81. Atmos Mid-Tex did not procure and preserve all existing records relating to the assets acquired at the time of the merger with TXU Gas.
82. Atmos Mid-Tex failed to maintain its records to allow a review and examination of expenses in 2003, 2005, and a portion of 2005, a portion of which were capitalized and included in the interim rate adjustment filings and the cost of service for this rate case.
83. Atmos Mid-Tex was unable to provide a summary of expenses related to meals and entertainment, lodging, travel, and other expenses for projects undertaken in 2003 and 2004 and included in its interim rate adjustment filings for those years.
84. Evidence was provided regarding the specific nature of the projects engaged in during 2003 and 2004, and to disallow all costs related to those projects would be unreasonable.
85. In 2005, Atmos Mid-Tex purchased three tables for \$15,183 and thirteen chairs in the

- amount of \$16,675. These assets were included in rate base in the current rate case.
86. Atmos Mid-Tex has not established that an average price of \$4,008 per table, or \$1,282 per chair was necessary for the provision of natural gas service.
 87. In 2005, Atmos Mid-Tex purchased 1,247 chairs for \$546,688, at an average price of \$438 per chair.
 88. Atmos Mid-Tex did not establish that the average price per chair was reasonable. A complete disallowance, however, is not reasonable as \$219 per chair is adequate to supply office chairs.
 89. Based on an average price of \$219 per chair, it is reasonable to disallow \$273,595 as Atmos has not established that the amounts paid in excess of \$273,093 were just and reasonable.
 90. In 2005, Atmos Mid-Tex purchased \$75,424 in artwork to remodel offices. These assets were included in the rate base in the current rate case.
 91. Atmos Mid-Tex has not established that the purchase of artwork is necessary for the provision of natural gas service and these amounts should be disallowed.
 92. Atmos Mid-Tex capitalized expenses related to meals, travel, lodging, liquor, and travel for spouses.
 93. Evidence in the record established that several of the expenses included in those categories of expenses were not just and reasonable.
 94. Evidence in the record established that a portion of those expenses are routinely capitalized.
 95. Atmos Mid-Tex capitalized expenditures of certain short lived items, such as Kleenex, trash can liners, staples, and other similar items.
 96. Atmos Mid-Tex failed to establish that capitalization of such short-lived items is just and reasonable.
 97. Atmos Mid-Tex has recently adopted a policy of capitalizing the replacement of small segments of pipe. Atmos Mid-Tex failed to establish that the revised policy of capitalizing the replacement of small segments of pipe is just and reasonable.
 98. Atmos Mid-Tex does not perform special studies periodically of the time supervisory employees are devoted to construction activities to the end that only such overhead costs as have a definite relation to construction shall be capitalized and adds to direct overhead construction costs arbitrary percentages or amounts to cover assumed costs.
 99. The capitalization percentages of overhead costs varied on a monthly basis from 23% to 60% between October 2004 to September of 2005.

100. Atmos Mid-Tex argued that the estimated construction overhead applied to projects is 33%. Of that amount 9% was attributable to the Shared Services Unit and 24% was attributable to Atmos Mid-Tex direct.
101. Actual overhead applied to construction projects in 2003, 2004, and 2005 was 24.1%, 11.83%, and 14.3%, respectively, for Atmos Mid-Tex direct.
102. The *RS Means Cost Guide for Heavy Construction* provides a sampling of the range of overhead construction costs experienced by various industries in the range of 11% to 16% for overhead construction costs. In two of the three years in which Atmos Mid-Tex made an interim adjustment filing, the overhead factor exceeded that range by over 7%.
103. The overhead costs included in the 2003 interim rate adjustment filing exceed the amount of overhead that would have reasonably been expected by the *RS Means Cost Guide for Heavy Construction*.
104. The average (13.5%) of the *RS Means Cost Guide for Heavy Construction* provides a reasonable proxy for amounts that would have been reasonably spent on overhead costs.
105. The adjustment to gross plant in the 2003 interim rate adjustment filing was \$73,795,961. Of that amount, \$14,331,045 was attributable to overhead costs.
106. There are no underlying invoices to examine the propriety of the expenses attributable to overhead costs, and Atmos Mid-Tex failed to establish that those expenses were just and reasonable.
107. The adjustment to gross plant in the 2003 interim rate adjustment filing is \$73,795,961. Mr. Meziere indicated this amount includes the application of 24.1% of overhead costs. Accordingly, direct costs equal \$59,464,916. Using the recommended overhead of 13.5% results in a total investment increase of \$67,492,680. The overall investment should be decreased by \$6,303,281 and removed from rate base as reflected in the attached Schedule B.
108. Atmos Mid-Tex projected in its fiscal year capital plan that it would spend \$95,301,635. Based upon an overhead rate of 24%, as projected by Atmos Mid-Tex, that would result in \$24,264,965 being attributable to overhead costs.
109. It is reasonable that in the future rate cases the interim rate adjustment reports include the following items: (1) Project number, (2) Costs, (3) Capitalized portion of the cost, (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.
110. In 2003, TXU Australia provided services to TXU Gas for a project identified as GRIP 009890950. In that year, TXU Australia was an affiliate of TXU Gas. In 2003, TXU Australia was paid \$849,870 for its services.

111. No evidence was provided by Atmos Mid-Tex that the price paid to TXU Australia for the service provided to its affiliate was not higher than the prices charged by the supplying affiliates to its other affiliates or division or to a nonaffiliated person for the same item or class of items. Accordingly, it is reasonable to remove the expenses associated with TXU Australia from rate base as reflected in the attached Schedule B.
112. Based upon Finding of Facts No. 70 - 111 it is reasonable for Atmos Mid-Tex to provide a refund of \$2,228,482, as set forth in the attached Interim Rate Adjustment Schedules, IRA-1 through IRA - 12 and Schedules IRA- 13 through IRA - 19. It is reasonable that Atmos Mid-Tex refund the GRIP/IRA amounts within a two year period.
113. An annual interest rate of 4.91%, based on the amount set by the Public Utility Commission for interest rates on over billings, on all unrefunded amounts is reasonable.
114. The total refund amount through November 2006, based upon 4.91% interest, assuming a full refund in May 2007, is \$2,325,659.
115. It is reasonable to have Atmos Mid-Tex file a report within 45 days after the date of the order, updating IRA - 13 through IRA - 19, showing the amount to be refunded.

Rate Base

116. 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.
117. Atmos Mid-Tex requested cash working capital in the amount of \$188,700.
118. The Company alleged that there was a 4.47 day billing lag.
119. The billing lag is the period of time between when a meter is read and a bill is issued.
120. Evidence presented at the hearing established that the meter reading process and resulting billing lag for the Company averaged one day.
121. The existing meter reading process allows Atmos Mid-Tex to promptly upload information.
122. Atmos Mid-Tex did not alter the billing practices after the merger of TXU Gas and Atmos Mid-Tex.
123. Several bills were admitted into evidence during the hearing and none had a billing lag that was four days or greater.
124. Witnesses for Atmos Mid-Tex did not provide evidence to explain what would account for a 4.47 day billing lag.
125. The Commission has previously examined the identical billing procedures and established

- that a lag of less than 4.47 days is reasonable.
126. In light of the evidence presented at the hearing, a one day billing lag is reasonable.
 127. The cash working capital witness was unfamiliar with the Company's actual billing practices and could not explain those practices.
 128. Reasonable billing practices should be established to minimize the billing lag.
 129. As no explanation was provided to justify the length of the proposed billing lag, Atmos Mid-Tex did not establish that billing practices that resulted in a 4.47 day billing lag were reasonable.
 130. Collection lag measures the period of time between the mailing of the customer's bill until the Company receives payment.
 131. 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.
 132. In this proceeding, the Company has elected to calculate the collection lag based on month-end accounts receivable balances.
 133. The Commission approved the calculation of a collection lag of TXU Gas Distribution through the use of billing samples.
 134. A billing sample could be obtained in this case but Atmos Mid-Tex chose to use monthly accounts receivable balances.
 135. The collection lag calculated for test-year 2002, used in GUD No. 9400, and the collection lag calculated in this case, only three years later differed by 5.94 days.
 136. Atmos Mid-Tex has not established that a 5.94 day change in collection lag was not due only to a change in methodology used to calculate the collection lag.
 137. No evidence was provided to explain the increase in collection lag from the same categories of customers served by this utility only three years after the last rate case.
 138. Evidence in the record indicates that Atmos Mid-Tex has a more aggressive collection effort than was employed during the test year used in the Company's last rate case.
 139. More aggressive collection efforts would reduce the collection lag.
 140. Atmos Mid-Tex failed to establish that a collection lag of 22.59 days is reasonable. A collection lag of 16.65 days is reasonable.
 141. Atmos Mid-Tex incurs upstream transportation costs for services provided by Atmos

Pipeline-Texas, an unincorporated division of Atmos Corporation.

142. In the prior rate case, the intracompany payment was made 23 days after service was provided, resulting in an expense lead of 39.797 days.
143. In this case, the same intracompany payment is made in three days.
144. As a result Atmos Mid-Tex proposed an 18.889 expense lead for upstream pipeline expense.
145. Atmos Mid-Tex has not established that its decision to make the intracompany transaction in three days instead of 23 days was reasonable.
146. Atmos Mid-Tex did not provide any evidence to explain the decrease in the payment period.
147. Accordingly, Atmos Mid-Tex did not establish that the proposed expense lead days were reasonable and that the reduction in payment days was not arbitrary.
148. Customers of the utility system should not be punished if the utility decides to manage the business process and payments less efficiently.
149. An expense lead of 39.22 days is reasonable for upstream transportation costs (GCR Rider Part B).
150. An expense lead of 41.897 days as proposed by Atmos Mid-Tex is reasonable for gas costs (GCR Part A).
151. Atmos Mid-Tex correctly calculated a payroll expense lead of 30.85 days.
152. The groupings proposed by Atmos Mid-Tex for other operations and maintenance – non-labor are consistent with prior cases and reasonable.
153. The measure of lead days for the expenses in the non-labor group of other operating and maintenance expenses was calculated using a random sampling of those expenses recorded during the test year.
154. Invoice #139, included in the sample, included funds that are reflected in prepayments. The item was the largest sample in the group totaling \$174,108 out of a total sample of \$530,841 and, therefore, comprised 33% of the entire sample. Further, it was the only item in the sample with a zero level of lead days. Atmos Mid-Tex has not met its burden of proof that this invoice should be included in the sample used to determine the expense lead days for other operation and maintenance expenses, non-labor.
155. Atmos Mid-Tex indicated that Invoice # 132 should be removed from the sampling and it is reasonable to remove this item from that sample.
156. It is reasonable to recalculate expense lead days for other operation and maintenance expenses, non-labor by excluding Invoice # 132 and Invoice #139.

157. An expense lead day of 33.48 for other operation and maintenance expense is reasonable.
158. Atmos Mid-Tex included amounts for State Gross Receipt taxes in its calculation of lead days, even though those amounts are prepaid.
159. Atmos Mid-Tex did not establish that the prepaid amounts for State Gross Receipt taxes were removed from the cash working capital study.
160. Atmos Mid-Tex failed to establish that the proposed expense lead for state gross receipt taxes was reasonable and it is reasonable to set the expense lead at zero.
161. The overall expense lead of 100.201 days for taxes other than income taxes is reasonable.
162. The revenue lag days and expense lead days and the cash working capital requirements reflected in the attached Schedule E-1 are just and reasonable.

Section 102.051 Review

- ~~163.~~ A gas utility must file a report with the Railroad Commission regarding the sale, acquisition, or lease of a plant or for a total consideration of more than \$1 million dollars or regarding a merger or consolidation with another gas utility operating in this state.
164. Atmos Mid-Tex filed a report with the Railroad Commission after the merger of Atmos Mid-Tex and TXU Gas-
165. The report was docketed as GUD No. 9555, Application for Review of Merger Between Atmos Energy Corporation and TXU Gas Company, Ltd.
166. In GUD No. 9555, the Commission explicitly deferred consideration of the transaction under section 102.051, of the Texas Utilities Code, until this proceeding.
167. In reviewing the public interest consideration the Commission considered the following factors: (1) The reasonable value of property, facilities, or securities; (2) investments made to enhance or improve reliability; (3) actions implemented to enhance or improve safety; (4) efforts to enhance or improve customer service quality; (5) measures accomplished for improvements to operations, management, and administrative process; (6) community benefits resulting from the acquisition; (7) impacts on bond ratings and investment community's view of the acquisition; (8) efficiencies and economies of scope and scale resulting from the acquisition; (9) liability avoidance or mitigation as a result of the acquisition; and, (10) effect on customer rates.
168. In light of the factors set forth in Finding of Fact No. 167, the merger between Atmos Mid-Tex and TXU Gas was consistent with the public interest.
169. As the merger was consistent with public interest no adjustment to rate base is necessary to disallow the effect of the transaction.

Expenses

170. The proposed adjustment of \$1,219,282 to payroll expenses to reflect post-test year merit increases is not just and reasonable. The proposed adjustment was not based upon a known and measurable change. The labor expense adjustment reflected in the attached schedule Schedule WP F-2.11 is reasonable.
171. The proposed adjustment of \$5,928,155 to labor to reflect post-test year benefit increases is not just and reasonable. The proposed adjustment was not based upon a known and measurable change. A labor expense based upon measurable post test year data would be based upon a benefits ratio of 32%. The labor expense adjustment reflected in the attached Schedule WP F-2.11 is reasonable.
172. The proposed adjustment of \$1,194,518 expenses related to marketing is not just and reasonable. Atmos Mid-Tex has not established that projected marketing expenses of \$1,510,521 are just and reasonable as revenues generated from a successful marketing program should eventually cover the costs of such programs and the adjustment is not based upon known and measurable changes.
173. The proposed adjustment to contract labor in the amount of \$3,527,356 is just and reasonable. Atmos Mid-Tex established that expenses for the five categories of labor to which the proposed adjustment applies increased after the end of the test year. The labor expense reflected in the attached Schedule WP F-2.9 is reasonable.
174. The proposed adjusted cost for meter reading is not just and reasonable. The proposed meter reading expense was not based upon a known and measurable change. The meter reading labor expense reflected in the attached Schedule WP F-2.10 is reasonable.
175. The proposed calculation of uncollectible expense is not just and reasonable. The proposed calculation and adjustment were not based upon a known and measurable change and are not reasonable and should be based upon the three year average at 0.62%. The uncollectible expense and adjustment reflected in the attached Schedule WP F-2.14 is reasonable.
176. Atmos Mid-Tex has not established that an adjustment to test year expenses to reflect a contribution to the Gas Technology Institute (GTI) is just and reasonable, accordingly the entire amount should be disallowed.
177. Atmos Mid-Tex has not established that its proposed treatment of odorant expense is just and reasonable. It is reasonable to treat odorant expense as an operation and maintenance expense to be recorded in FERC Account No. 871. The odorant expense and adjustment reflected in the attached Schedule WP F-2.7 is reasonable.
178. Atmos Mid-Tex has not established that the proposed adjustments related to the facilities expense is just and reasonable. The facilities expense and adjustment reflected in the attached Schedule WP F-2.8 is reasonable.

179. Atmos Mid-Tex has established that the proposed adjusted bill print expense is reasonable. The bill print fees reflected in the attached Schedule WP F-2.4 are reasonable.
180. The revenue requirements established in this case should capture both the savings and the expenses of the merger. Projected savings associated with moving the services previously provided by CapGemini in house and identified in the Sunguard report are not known and measurable.
181. Any adjustments based upon post test year property tax assessments that are not known and measurable are not reasonable.
182. In this case, Atmos Mid-Tex has established that the insurance services provided by Blueflame insurance are reasonable and necessary. Further, the price paid by Atmos Mid-Tex is not higher than the price charged by Blueflame to other affiliates or divisions, or to a third party.
183. Atmos Mid-Tex has established that the amortization periods related to computer software are just and reasonable.

Depreciation Expense

184. The failure of Atmos Mid-Tex to include the Shared Services Depreciation study in the Statement of Intent filing did not require rejection of those rates as the rates were set out in the filing itself and the study was made available during discovery.
185. Atmos Mid-Tex failed to establish that the proposed depreciation rates for the Shared Services Unit were just and reasonable. The study upon which those proposed rates relied was prepared in 2002 and the average life of the assets in those accounts is only 5.5 years. It is reasonable to have consistent depreciation rates for the same category of assets across General Plant SSU and General Plant Atmos Mid-Tex as reflected in the attached Schedules WP F-3a and F-3b.
186. It is reasonable for Atmos Mid-Tex to have used the equal life group (ELG) depreciation method.
187. Atmos Mid-Tex's proposed change from a negative 40% net salvage to a negative 50% net salvage is not just and reasonable. The depreciation rates reflected in the attached Schedule F-4 are reasonable.

Rate of Return

188. As a general matter, the capital structure should be based upon the actual ongoing capital structure of Atmos Mid-Tex. In light of the recent merger, however, the actual capital structure does not reflect the Company's recent capital structure and may not accurately reflect the ongoing capital structure of the Company.

189. Based on an analysis of the actual capital structure over the last five years it is reasonable to set the capital structure as follows: 51.9% debt and 48.1% equity. As this capital structure is not based upon the Company's actual capital structure as of the test year, it is reasonable to require Atmos Mid-Tex to include an analysis of the capital structure with its annual report filed with the Railroad Commission each year.
190. As the amount of short-term debt often goes to zero, it is not reasonable to include a component for short term debt in the capital structure of this utility.
191. A cost of long-term debt of 5.96% for Atmos Mid-Tex is reasonable.
192. In determining the cost of equity, the Company's decision not to include the results of findings regarding comparable companies in its DCF analysis is not reasonable.
193. The DCF analysis prepared by Atmos Mid-Tex for a comparable set of companies indicated that a cost of equity range of 9.48% to 9.82% was reasonable, the overall DCF range identified by Atmos was 6.47% to 10.27% and ATM developed a cost of common equity range of 9.0% to 10.4%.
194. A cost of common equity for Atmos Mid-Tex of 10% is reasonable.
195. An overall rate of return of 7.903% is reasonable.

Billing Determinants

196. A base load adjustment for either the residential, commercial, or customer class is not reasonable.
197. Atmos Mid-Tex has reasonably estimated the number of residential and commercial customers on the system for the purpose of allocating costs and determining rates: The total number of Residential customers is 1,399,924 and the total number of Commercial customers of 122,496. The number of industrial/transportation customers proposed by Atmos Mid-Tex is not just and reasonable. Instead the total number of standard and nonstandard industrial and transportation customers of 964 is reasonable.
198. Weather has an impact on the sale of gas to residential and commercial customers and therefore affects revenues.
199. It is reasonable to account for deviations during the test year from normal weather patterns by performing weather normalization adjustments.
200. To accurately determine the volumes consumed on the system by each class it is necessary to use weather-normalized gas sales to residential, commercial, and industrial customers.
201. Atmos Mid-Tex has correctly calculated the weather-normalized adjustments for gas sales to residential and commercial customers during the test year.

202. The following annual usage numbers are reasonable: 78,918,668 Mcf usage for Residential customer class, 51,064,050 Mcf for Commercial customer class, 40,808,292 MMBtu standard contract usage and 12,731,255 MMBtu nonstandard contract usage for the Industrial/Transportation customer class.
203. The use of 10-year data is just and reasonable for purposes of establishing normal weather.

Cost Allocation, Functionalization, and Classification

204. The Functionalization of the Atmos Mid-Tex system into common use central distribution, customer specific downstream distribution, and support use auxiliary distribution is reasonable.
205. It is reasonable to classify costs as one or more of the following: (1) customer costs, (2) capacity costs, (3) commodity costs, and (4) revenue costs.
206. It is reasonable to classify the central use function as connectivity related, that is the portion of total costs incurred to connect the central distribution network to the individual downstream customer laterals, and capacity related, that is the portion of total costs incurred to achieve the collective capacity requirements of the central distribution network.
207. It is reasonable to separate the two types of costs within the mains account using a form of the minimum system analysis.
208. Atmos Mid-Tex did not establish that the cost per foot of two inch pipe of \$9.05, to be used in the minimum system analysis, was reasonable. A cost of two inch pipe of \$8.11 per linear foot is reasonable. Subject to that change, the calculation of the minimum system proposed by Atmos Mid-Tex is just and reasonable.
209. An allocation factor for customer-related costs based on total number of customer locations is reasonable.
210. An allocation factor for capacity related costs based on adjusted design days for the residential and commercial customer classes and average annual daily deliveries for the industrial/transportation customer class is reasonable.
211. It is reasonable to allocate the cost of service to customer classes through the application of the allocation factors in the attached CARD schedules.
212. It is reasonable to classify FERC Account Nos. 374, 375, 376, 378, and 379 through use of the minimum system analysis and classify 46.06% of costs as connectivity related and 53.94% of the costs as capacity related.
213. It is reasonable to use the number of customer locations to allocate certain customer related costs between customer classes.

214. FERC Account No. 380 was reasonably allocated as reflected in the attached CARD Schedules. Atmos Mid-Tex has not established that FERC Account No. 385 was reasonably allocated as that account is directly attributable to costs caused by the Industrial and Transportation customers. Account 385 is reasonably allocated to the industrial and transportation class of customers as reflected in the attached CARD Schedules.
218. FERC Account Nos. 870, 880, 881, 885, and 894 were reasonably allocated as reflected in the attached CARD schedules.
219. Atmos Mid-Tex established that the proposed allocation for the FERC Accounts: 875, 902, 922, 901, and 905 - 910 was reasonable as reflected in the attached CARD Schedules.
220. It is reasonable to allocate FERC Account No. 876 directly to industrial customers as reflected in the attached CARD Schedules.
221. Atmos Mid-Tex has not met its burden of proof that the allocation of FERC Account No. 904 should be modified. Further, Atmos Mid-Tex has not established that the proposed allocation of FERC Account Nos. 920 - 932 was reasonable. The inclusion of Account No. 904 in the allocation factor of those accounts was not reasonable. The allocation of those accounts as reflected in the attached CARD Schedules is just and reasonable.
222. It is reasonable for customer deposits to be allocated as proposed by Atmos Mid-Tex as reflected in the attached CARD Schedules.
223. Atmos Mid-Tex has established that the proposed allocation of injuries and damages reserve is just and reasonable as reflected in the attached CARD Schedules.
224. Atmos Mid-Tex has established that the proposed allocation of rate base deductions for shared services is reasonable as reflected in the attached CARD Schedules.
225. The allocation of upstream Pipeline costs to the Distribution system was set in GUD No. 9400 based upon the capacity allocators for the distribution system. It is reasonable for pipeline costs be allocated as follows: 1) The fixed Pipeline charges to distribution shall be allocated according to the Upstream Pipeline Fixed Charged Allocation Factor approved in this case and utilized in Schedule CARD 25, page 1 of 1, line 25. This fixed cost allocation factor shall not be modified until the next rate case unless by order of the Commission. 2) The Pipeline commodity charges to distribution shall be allocated according to the relative deliveries between customer classes and should be adjusted from month to month as proposed by the Company. 3) The applicable Gas Utility Tax should be allocated as proposed by the Company between distribution customer classes according to the composite fixed/commodity allocation factor.
226. Atmos Mid-Tex failed to establish that the rates proposed by the Company are just and reasonable.
227. The following rates are just and reasonable for residential customers: \$10.10 Customer

Charge and Single Usage Block of \$1.2267 per Mcf, shown in Rate Schedule R.

228. The following rates are just and reasonable for commercial customers: \$18.81 Customer Charge and Single Usage Block of \$0.6006 per Mcf, shown in Rate Schedule C.
229. The following rates are just and reasonable for industrial and transportation customers: \$316.01 Customer Charge and 3 Declining Usage Blocks with specific charges of 0.2087 per MMBtu for 1 - 1,500 MMBtu, 0.1522 per MMBtu for 1,501 - 3,500 MMBtu, and 0.0326 per MMBtu for all remaining usage, shown in Rate Schedule I and T.
230. Atmos Mid-Tex has not established that the proposed revenue stabilization adjustment is just and reasonable.
231. The Weather Normalization Adjustment previously agreed upon by the parties, and based on a 10-year weather norm, is just and reasonable, subject to review by Staff regarding the need for modification of the Weather Normalization Mechanism to render the adjustment compatible with rate design approved in this case.
232. Atmos Mid-Tex has not established that recovery of any portion of uncollectible expenses in the gas cost recovery mechanism is reasonable in this case.
233. Atmos Mid-Tex sometimes reclassifies pipeline from a pipeline function to a distribution function. The evidence in the record was insufficient to establish that Atmos Mid-Tex reclassified assets for the purpose of increasing revenues.
234. Atmos Mid-Tex has removed from rate base computer information system software that is no longer used and useful. Accordingly, no further adjustment is necessary.
235. The attached cost of service, cost allocation 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 1998 and Supp. 2006) and §121.001 (Vernon 1998 and Supp. 2006) and is therefore subject to the jurisdiction of the Railroad Commission (Commission) of Texas.
2. The Railroad Commission of Texas (Commission) has jurisdiction over Atmos and the Company's Statement of Intent under TEX. UTIL. CODE ANN. §102.001 (Vernon 1998 and Supp. 2006), §103.001 (Vernon 1998 and Supp. 2006), §103.003 (Vernon 1998 and Supp. 2003), §103.051 (Vernon 1998 and Supp. 2006), §104.001 (Vernon 1998 and Supp. 2006), §104.001 (Vernon 1998), §104.102 (Vernon 1998), §121.051 (Vernon 1998) and §121.052 (Vernon 1998).
3. Under TEX. UTIL. CODE ANN. §102.001 (Vernon 1998 and Supp. 2006), the Commission has exclusive original jurisdiction over the rates and services of a gas

utility that distributes natural gas in areas outside of a municipality and over the rates and services of a gas utility that transmits, transports, delivers, or sells natural gas to a gas utility that distributes the gas to the public.

4. In addition, TEX. UTIL. CODE ANN. §102.001 (Vernon 1998 and Supp. 2006) 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 Supp. 2006), 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 1998 and Supp. 2006) and §103.051 (Vernon 1998 and Supp. 2006), 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. 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).
8. 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.
9. TEX. UTIL. CODE ANN. §104.107 (Vernon 1998 and Supp. 2006) 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.
10. TEX. UTIL. CODE ANN. §104.107 (Vernon 1998 and Supp. 2006) 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.
11. 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).
12. In accordance with TEX. UTIL. CODE ANN. §103.051 (Vernon 1998 and Supp. 2006), Atmos Mid-Tex acted appropriately in its appeal of municipal decisions.

13. 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).
14. The proposed rates constitute a major change as defined by TEX. UTIL. CODE ANN. §104.101 (Vernon 1998).
15. 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.
16. 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.
17. 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.
18. The rates proposed by Atmos Mid-Tex are in accordance with TEX. UTIL. CODE ANN. §104.006 (Vernon 1998) because the rates established for customers of each environs area do not exceed 115 percent of the average of all rates for similar services for all municipalities served by Atmos Mid-Tex in the same county.
19. Atmos Mid-Tex's intent to set system-wide rates is consistent with 16 TEX. ADMIN. CODE §7.220 (2005), that provides that rates applicable to customers located in the environs may be the same as those rates in the nearest incorporated area in Texas served by the same utility.
20. 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).
21. 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).
22. 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.

23. 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).
24. 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.
25. 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.
26. 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.
27. 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.
28. Pursuant to TUC §104.055(b), payments to affiliates are not presumed to be reasonable.
29. Pursuant to TUC §104.055(b), the Blueflame. charges to Atmos Mid-Tex are affiliate transactions subject to the requirements of the TUC.
30. Pursuant to TUC §104.055(b), the TXU Australia charges to TXU Gas Company were affiliate transactions subject to the requirements of the TUC.
31. As provided in the findings of fact, Atmos Mid-Tex did not meet its burden of proof to meet the requirements of TUC §104.055(b) for all of its affiliate transactions.
32. As provided in the findings of fact, Atmos Mid-Tex met its burden of establishing that transactions charged by Blueflame are reasonable and necessary and Atmos Mid-Tex does not pay more than the price charged to other affiliates or divisions or to a non-affiliated person for the same item or class of items.
33. Rate case expenses for GUD 9670 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.

34. 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).
35. 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.
36. The rate setting methodologies set forth in TEX. UTIL. CODE ANN. §104.051 *et seq.* were used to set the rates in this proceeding.
37. No expenditure for the following special items shall be allowed as a cost of service for ratemaking purposes: (1) funds spent for advertising for the purpose of influencing public opinion with respect to legislative, administrative, or electoral matters, or with respect to any controversial issue of public importance, including funds spent to mail any such information;(2) funds expended in support of or membership in social, recreational, fraternal, or religious clubs or organizations; or (3) funds expended for contributions and donations to charitable, religious, or other nonprofit organizations or institutions. 16 TEX. ADMIN. CODE § 7.5414
38. Pursuant to TUC § 104.301, until the issuance of a final order or decision by a regulatory authority in a rate case that is filed after the implementation of a tariff or rate schedule under this section all amounts collected under the tariff or rate schedule before the filing of the rate case are subject to refund.
39. The amount the gas utility shall adjust the utility's rates upward or downward under the tariff or rate schedule each calendar year is based on the difference between the value of the invested capital for the preceding calendar year and the value of the invested capital for the calendar year preceding that calendar year. The value of the 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. TUC § 104.301(b).
40. In addition to the other report required under section 104.301, the gas utility shall file with the regulatory authority an annual earnings monitoring report demonstrating the utility's earnings during the preceding calendar year. TUC § 104.301(b).
41. Pursuant to 16 TEX. ADMIN. CODE § 7.310, each gas utility shall utilize the Federal Energy Regulatory Commission's (FERC) Uniform System of Accounts (USOA) prescribed for Natural Gas Companies subject to the provisions of the Natural Gas Act (as amended from time to time) for all operating and reporting purposes.
42. The cost of individual items of equipment of small value or of short life, including small portable tools and implements, shall not be charged to utility plant accounts unless the correctness of the accounting therefor is verified by current inventories. The cost shall be charged to the appropriate operating expense or clearing accounts, according to the use of such items, or, if such items are consumed directly in construction work, the cost shall be included as part of the cost of construction. Uniform System of Accounts Prescribed for Natural Gas Companies Subject to the Provisions of the Natural Gas Act, 18 C.F.R. Pt. 201, Gas Plant Instructions, 3 Components of Construction Cost, (3), note (2006).
43. All overhead construction costs, such as engineering, supervision, general office salaries and

- expenses, construction engineering and supervision by others than the accounting utility, law expenses, insurance, injuries and damages, relief and pensions, taxes and interest, shall be charged to particular jobs or units on the basis of the amount of such overheads reasonably applicable thereto, to the end that each job or unit shall bear its equitable proportion of such costs, to the end that each job or unit shall bear its equitable proportion of such costs and that the entire cost of the unit, both direct and overhead, shall be deducted from the plant accounts at the time the property is retired. Uniform System of Accounts Prescribed for Natural Gas Companies Subject to the Provisions of the Natural Gas Act, 18 C.F.R. Pt. 201, Gas Plant Instructions, 4 Overhead Construction Costs, A (2006).
44. As far as practicable, the determination of payroll charges includible in construction overheads shall be based on time card distributions thereof. Where this procedure is impractical, special studies shall be made periodically of the time of supervisory employees devoted to construction activities to the end that only such overhead costs as have a definite relation to construction shall be capitalized. The addition to direct construction costs of arbitrary percentages or amounts to cover assumed overhead costs is not permitted. Uniform System of Accounts Prescribed for Natural Gas Companies Subject to the Provisions of the Natural Gas Act, 18 C.F.R. Pt. 201, Gas Plant Instructions, 4 Overhead Construction Costs, B (2006).
45. The record supporting the entries for overhead construction costs shall be so kept as to show the total amount of each overhead for each year, the nature and amount of each overhead expenditure charged to each construction work order and to each utility plant account, and the basis for distribution of such costs. Uniform System of Accounts Prescribed for Natural Gas Companies Subject to the Provisions of the Natural Gas Act, 18 C.F.R. Pt. 201, Gas Plant Instructions, 4 Overhead Construction Costs, C (2006).
46. In connection with the acquisition of gas plant constituting an operating unit or system, the utility shall procure, if possible, all existing records relating to the property acquired, or certified copies thereof, and shall preserve such records in conformity with regulations or practices governing the preservation of records of its own construction. Uniform System of Accounts Prescribed for Natural Gas Companies Subject to the Provisions of the Natural Gas Act, 18 C.F.R. Pt. 201, Gas Plant Instructions, 5 Gas Plant Purchased or Sold, E (2006).
47. The decision in *City of Allen v. Railroad Commission of Texas*, No. D-1-GV-05-5221 (53rd Dist. Ct., Travis County, Tex.), did not invalidate the orders issued by the Commission and enumerated in Finding of Fact No. 73.

IT IS THEREFORE 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 **APPROVED**.

IT IS FURTHER ORDERED that Atmos Mid-Tex shall provide a refund to customers for amounts included in the interim rate adjustment filings that were not just and reasonable. The amount of the

refund shall be \$2,325,569. Atmos Mid-Tex shall file a quarterly report, to be filed with the Director of the Gas Services Division of amounts refunded by class of customers by month, with a beginning balance and ending balance and interest. The refund of this amount shall be completed within two years of the date of this order.

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 (2005).

IT IS FURTHER ORDERED that Atmos Mid-Tex shall include in its annual report to the Commission an analysis of its capital structure.

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 _____ day of March, 2007.

RAILROAD COMMISSION OF TEXAS

ELIZABETH A. JONES
CHAIRMAN

MICHAEL L. WILLIAMS
COMMISSIONER

VICTOR G. CARRILLO
COMMISSIONER

ATTEST

SECRETARY