



# RAILROAD COMMISSION OF TEXAS

## HEARINGS DIVISION

### PROPOSAL FOR DECISION

GUD No. 10640

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**PETITION FOR DE NOVO REVIEW BY ATMOS ENERGY CORP.,  
MID-TEX DIVISION, OF THE DENIAL BY THE CITY OF DALLAS OF THE  
DALLAS ANNUAL RATE REVIEW MECHANISM TARRIFF**

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#### **PROCEDURAL HISTORY:**

Petition for De Novo Review Filed:	May 26, 2017
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Heard By:	Dana Avant Lewis, Administrative Law Judge
	James Currier, Technical Examiner
	Rose Ruiz, Technical Examiner

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1. DARR Tariff
2. Proof of Revenues
3. Schedules
4. Recommended Tariffs
5. Exhibit List

## I. SUMMARY OF THE CASE

Atmos Energy Corp., headquartered in Dallas, operates its Regulated Operations through seven operating divisions in eight states.<sup>1</sup> In Texas, Atmos Energy operates two gas distribution utility divisions – Atmos Mid-Tex and Atmos West Texas – as well as Atmos Pipeline – Texas, an intrastate pipeline division.<sup>2</sup> This proceeding arises from an appeal by Atmos Energy Corp.’s, Mid-Tex Division (“Atmos”), of an action taken by the City of Dallas (“Dallas”), which denied Atmos’s requested annual rates adjustment pursuant to the Dallas Annual Rate Review Mechanism (“DARR”) tariff filing.

Atmos filed its requested adjustment with the municipality on January 13, 2017.<sup>3</sup> The DARR Tariff requires that the filing be based upon a system-wide calculation of the company’s revenue requirement.<sup>4</sup> Initially, Atmos estimated an increase to its system-wide revenues of \$66,927,821.<sup>5</sup> Dallas denied the request on May 24, 2017, as indicated in Dallas Ordinance No. 30466.<sup>6</sup> Atmos filed its appeal on May 26, 2017.<sup>7</sup> Dallas is the only intervenor. On appeal, Atmos reduced its requested increase to \$64,929,251.<sup>8</sup> The requested increase indicated in the appeal filing is based upon a calculated revenue requirement of \$1,426,036,942.<sup>9</sup>

Dallas proposed 10 adjustments to the request made by Atmos pursuant to the DARR Tariff.<sup>10</sup> Many of the issues disputed in this proceeding center around the interpretation and application of the provisions of the DARR Tariff. The DARR Tariff requires that the rate-making treatments approved in GUD No. 9869 be applied in this DARR Tariff proceeding, except when a departure from those treatments is justified by changed circumstances.<sup>11</sup> In some instances, Dallas has raised issues that are resolved by either the express language of the DARR Tariff or the rate-making treatment applied in GUD No. 9869. Some issues are resolved by applying the rate-making treatments adopted in GUD No. 9869. For certain issues, the proposed adjustment is not impacted by either the express language of the DARR Tariff or the applicability of the rate-making treatments approved in GUD No. 9869.

The Examiners recommend three adjustments to Atmos’s requested revenue increase calculation. The three adjustments stem from the Examiners’ recommendation to remove all test-year Shared Services Unit (“SSU”) incentive compensation, thus affecting operation and maintenance expenses (“O&M”), net

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<sup>1</sup> Atmos Ex. 3, Direct Testimony of Barbara W. Myers on Behalf of Atmos (“Myers Test.”), Exhibit BWM-1, p. 4.

<sup>2</sup> Atmos Ex. 3 (Myers Test.), Exhibit BWM-1, p.4.

<sup>3</sup> Atmos Ex. 1, Atmos appeal of Dallas Annual Rate Review Tariff (“DARR”), filed on May 26, 2017 (Schedules and Relied Upons included electronically) (“Atmos Appeal”), p. 1.

<sup>4</sup> DARR, at 1, Section I.

<sup>5</sup> Atmos Ex. 1 (Atmos Appeal), Cost of Service Schedules, Adjustments, page 1, Column d, Line No. 1.

<sup>6</sup> Exhibit 8, City of Dallas Ordinance No. 30466 (“Dallas Ordinance”).

<sup>7</sup> See original filing with the Commission of Atmos’s *Petition for De Novo Review of the Dallas Annual Rate Review Mechanism Tariff Filed by Atmos Energy Mid-Tex Division by the City of Dallas*.

<sup>8</sup> Atmos Ex. 1 (Atmos Appeal), Cost of Service Schedules, Adjustments, page 1, Column d, Line No. 14.

<sup>9</sup> Atmos Ex. 1 (Atmos Appeal), Cost of Service Schedules, Schedule A, page 2, Column g, Line No. 20.

<sup>10</sup> Dallas Ex. 1, Garrett Responsive Testimony on Behalf of City of Dallas (“Garrett Test.”), p. 8.

<sup>11</sup> DARR, at 1, Section III(a).

plant and accumulated deferred income taxes ("ADIT"). The Examiners recommend limiting the revenue increase to \$61.97 million for the system and \$9.87 million for Dallas. This recommendation, compared to Atmos's de novo review filing at the Commission, results in a decrease of \$2.96 million for the system and \$522,296 for Dallas.

## **II. JURISDICTION, LAW OF THE CASE, AND BURDEN OF PROOF**

### ***A. Jurisdiction***

The Commission has jurisdiction over all matters at issue in this proceeding pursuant to GURA Chapters 102 (Jurisdiction and Powers of Railroad Commission and Other Regulatory Authorities), 103 (Jurisdiction and Powers of Municipality), and 104 (Rates and Services).

### ***B. Law of the Case***

The statutes and rules involved in this proceeding include, but are not limited to, those contained in GURA Chapters 102, 103, and 104, and Title 16 (Economic Regulation), Part 1 (Railroad Commission of Texas), Chapters 1 (Practice and Procedure) and 7 (Gas Services Division) of the Texas Administrative Code. More specifically, Atmos is a gas utility as defined in GURA Section 101.003(7). Atmos filed its petition for de novo appeal within the 30 days of the date of the final decision by Dallas pursuant to GURA Section 103.054 (Filing of an Appeal).

Section VI (Evaluations and Procedures) of the DARR indicates that Atmos shall have the right to appeal Dallas's action to the Railroad Commission of Texas if the Atmos and Dallas are unable to reach an agreement on the proposed rate adjustment. Furthermore, DARR Section VII (Reconsideration and Appeal), states that orders issued pursuant to the DARR mechanism are ratemaking orders subject to appeal under Tex. Util. Code § 102.001 (b) (Railroad Commission Jurisdiction) and Tex. Util. Code § 103.021, et seq. (Subchapter B; Rate Determination).

### ***C. Burden of Proof***

As the party proposing gas utility rate changes, Atmos has the burden of proving that the rate changes are just and reasonable.<sup>12</sup>

## **III. SCOPE OF REVIEW**

While this docket invokes the Commission's appellate jurisdiction, it is important to note that the DARR Tariff resulted from a negotiated agreement between Atmos and Dallas, and that Dallas has exclusive original jurisdiction over Atmos's rates, operations and services within the municipal service area. Atmos maintains, and the Examiners agree, that the scope of the Commission's review of this case is

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<sup>12</sup> Tex. Util. Code § 104.008 (Burden of Proof) ("In a proceeding involving a proposed rate change, the gas utility has the burden of proving that the rate change is just and reasonable, if the utility proposes the change.").

a limited issue proceeding, rather than a full rate case.<sup>13</sup> Dallas does not appear to disagree that this proceeding is limited in scope to the terms of the DARR Tariff, although Dallas argues for adjustments to the terms of the DARR itself rather than limiting relief to de novo review for Atmos's compliance with the DARR provisions.

#### IV. NOTICE

Proper notice has been issued in this proceeding in accordance with applicable statutes and rules. On February 17, 2017, Atmos provided public notice of its DARR filing to residential and commercial customers by bill insert.<sup>14</sup> Notice to industrial and other non-residential customers was accomplished by direct mail postmarked February 7, 2017.<sup>15</sup> As such, Atmos complied with the notice requirements in accordance with GURA Section 104.103 (Notice of Intent to Increase Rates).<sup>16</sup>

On September 6, 2017, the Administrative Law Judge issued a Notice of Hearing in compliance with Chapter 2001 (Administrative Procedure) of the Texas Government Code, Part 1 (Railroad Commission of Texas) of Title 16 (Economic Regulation) of the Texas Administrative Code, and other applicable authority. On September 15, 2017, the Commission published the Notice of Hearing in *Gas Utilities Information Bulletin No. 1067*, in compliance with Commission Rule § 7.235 (Publication and Service of Notice).<sup>17</sup>

#### V. COMPLIANCE WITH COMMISSION RULES; BOOKS AND RECORDS

Atmos presented evidence that it maintains its books and records in accordance with Commission requirements.<sup>18</sup> Barbara W. Myers, Manager, Rates and Regulatory Affairs, Shared Services Unit of Atmos Energy, testified that Atmos complies with Commission Rule § 7.310 (System of Accounts), which requires each gas utility to "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) (FERC USAO) for all operating and reporting purposes."<sup>19</sup> Ms. Myers further testified that the information contained within Atmos's books and records, as well as the summaries and excerpts therefrom, qualify for the presumption set forth in Commission Rule § 7.503 (Evidentiary Treatment of Uncontroverted Books and Records of Gas Utilities).<sup>20</sup>

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<sup>13</sup> See Trial Brief of Atmos Energy Corp., Mid-Tex Division, at 1.

<sup>14</sup> Atmos Ex. 7, Affidavit of Notice by Christopher A. Felan.

<sup>15</sup> *Id.*

<sup>16</sup> Atmos Ex. 7 (Affidavit of Notice) ¶ 2; see also Tex. Util. Code § 104.103(b).

<sup>17</sup> See Bulletin at 2-4 (containing the Notice of Hearing); see also 16 Tex. Admin. Code § 7.235(a)(1)(A) (Publication and Service of Notice) ("The Commission shall publish the notice of hearing in the next Bulletin published after the date of issuance of the notice of hearing.").

<sup>18</sup> Atmos Ex. 3 (Myers Test), at 5 and 14.

<sup>19</sup> *Id.*, p. 6; see 16 Tex. Admin. Code § 7.310(a) (System of Accounts).

<sup>20</sup> Atmos Ex. 5, Rebuttal Testimony of Barbara W. Myers on Behalf of Atmos ("Myers Rebuttal") at 14-15; see 16 Tex. Admin. Code § 7.503(a) (Evidentiary Treatment of Uncontroverted Books and Records of Gas Utilities).

Dallas does not dispute that Atmos maintains its books and records in accordance with Commission requirements.

Considering the evidence, the Examiners find that Atmos has established that it complied with these Commission rules. Accordingly, Atmos is entitled to the presumption set forth in Commission Rule § 7.503 (Evidentiary Treatment of Uncontroverted Books and Records of Gas Utilities) that the unchallenged amounts shown in its books and records are presumed to have been reasonably and necessarily incurred.<sup>21</sup>

## VI. DARR TARIFF

The DARR Tariff was developed in cooperation with the City of Dallas following the Commission's decision in GUD No. 9869 and was implemented for Dallas in July 2011, with the first DARR Tariff adjustment taking effect on June 1, 2012.<sup>22</sup> The DARR is intended to be a collaborative streamlined process designed to provide annual earnings transparency without the necessity of a full rate case.<sup>23</sup> Atmos and Dallas have successfully negotiated rates at the municipal level under the DARR Tariff until the 2017 filing at issue in this docket. The first table below illustrates Atmos's annual DARR proposals and the final results from its inception to date. As reflected below, the rate may either increase or decrease.<sup>24</sup>

**Table 1**  
***Atmos's Annual DARR Proposals and Final Results***

Year	Proposed Base Rate Increase	Actual Rate Change
2012	\$2,545,028	(\$362,000)
2013	\$3,957,324	\$1.8 million
2014	\$8,747,948	\$6.3 million
2015	\$7,449,062	\$4.7 million
2016	\$7,417,758	\$5.3 million
2017	\$9,671,712 <sup>25</sup>	

<sup>21</sup> See 16 Tex. Admin. Code § 7.503(a) (Evidentiary Treatment of Uncontroverted Books and Records of Gas Utilities) ("In any proceeding before the Commission involving a gas utility that keeps its books and records in accordance with Commission rules, the amounts shown on its books and records as well as summaries and excerpts therefrom shall be considered prima facie evidence of the amount of investment or expense reflected when introduced into evidence, and such amounts shall be presumed to have been reasonably and necessarily incurred; provided, however, that if any evidence is introduced that an investment or expense item has been unreasonably incurred, then the presumption as to that specific investment or expense item shall no longer exist and the gas utility shall have the burden of introducing probative evidence that the challenged item has been reasonably and necessarily incurred.").

<sup>22</sup> Atmos Ex. 2 (Felan Test.), at 5.

<sup>23</sup> Dallas Annual Rate Review Tariff (DARR), at 1; Initial Post Hearing Brief of the City of Dallas, at 1.

<sup>24</sup> DARR at 1.

<sup>25</sup> This rate went into effect June 1, 2017, pending the outcome of this appeal and subject to refund. Atmos Ex. 1 (Atmos Appeal) Electronic Schedules, Tab "Schedule A", Excel cell P34.

The DARR Tariff applies to the following customer classes: Residential, Commercial, Industrial, and Transportation, as reflected in the Table 2.

**Table 2**  
***Dallas Customers Affected by DARR Rate Adjustment***

<b>Municipal Customer Class</b>	<b>Number of Customers</b>
Residential	205,055
Commercial	19,984
Industrial Sales and Transportation	103

Atmos files annually with Dallas by January 15<sup>th</sup> of each year in accordance with the DARR Tariff.<sup>26</sup> The resulting rate adjustment takes effect on June 1 of the same year.<sup>27</sup> The DARR Tariff contemplates an annual adjustment to rates that is calculated consistent with the precedent established in “the most recent final order establishing the Company’s latest effective rates for customers within the City of Dallas.”<sup>28</sup> The last effective rate case applicable to this appeal is GUD No. 9869. Consequently, the ratemaking methodologies and other precedent from GUD No. 9869 are applied to develop Atmos’s cost of service, absent changed circumstances.<sup>29</sup> The adjustment is designed to account for changes in expense and investment during a “test period,” which is defined as the 12 months ending September 30<sup>th</sup> of each preceding calendar year.<sup>30</sup> The test period for the 2017 DARR Tariff filing ended September 30, 2016. The timeline below chronologically lists the key events.

**Table 3**  
***DARR Key Dates***

<b>Event</b>	<b>Date</b>
12-month Test Period Ends	9/30/2016
Atmos files DARR with City of Dallas	1/13/2017
City of Dallas denies DARR request	5/24/2017
Atmos appeals to Commission	5/26/2017
Effective Date of DARR	6/1/2017

***A. Calculation of Rates Pursuant to DARR Tariff***

Calculation of the DARR adjustment is generally formulaic and is based on Atmos’s audited financial data.<sup>31</sup> Commission-approved factors such as rate of return, depreciation rates, and rate design are held constant.<sup>32</sup> The cost of service is calculated by applying these fixed factors to Atmos’s rate base, operating expenses, taxes, and interest on customer deposits.<sup>33</sup>

<sup>26</sup> DARR at 1; Atmos Ex. 2 (Felan Test.), at 5-6.

<sup>27</sup> Atmos Ex. 2 (Felan Test.) at 5-6.

<sup>28</sup> *Id.* at 6, discussing Section II of the DARR Tariff.

<sup>29</sup> *Id.* at 6.

<sup>30</sup> *Id.* at 8.

<sup>31</sup> DARR at 1, Section III; Atmos Ex. 2 (Felan Test.) at 8-9.

<sup>32</sup> DARR at 1-2, Section III b) – d) and Section IV a). Atmos Ex. 2 (Felan Test.), at 9.

<sup>33</sup> Atmos Ex. 2 (Felan Test.) at 9.



Section III(c) of the DARR Tariff prescribes the return on equity ("ROE") be maintained at 10.1 percent.<sup>34</sup> Section III(d) of the DARR Tariff requires that the long-term cost of debt and capital structure be determined based on the actual 13-month average for the test period and limits the capital structure to long-term debt ("LTD") and equity.<sup>35</sup>

Section III(b) of the DARR Tariff provides that the depreciation rates approved by the Commission in the Final Order of GUD No. 9869 or the most recently approved depreciation rates for the Mid-Tex Division and the Shared Services Division should be applied.<sup>36</sup> Depreciation rates approved in GUD No. 10170 should be applied in this case since these are the depreciation rates most recently approved by the Commission for Atmos Mid-Tex Division, and in which the City of Dallas had the right to participate in accordance with the terms of the DARR.<sup>37</sup>

Section IV(a) of the DARR Tariff explains that rates are calculated using the terms reflected in the DARR itself, as well as the methodology approved by the Commission in GUD No. 9869.<sup>38</sup> The rate adjustments are apportioned between the customer charge and usage charge with residential and commercial customer charges rounded to the nearest quarter-dollar.<sup>39</sup>

### ***B. Operation and Maintenance Expenses***

The DARR Tariff allows for the recovery of reasonable and necessary operation and maintenance ("O&M") expenses adjusted for known and measurable changes.<sup>40</sup> Atmos also is permitted to make adjustments to update and annualize costs for the Rate Effective Period and to account for atypical, unusual or nonrecurring events during the test period. Shared Services allocation factors are recalculated each year based on the test period component factors using the methodology approved in GUD No. 9869.

### ***C. Rate Base***

The DARR Tariff explains that rate base is calculated using the ratemaking treatments approved in GUD No. 9869, unless changed circumstances justify a departure. Rate base includes the test period ending balances for actual gross plant in service, accumulated depreciation, accumulated deferred income taxes, inventory, working capital, and other rate base components. Cash working capital is calculated using the lead/lag days approved in GUD No. 9869.<sup>41</sup>

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<sup>34</sup> DARR at 2.

<sup>35</sup> *Id.*

<sup>36</sup> DARR at 1.

<sup>37</sup> DARR at 1-2, Section III(b).

<sup>38</sup> *Id.* at 2.

<sup>39</sup> *Id.* at 2, Sec. IV(a).

<sup>40</sup> *Id.* at 2, Sec. IV(b).

<sup>41</sup> Atmos Ex. 2 (Felan Test.) at 10.

Per the DARR Tariff, the regulatory authority may disallow any net plant investments that Atmos fails to demonstrate is prudently incurred.<sup>42</sup> Also, regulatory adjustments due to prior regulatory rate base adjustments disallowances will be maintained.<sup>43</sup>

The DARR Tariff also states that approval by the regulatory authority of any net plant investment pursuant to the provisions of the DARR Tariff shall permit Atmos to earn a return on that net investment for the effective period and shall not be subject to refund if in a subsequent review, a portion of the plant is determined to be imprudently incurred.<sup>44</sup>

#### **D. Attestation**

The DARR requires a sworn statement to be filed by an officer of Atmos affirming that filed schedules comply with the provisions of the DARR and are true and correct.<sup>45</sup> Christopher Felan, Vice President of Rates and Regulatory Affairs for the Mid-Tex Division of Atmos, testified that Atmos "has fully complied with the terms of the DARR Tariff and the rate-making treatments in GUD No. 9869."<sup>46</sup>

#### **E. Appeal**

The DARR Tariff provides that during the review period, Atmos and Dallas must work collaboratively and seek agreement on the level of rate adjustments.<sup>47</sup> If an agreement is not reached, then Dallas must authorize an increase or decrease to Atmos's rates to achieve the revenue levels indicated for the Rate Effective Period.<sup>48</sup> Furthermore, section VII of the DARR indicates that Atmos has the right to appeal Dallas's action or inaction to the Commission.<sup>49</sup> The tariff provides that Atmos may implement the proposed rate, subject to refund, while the proceeding is pending at the Commission.<sup>50</sup> Pursuant to the terms of the DARR mechanism, orders issued thereunder are ratemaking orders subject to the provisions of the TEXAS UTILITIES CODE §§ 102.001(b) and 103.021, et. seq. (Vernon 2007).<sup>51</sup>

### **VII. OVERVIEW OF ATMOS'S REQUEST**

#### **A. Revenue Requirement and Increase**

#### **Atmos's Proposal**

Atmos requests a \$10.4 million rate increase for Dallas Customers. Mr. Felan

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<sup>42</sup> *Id.* at 3, Sec. IV(d).

<sup>43</sup> DARR Tariff page 1, sec. III(a)

<sup>44</sup> *Id.* at 3, Sec. IV(d).

<sup>45</sup> *Id.* at 3, Sec. V.

<sup>46</sup> Atmos Ex. 4, Rebuttal Testimony of Christopher A. Felan ("Felan Rebuttal"), at 20.

<sup>47</sup> DARR at 3, Sec. IV.

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> *Id.* at Sec. VII.

further testified that safety and reliability investment is a key factor driving its requested increase.<sup>52</sup> Mr. Felan explained that programs such as the Federal Distribution Integrity Management Program and the Commission's Distribution Facility Replacement Rule (Rule 8.209) have guided Atmos in evaluating the needs of the system and focusing its investment dollars on those needs.<sup>53</sup> Regarding operation and maintenance ("O&M") expenses, Atmos contends that even with the use of diligent measures to control and manage outlays, Atmos must incur costs necessary to operate in a safe and reliable manner.<sup>54</sup>

On June 1, 2017, Atmos implemented the following current base rates, subject to refund. The table below compares those rates to the previous year's effective rates.

**Table 4**  
**Current Rates by Customer Class Implemented June 1, 2017**

Monthly Charge	Residential		Commercial	
	Current	Previous	Current	Previous
Customer Charge per Bill	<b>\$21.25</b>	\$20.00	<b>\$44.00</b>	\$40.25
Commodity Charge - All Ccf	<b>\$0.12862</b>	\$0.09774	<b>\$0.08214</b>	\$0.07143
Monthly Charge	Industrial and Transportation			
	Current	Previous		
Customer Charge per Meter	<b>\$809.25</b>	\$735.00		
First 0 MMBtu to 1,500 MMBtu	<b>\$0.2232</b>	\$0.1891		
Next 3,500 MMBtu	<b>\$0.1623</b>	\$0.1375		
All MMBtu over 5,000	<b>\$0.0257</b>	\$0.0218		

Atmos included a rate comparison in its filing for all customer classes impacted by the proposed change. The impacts include base rates, cost of gas, and revenue related taxes.

**Table 5**  
**Average Bill Impact by Customer Class as of June 1, 2017**

Customer Class	Usage	Bill		Increase	Percentage Increase	
		Current	Previous		With Gas Cost	Without Gas Cost
<b>Residential</b>	55 Ccf	\$61.61	\$58.45	<b>\$3.16</b>	5.41%	11.60%
<b>Commercial</b>	516 Ccf	\$347.23	\$337.26	<b>\$9.97</b>	2.96%	12.03%
<b>Industrial</b>	6,501 MMBtu	\$6,896	\$6,662	<b>\$234</b>	3.52%	14.23%
<b>Transportation</b>	6,501 MMBtu	\$4,957	\$4,723	<b>\$234</b>	4.96%	14.23%

<sup>52</sup> Atmos Ex. 2 (Felan Test.), at 12.

<sup>53</sup> *Id.* at 12.

<sup>54</sup> *Id.* at 12-13.

In summary, Atmos's filing in this proceeding is centered upon an overall base revenue requirement calculation<sup>55</sup> totaling \$622,218,782 and a total revenue requirement of \$1,426,036,942 which includes cost of gas and revenue related taxes.<sup>56</sup> This results in a system-wide increase of \$64,929,251 and an increase for Dallas customers of \$10,387,483.<sup>57</sup>

## Dallas's Proposal

Dallas proposes several adjustments to Atmos's filing, ultimately recommending a \$644,235 rate decrease for Dallas Customers. Interestingly, Dallas's recommendation in this proceeding is vastly different from the \$5 million-dollar rate increase approved in Dallas City Ordinance Number 30466 adopted on May 24, 2017. Dallas contests the following issues: accumulated deferred income taxes ("ADIT"), capital structure, cost of debt, incentive compensation, payroll expenses, and miscellaneous expenses. The table below indicates the dollar amount associated with Atmos's requested increase followed by Dallas's proposed reductions to the request.

**Table 6**  
**Dallas's Proposed Reductions to Atmos's Request**

Issue	Impact
Atmos Request—Dallas (Original)	\$ 10, 714,373
ADIT	\$ (5,519,515)
Capital Structure	\$ (2,182,227)
Cost of Debt	\$ (1,522,186)
Incentive Compensation	\$ (1,368,063)
Miscellaneous Expenses	\$ (479,464)
Payroll Expenses	\$ (287,153)
<b>Total Dallas Adjustments</b>	<b>\$ (11,358,608)</b>
<b>Dallas Recommended Revenue Change</b>	<b>\$ (644,235)</b>

## Examiners Recommendation

The Examiners recommend limiting the revenue increase to \$61.965,842 million for the system and \$9.865,187 million for Dallas. This recommendation, compared to Atmos's original filing at the municipal level, results in a decrease of \$2,963,409 million for the system and \$522,296 for Dallas. The table below compares the Examiners' recommended decrease to Atmos's proposal for both the system and Dallas customers.

<sup>55</sup> Excludes Rider GCR – Gas Cost Recovery ("GCR"), Rider FF – Franchise Fee Adjustment ("FF"), and Rider TAX – Tax Adjustment ("TAX").

<sup>56</sup> Includes \$705,554,135 for Rider GCR and \$98,264,025 for Rider FF and Rider TAX. See Atmos Ex. 1 (Atmos Appeal), Cost of Service Schedules, Schedule A, page 2, Line No. 20.

<sup>57</sup> The base revenue requirement increase for the system and Dallas is \$60,455,167 and \$9,671,712, respectively. Atmos Ex. 1 (Atmos Appeal), Electronic Schedules, Tab "Schedule A", Excel cells P32, P34.

**Table 7**  
**Recommended Revenue Requirement Increase**

	<b>System</b>	<b>Dallas</b>
Atmos Original	\$ 66,927,821	\$ 10,714,373
Atmos Appeal	\$ 64,929,251	\$ 10,387,483
<b>Examiners</b>	<b>\$ 61,965,842</b>	<b>\$ 9,865,187</b>
<b>Difference from Appeal</b>	<b>\$ (2,963,409)</b>	<b>\$ (522,296)</b>

The table below compares the major components of Atmos's proposed revenue requirement and the Examiners' recommended revenue requirement.

**Table 8**  
**Revenue Requirement Summary**

<b>Item</b>	<b>Line/Calc</b>	<b>Atmos</b>	<b>Examiners</b>	<b>Difference</b>
Expenses <sup>58</sup>	a	\$354,787,830	\$352,646,122	\$(2,141,707)
Rate Base	b	\$2,273,566,747	\$2,268,402,553	\$(5,164,194)
Rate of Return	c	8.38%	8.38%	0%
Return on Rate Base	d=b*c	\$190,487,188	\$190,054,514	\$(432,674)
Income Taxes	e	\$76,943,764	\$76,758,936	\$(184,828)
<b>Base Revenue Requirement</b>	<b>f=a+d+ e</b>	<b>\$622,218,782</b>	<b>\$619,459,573</b>	<b>\$(2,759,209)</b>
Revenue Related Taxes	g	\$98,264,025	\$98,059,825	\$(204,200)
Rider GCR	h	\$705,554,135	\$705,554,135	\$0
<b>Total Revenue Requirement</b>	<b>i=f+g+h</b>	<b>\$1,426,036,942</b>	<b>\$1,423,073,533</b>	<b>\$(2,963,409)</b>

The Examiners' recommendation decreases the rates for Dallas Customers as shown in Table 9.

**Table 9**  
**Recommended Rates – City of Dallas Customers**

<b>Monthly Charge</b>	<b>Residential</b>			<b>Commercial</b>		
	<b>Current</b>	<b>Previous</b>	<b>Examiners</b>	<b>Current</b>	<b>Previous</b>	<b>Examiners</b>
Customer Charge per Bill	\$21.25	\$20.00	<b>\$21.25</b>	\$44.00	\$40.25	<b>\$44.00</b>
Commodity Charge - All Ccf	\$0.12862	\$0.09774	<b>\$0.12596</b>	\$0.08214	\$0.07143	<b>\$0.08118</b>
<b>Monthly Charge</b>	<b>Industrial and Transportation</b>					
	<b>Current</b>	<b>Previous</b>	<b>Examiners</b>			
Customer Charge per Meter	\$809.25	\$735.00	<b>\$805.75</b>			
First 0 MMBtu to 1,500 MMBtu	\$0.2232	\$0.1891	<b>\$0.2217</b>			
Next 3,500 MMBtu	\$0.1623	\$0.1375	<b>\$0.1612</b>			
All MMBtu over 5,000	\$0.0257	\$0.0218	<b>\$0.0256</b>			

<sup>58</sup> Expenses include O&M, depreciation, amortization, taxes other than income taxes, and interest on customer deposits.

Any refunded amounts due to customers will be coordinated between Atmos and Dallas.<sup>59</sup>

The Examiners' recommendation decreases Dallas customer's bills as shown in Table 10 below. The impacts include base rates, gas supply rates – Rider GCR – and Rider FF & TAX rates. The dollar amounts listed below include the base rates and the riders.

**Table 10**  
**Current to Recommended Bill Impacts**

Customer Class	Usage	Bill			Increase	Percentage Increase	
		Current	Previous	Examiners		With Gas Cost	Without Gas Cost
Residential	55 Ccf	\$61.61	\$58.45	\$61.44	<b>\$2.99</b>	5.12%	11%
Commercial	516 Ccf	\$347.23	\$337.26	\$346.70	<b>\$9.44</b>	2.8%	11.4%
Industrial	6,501 MMBtu	\$6,896	\$6,662	\$6,886	<b>\$224</b>	3.36%	13.6%
Transportation	6,501 MMBtu	\$4,957	\$4,723	\$4,946	<b>\$224</b>	4.74%	13.6%

### **B. Rate Base**

Atmos requests a rate base of \$2,273,566,747, which represents Atmos's invested capital used to provide gas utility service to its customers.<sup>60</sup> Most of Atmos's rate base is not challenged and therefore is presumed to have been reasonably and necessarily incurred.<sup>61</sup> Atmos's investments include assets exclusively serving Atmos's Mid-Tex customers and an allocated portion of Atmos Energy's Shared Services Unit ("SSU") assets serving Atmos.

Dallas recommends reducing rate base by more than \$344 million, 15 percent, to \$1,944,976,419.<sup>62</sup> The disputed issues are ADIT, including Net Operating Loss Carryforwards ("NOLC"), and capitalized incentive compensation.

The Examiners recommend reducing Atmos's requested rate base by \$5,164,194 to \$2,268,402,553 because of flow-through adjustments to ADIT and disallowance of the test-year Shared Services Unit ("SSU") portion of capitalized incentive compensation.

<sup>59</sup> Hearing Transcript (Sept. 26, 2017), at 12, 19-20. (Felan testifying).

<sup>60</sup> Atmos Ex. 1 (Atmos Appeal), Cost of Service Schedules, Schedule A, page 2, Column c, Line No. 14.

<sup>61</sup> See 16 Tex. Admin. Code § 7.503(a) (Evidentiary Treatment of Uncontroverted Books and Records of Gas Utilities).

<sup>62</sup> Dallas Ex. 1 (Garrett Test.), Electronic Exhibit MG-2 Draft, Tab "2.0 Summary", Excel cell D21.

### ***C. Expenses***

Atmos requests total expenses of \$354,787,830, which includes O&M, depreciation and amortization, taxes other than income taxes, and interest on customer deposits.

Dallas recommends reducing expenses by about \$8 million.<sup>63</sup> The disputed issues are payroll, incentive compensation, and miscellaneous expenses.

The Examiners recommend reducing Atmos's request by \$2,141,707 to \$352,646,122 because of disallowance of the SSU portion of incentive compensation.

### ***D. Cost of Capital and Return***

Atmos requests an 8.38 percent rate of return based on an equity ratio of 58.51 percent, return on equity of 10.1 percent and a long-term debt ("LTD") cost of 5.95 percent.

Dallas recommends a 7.54 percent rate of return based on an equity ratio of 52 percent, return on equity of 10.1 percent and a LTD cost of 4.77 percent. Dallas's recommendation would reduce Atmos's revenue requirement over \$23 million.

The Examiners recommend approving Atmos's requested cost of capital.

## **VIII. CONTESTED ISSUES**

The City of Dallas proposes several adjustments encompassing five issues in Atmos's DARR filing, resulting in a \$70,952,066 revenue requirement decrease for Atmos Mid-Tex and \$11,358,608 for Dallas Customers. The five contested issues are incentive compensation, ADIT/NOLC, cost of capital, payroll adjustments and miscellaneous adjustments.

### ***A. Incentive Compensation—Overview***

In GUD No. 9869, the Commission addressed issues related to the recovery of incentive compensation programs:

Atmos' proposal to include \$5,062,755 in Shared Services Unit incentive compensation in this request, consisting of \$1,989,982 in SSU incentive compensation capitalized and \$3,072,774 of SSU incentive compensation expensed, is unreasonable because the Shared Service Unit incentive compensation is not tied to public safety, and therefore it is more appropriate that shareholders bear incentive compensation expenses as customers do not benefit from Atmos' incentive compensation plan.<sup>64</sup>

<sup>63</sup> Dallas Ex. 1 (Garrett Test.), Electronic Exhibit MG-2 Draft, Tab "2.0 Summary", Excel cells F27-F33.

<sup>64</sup>GUD 9869, Final Order Nunc Pro Tunc, at FoF 34.

In this case, Atmos's treatment of incentive compensation must be consistent with the rate-making treatment approved in GUD No. 9869. As noted above, there are no specific regulatory provisions in either the Gas Utility Regulatory Act or Commission regulations related to expenses for incentive compensation. Recovery of these expenses is evaluated on a case-by-case basis and may be revisited in full rate-making proceedings, which Dallas initiated on June 14, 2017.<sup>65</sup> In this case, however, the parties are constrained by the DARR Tariff provisions. Those provisions require that the filing in this case be consistent with the rate-making treatments approved in GUD No. 9869.

In this filing, Atmos requests inclusion of \$6,933,094 of incentive compensation in rate base and recovery for \$3,111,691 of incentive compensation expenses.

**Table 11**  
**Atmos's Requested Incentive Compensation<sup>66</sup>**

Category	Mid-Tex		Shared Services	
	Expense	Capital	Expense	Capital
Short-term	\$756,607	\$2,974,724		\$1,406,503
Long-Term	\$239,029	\$574,618	\$2,116,055	\$1,977,248
<b>Total</b>	<b>\$995,635</b>	<b>\$3,549,342</b>	<b>\$2,116,055</b>	<b>\$3,383,751</b>

#### 1. Incentive Compensation-Expenses

Atmos requests cost recovery for \$756,607 of short-term incentive compensation ("STI") expenses and \$2,355,084 of long-term incentive compensation ("LTI") expenses. The STI amount is limited to the Mid-Tex direct ("Direct") incentive compensation.<sup>67</sup> The LTI amount includes \$239,029 of Direct and \$2,116,055 of the allocated Shared Services Unit ("SSU") portion.<sup>68</sup>

#### ***Opposition by Dallas***

In opposition, Dallas recommends removing all incentive compensation, arguing that Atmos's STI request is inconsistent with the Commission's Order in GUD 9869 and that the Commission historically disallows LTI.<sup>69</sup> Dallas contends that the Commission previously rejected the inclusion of the same type of incentive compensation that Atmos requests in this DARR filing because it is not tied to public

<sup>65</sup> Atmos Ex. 4 (Felan Rebuttal), Ex. CAF-R-2 (On June 14, 2017, the City of Dallas passed Resolution No. 170933, ordering Atmos Energy Corp., Mid-Tex Division to show cause demonstrating the reasonableness of its existing Natural Gas Distribution rates within the City of Dallas.).

<sup>66</sup> See letter from Parsley Coffin Renner dated Sept. 29, 2017, filed in response to Examiners' requests during the merits hearing, Electronic Filing Decision Summary ATO Adjusted, Tab "Summary Data."

<sup>67</sup> Atmos Response to Dallas 1-04 Attachment 1, see Garrett Dir. at 10.

<sup>68</sup> *Id.*

<sup>69</sup> Dallas Ex. 1 (Garrett Test.) at 9-11.



safety.<sup>70</sup> Dallas interprets the Commission's Order in GUD No. 9869 as establishing the underlying principle and precedent that if incentive compensation is not tied to public safety, it is more appropriate that shareholders bear the costs, as customers do not benefit from Atmos's incentive compensation plan.<sup>71</sup> Dallas also contends that the Commission denied STI in GUD No. 9869 because direct testimony in that case showed that incentive compensation could not be derived.<sup>72</sup> Dallas alleges that LTI is disallowed by the majority of jurisdictions and has been disallowed by the Commission because it is directly related to shareholder earnings and the value of Atmos's common stock.<sup>73</sup>

### ***Atmos's Rebuttal***

Atmos rebuts Dallas by contending that its filing is consistent with the treatment of incentive compensation expense in GUD No. 9869, in which the Commission removed SSU STI but included Direct STI and LTI in the cost of service.<sup>74</sup>

Atmos alleges that Dallas misinterprets the Commission's Order in GUD No. 9869 because it only applied to SSU, not Direct, and that the Commission has previously approved recovery of the exact same types of incentive compensation requested here in GUD Nos. 9869, 10000, 10170 and 10174.<sup>75</sup> Atmos alleges that Dallas's LTI adjustment is also inconsistent with the Commission's treatment of this issue in GUD No. 9869 because there was no adjustment to LTI expense in that case for Direct or SSU.<sup>76</sup> Atmos argues that Dallas fails to cite precedent to support its assertion that a majority of regulatory agencies disallow LTI and that all employees, including management and executives are fully committed to serving customer needs and providing safe and reliable service.<sup>77</sup>

### ***Examiner Findings and Recommendation***

After review and consideration of the evidence, briefing, and relevant law, the Examiners find that Atmos did not meet its burden of proof to establish that its calculation of incentive compensation is reasonable and necessary in compliance with the requirements of the DARR Tariff. Atmos's treatment of the expensed incentive compensation is inconsistent with the Commission-approved methodology in GUD No. 9869.<sup>78</sup> The Examiners findings are based on the language in the Commission's Final Order in GUD No. 9869, wherein the Commission found that both the expensed and capitalized portions of SSU incentive compensation were unreasonable.<sup>79</sup> The

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<sup>70</sup> *Id.* at 10.

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

<sup>73</sup> *Id.* at 11.

<sup>74</sup> Atmos Ex. 5 (Myers Reb.) at 8-11.

<sup>75</sup> *Id.* at 8-11.

<sup>76</sup> *Id.* at 13-15.

<sup>77</sup> *Id.*

<sup>78</sup> GUD 9869, Final Order Nunc Pro Tunc, at FoF 34.

<sup>79</sup> GUD 9869, Final Order Nunc Pro Tunc, at FoF 34.

Examiners recommend that incentive compensation expense be limited to the direct portion only, and excluding the SSU LTI amount of \$2,116,055. The result is a total expensed incentive compensation of \$995,635, an expense the Examiners find to be reasonable and necessary, supported by the evidence, and consistent with the DARR Tariff and GURA Section 104.051 (Establishing Overall Revenues) and Chapter 104 (Rates and Services).

## 2. Incentive Compensation- Capitalized

Atmos requests to include \$4,381,228 of capitalized STI and \$2,551,866 of capitalized LTI in rate base. The STI amount includes \$2,974,724 of Direct and \$1,406,503 of SSU. The LTI amount includes \$574,618 of Direct and \$1,977,248 of SSU.

### ***Opposition by Dallas***

In opposition, Dallas recommends removing all capitalized incentive compensation from rate base, including all amounts capitalized subsequent to the Order in GUD No. 9869. Dallas argues that for the same reasons the Commission should deny expensed incentive compensation applies equally to deny capitalized incentive compensation.<sup>80</sup> Dallas alleges that while the Commission explicitly denied Atmos's request for SSU incentive compensation in GUD No. 9869, and further established the standard for exclusion of incentive compensation, Atmos has continued to record the capitalized component of all incentive compensation subsequent to that order.<sup>81</sup> Dallas explains that to properly recognize the treatment determined by the Commission, all capitalized incentive compensation subsequent to GUD No. 9869 must be removed from rate base.<sup>82</sup>

**Table 12**  
**Previously Included Capitalized Incentive Compensation<sup>83</sup>**  
**Summary Prior Periods (2011-2015)**

	<b>Mid-Tex</b>	<b>Shared Services</b>
Total	\$ 14,487,884	\$ 20,123,249

### ***Atmos's Rebuttal***

Atmos indicates that since GUD No. 9869, Dallas has approved five DARR rate adjustments, in which it necessarily approved the net plant investment included in those filings.<sup>84</sup> Atmos maintains that because the DARR Tariff is not an interim rate mechanism that contemplates a subsequent prudence review, rate adjustments under the DARR Tariff are final rates, and as such, Dallas cannot reach back in this

<sup>80</sup> Dallas Ex. 1 (Garrett Test.), at 12.

<sup>81</sup> *Id.*

<sup>82</sup> *Id.*

<sup>83</sup> See letter from Parsley Coffin Renner dated Sept. 29, 2017, filed in response to the Examiners' requests during the merits hearing, Electronic Filing Decision Summary ATO Adjusted, Tab "Summary Data".

<sup>84</sup> Atmos Ex. 4 (Felan Rebuttal), at 13-14.

proceeding and restate plant investment balances that have been previously approved.<sup>85</sup>

Furthermore, Atmos argues that the DARR Tariff provides for recovery of the STI expenses requested by Atmos and no adjustment should be made to capitalized incentive compensation for the test period.<sup>86</sup> Atmos claims that Workpaper\_F-2.7 of exhibit B to the Final Order Nunc Pro Tunc in GUD No. 9869 is the only schedule or workpaper that includes an adjustment for incentive compensation, and that there was no adjustment to remove capitalized incentives from rate base on any schedule or workpaper used to calculate total rate base.<sup>87</sup> Atmos also points out that the Final Orders in GUD Nos. 9670, 9762, 9869, 10000 and 10170, demonstrate that the Commission never has adjusted capital for SSU or direct incentive compensation.<sup>88</sup> Atmos claims that it has properly followed the Commission's precedent in GUD 9869, as required by the DARR Tariff, and that these amounts are properly included in the DARR rate adjustment.<sup>89</sup>

### ***Examiner Findings and Recommendation***

After review and consideration of the evidence, argument, and relevant law, the Examiners find that Atmos failed to meet its burden to establish that its calculation of incentive compensation is reasonable and necessary and comports with the requirements of the DARR Tariff. Atmos's treatment of capitalized incentive compensation is inconsistent with the Commission-approved methodology in GUD No. 9869.<sup>90</sup>

The Examiners findings are based on the language in the Commission's Final Order in GUD No. 9869, wherein the Commission found that both the expensed and capitalized portions of SSU incentive compensation were unreasonable. The Examiners recommend that the capitalized incentive compensation included in rate base be limited to the direct portion only, thus excluding the SSU LTI amount of \$1,977,248 and SSU STI amount of \$1,406,503. The result is a total capitalized incentive compensation of \$3,549,342, a rate base item the Examiners find to be reasonable and necessary, supported by the evidence, and consistent with the terms of the DARR Tariff and GURA Section 104.051 (Establishing Overall Revenues) and Chapter 104 (Rates and Services).

The Examiners reject Dallas's recommendation to exclude from rate base all capitalized incentive compensation amounts subsequent to the Commission's Order in GUD No. 9869. Dallas has approved net plant investment in five DARR rate adjustments since GUD No. 9869 that included capitalized incentive compensation amounts in the filings. The DARR Tariff, Section IV(d), states that the "net investment for the Effective Period . . . shall not be subject to refund if in a subsequent review a

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<sup>85</sup> *Id.*

<sup>86</sup> Atmos Ex. 4 (Felan Rebuttal), at 14.

<sup>87</sup> Atmos Ex. 5 (Myers Rebuttal), at 16.

<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

<sup>90</sup> GUD 9869, Final Order Nunc Pro Tunc, at FoF 34.

portion of the plant is determined to be imprudently incurred." Dallas cannot reach back and restate plant investment, including capitalized incentive compensation that previously has been approved by Dallas. However, this finding is limited to this docket as it is reviewed under the DARR Tariff. As such, the Examiners make no finding or recommendation regarding whether this language applies to prevent Dallas from addressing this adjustment in a full rate case not subject to the DARR Tariff.

### ***B. Accumulated Deferred Income Tax***

Accumulated deferred income taxes ("ADIT") arise because Internal Revenue Code ("IRC") timing requirements related to the recognition of tax assets and liabilities differ from the timing requirements established by U.S. Generally Accepted Accounting Procedures ("GAAP").<sup>91</sup> Deferred taxes represent the difference between what is included as income taxes in the ratemaking context and the amount actually paid in federal income taxes. ADIT is the sum of the difference that has accumulated over time. ADIT balances are either an asset or a liability on the company's balance sheet representing the cumulative amounts of additional income taxes that are estimated to become receivable or payable in future periods. Liabilities reduce rate base and assets increase rate base.

#### ***Atmos's Proposal***

Atmos seeks to include an ADIT liability of \$504,434,728 in its rate base.<sup>92</sup> Atmos witnesses, Christopher A. Felan and Barbara W. Myers testified in support of the ADIT calculation in their direct testimony. In rebuttal, Atmos also provided testimony from Jennifer K. Story, Director of Income Tax for Atmos Energy, in support of Atmos's ADIT calculations.

#### ***Dallas's Proposal***

Dallas argues for the ADIT liability to be increased by an additional \$298,242,244<sup>93</sup>, thus further reducing rate base.<sup>94</sup> Dallas's basis for increasing the ADIT liability stems from its objection to the inclusion of Net Operating Loss Carryforward ("NOLC") in its ADIT calculation and maintains that a flow-through adjustment be made for its primary recommendation related to accrued incentive compensation and Supplemental Employee Benefit Payments ("SEBP").<sup>95</sup> Mark Garrett testified on behalf of Dallas in opposition to Atmos's proposed ADIT calculation. Both issues are addressed below.

### ***C. Net Operating Loss Carryforward***

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<sup>91</sup> GUD 9869, Final Order Nunc Pro Tunc, at FoF 33.

<sup>92</sup> Atmos Ex. 1 (Atmos Appeal), Cost of Service Schedules, Schedule B, page 1, Column e, Line No. 15.

<sup>93</sup> Dallas Ex. 1 (Garrett Test.), Electronic Exhibit MG-2 Draft, Tab "2.0 Summary", Excel cells D13, D15, D17. The ADIT increase is composed of \$9,778,372 for incentive compensation, \$10,739,980 for SEBP, and \$277,723,892 for NOLC.

<sup>94</sup> Dallas Ex. 1 (Garrett Test.) Electronic Exhibit MG-2 Draft, Tab "2.0 Summary", Excel cells D13, D15, D17.

<sup>95</sup> Dallas Ex. 1 (Garrett Test.) at 12-15.

Net Operating Loss Carryforward ("NOLC") represents tax deductions that have not yet been used to offset tax, but are available to offset future taxes. A company realizes a tax NOL when its tax deduction exceeds its earned income and all tax has been offset. Under provisions of the IRC, a tax NOL may first be carried back to offset taxable income from the prior two years and any loss remaining after the carryback is available to carry forward for up to 20 years to reduce taxable income in a future period.<sup>96</sup> NOLC is recorded as either a liability or an asset in calculating ADIT. An asset represents a future cash flow from the government that will be realized when the utility has sufficient taxable income and a tax liability to reduce.

### ***Atmos's Proposal***

Atmos seeks to include a NOLC asset of \$277,723,892, in rate base, using a treatment consistent with the Commission-approved methodology in GUD No. 10170.<sup>97</sup> Atmos contends that its treatment of NOLC was not addressed in GUD No. 9869, but the Commission did review and determine NOLC treatment for Atmos Mid-Tex in GUD No. 10170.<sup>98</sup> Atmos explains that Section III(a) of the DARR Tariff contemplates the application of Commission precedent established subsequent to GUD No. 9869, when specific issues were not addressed in GUD No. 9869.<sup>99</sup> Additionally, there is some reference to GUD 9869's treatment of state NOLC as a basis for including federal NOLC in this docket.

### ***Dallas's Opposition***

Dallas provides three reasons to support its recommendation of removing all NOLC from the revenue requirement. First, Dallas argues that compliance with Section III(a) of the DARR Tariff requires removing the full amount of NOLC from the revenue requirement calculation because in GUD No. 9869 the Commission affirmed Atmos's adjustment of the full amount of NOLC.<sup>100</sup> Second, Dallas contends that because Atmos cannot segregate the components of the NOLC account between its numerous utility divisions or into related categories, it cannot identify the amount that should be disallowed for ratemaking purposes.<sup>101</sup> Third, Dallas asserts that Atmos's use of a consolidated tax impact does not ensure that only Mid-Tex related costs are being assigned to the Mid-Tex Division, thus denying customers the full ratemaking offset associated with paying higher current tax in base rates than what Atmos will actually pay to the Federal Government.<sup>102</sup>

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<sup>96</sup> NOLC has become a more prominent issue in recent years because Congress passed a stimulus measure to increase the availability of bonus depreciation, which along with accelerated depreciation and other deductions, has allowed Atmos to depreciate assets much faster than is allowed for financial accounting or regulatory purposes.

<sup>97</sup> Atmos Ex. 3 (Myers Test.), at 16- 17.

<sup>98</sup> *Id.* at 16- 17.

<sup>99</sup> *Id.* at 16- 17.

<sup>100</sup> Dallas Ex. 1 (Garrett Test.), at 12-13 (referencing GUD 9869, Final Order Nunc Pro Tunc, at FoF 33, Schedule B workpaper WP B-3 line 43 and GUD 9869 Final Order Errata WP B-3.

<sup>101</sup> Dallas Ex. 1 (Garrett Test.), at 13-14.

<sup>102</sup> *Id.* at 13-14.

### ***Atmos's Rebuttal***

Atmos rebuts Dallas by arguing that Dallas misinterprets the Commission's ruling in GUD No. 9869 and that Dallas's proposal is not substantiated by sound ratemaking principles. Atmos explains that in GUD No. 9869, the item Dallas identifies as being removed was a state NOLC reflected as zero at December 31, 2008, because the balance sheet item that gave rise to it changed to zero.<sup>103</sup> Atmos contends that its treatment of federal NOLCs in this filing is consistent with the treatment of the state NOLC in the Final Order in GUD No. 9869.<sup>104</sup> Atmos explains that since Dallas does not describe ADIT assets and liabilities or otherwise indicate which components of ADIT should be properly included or excluded from rate base, it fails to establish that Atmos's rate base will be more accurately reflected by an adjustment.<sup>105</sup> Atmos alleges that Dallas fails to consider the normalization requirements of the Internal Revenue Code, which could have devastating financial implications for Atmos.<sup>106</sup> Finally, Atmos maintains that Dallas failed to recognize the relationship between the tax expense included in cost of service and the inclusion of ADIT, accounting for NOLC, in rate base.<sup>107</sup>

### ***Examiner Findings and Recommendations***

After review and consideration of the evidence, argument, and relevant law, the Examiners find that Atmos established that its calculation of the ADIT NOLC is reasonable and necessary, in compliance with the requirements of the DARR Tariff. The DARR Tariff authorizes the use of ratemaking treatments established in subsequent cases to address instances in which GUD No. 9869 does not provide specific ratemaking guidance.<sup>108</sup> The proper treatment of federal NOLC is such an issue. The Examiners find that Atmos's treatment of NOLC complies with the DARR Tariff and is reasonable and necessary in this case. Furthermore, Atmos's NOLC treatment is consistent with the Commission-approved methodology in GUD No. 10170 and subsequent cases.<sup>109</sup>

## ***D. ADIT Adjustments for Incentive Compensation and SEBP***

### ***Atmos's Proposal***

Atmos included an ADIT credit associated with various incentive compensation programs and Supplemental Employee Benefit Payments ("SEBP"). Atmos, in its appeal, excluded from rate base the ADIT portions related to SSU VPP/MIP and SSU SEBP.

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<sup>103</sup> Atmos Ex. 5 (Myers Test.), at 18-20.

<sup>104</sup> *Id.* at 18-20.

<sup>105</sup> Atmos Ex. 6, Rebuttal Testimony of Jennifer K. Story on Behalf of Atmos ("Story Rebuttal"), at 11-44.

<sup>106</sup> *Id.* at 11-44.

<sup>107</sup> *Id.* at 11-44.

<sup>108</sup> DARR, at 1, Section III (a).

<sup>109</sup> GUD 10170, Final Order at FoF 207-210.

### ***Dallas's Opposition***

Dallas argues that a flow-through adjustment should be made to the ADIT computation to reflect its recommended modifications to incentive compensation and SEBP as discussed later in the PFD.<sup>110</sup> On behalf of Dallas, Mr. Garrett testified and provided his work papers regarding the calculations he made to adjust ADIT to correspond to the recommendations he proffered on incentive compensation and SEBP.<sup>111</sup>

### ***Atmos's Rebuttal***

Atmos argues that Dallas's ADIT adjustments are without support and do not align with the findings in GUD No. 9869, and therefore should be rejected as failing to align with the terms of the DARR Tariff.<sup>112</sup> Of Dallas's adjustments, Atmos removed five of them in its appeal filing (which are reflected in the current rate in effect during the pendency of this case).<sup>113</sup> For the remainder, Atmos argues that Dallas has not offered any citation to GUD No. 9869 to support its position.<sup>114</sup> Atmos contends that Mid-Tex SEBP was not removed in GUD No. 9869 and similarly, amounts related to Director's Deferred Bonus, restricted Stock Grant Plan, and the Director's Stock Awards, were included in the total Benefits Accruals amount of ADIT approved in GUD No. 9869.<sup>115</sup> Additionally, Atmos contends that Shared Services LTIP was not removed in GUD No. 9869.<sup>116</sup>

### ***Examiner Findings and Recommendation***

After review and consideration of the evidence, argument, and relevant law, the Examiners find that an adjustment to the ADIT calculation included in rate base is warranted. The Examiners recommend a flow-through adjustment to Atmos's ADIT calculation to conform with the Examiners' findings and recommendations regarding incentive compensation. As discussed previously, the Examiners recommend removing the SSU portion of Atmos's incentive compensation. This results in removing \$4,631,448, from Atmos's ADIT calculation by removing the SSU-General Office Restricted Stock Grant Plan. After allocating the adjustment to Atmos Mid-Tex, the ADIT calculation increases by \$1,773,845.

### **ADIT Conclusion**

After review and consideration of the evidence, argument, and relevant law, the Examiners find that Atmos established that its calculation of the ADIT NOLC totaling \$277,723,892, is reasonable and necessary. However, the Examiners find that Atmos's proposed rate base credit of \$504,434,728, should be increased by

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<sup>110</sup>Dallas Ex. 1 (Garrett Test.), at 14-15.

<sup>111</sup> Dallas Ex. 1 (Garrett Test.), Electronic Exhibit MG-2 Draft.

<sup>112</sup> Atmos Ex. 5 (Myers Test.), at 22.

<sup>113</sup> *Id.* at 21.

<sup>114</sup> *Id.* at 21-22.

<sup>115</sup> *Id.* at 21-22.

<sup>116</sup> *Id.* at 21-22, Exhibit BWM-R-2.

\$1,773,845, to reflect adjustments to the incentive compensation programs. As such, the Examiners recommend approval of an ADIT credit to the rate base of \$506,208,573.

### ***E. Cost of Capital***

The Commission may not establish a rate that yields more than a fair return on the adjusted value of the invested capital used and useful in providing service to the public.<sup>117</sup> Section III(c) of the DARR Tariff indicates return on equity ("ROE") should be maintained at 10.1 percent. Section III(d) of the DARR Tariff prescribes that the long-term cost of debt and capital structure be determined based on the actual 13-month average for the Test Period and limits the capital structure to long-term debt ("LTD") and equity.

### ***Atmos's Proposal***

Based on the capital structure and costs indicated below, Atmos proposes the rate of return ("ROR") be set at 8.38 percent. In support, Atmos provided testimony from Mr. Felan and Ms. Myers.

**Table 13**  
**Atmos's Proposed Rate of Return**

Capital Source	Capital Structure	Cost	Weighted Average
LT Debt	41.49%	5.95%	2.47%
Equity	58.51%	10.1%	5.91%
<b>Rate of Return</b>	<b>8.38%</b>		

### ***Dallas's Opposition***

Dallas challenges the capital structure and the cost of debt, proposing a 4.77 percent cost of debt and a more balanced equity capital structure of 52 percent equity, 48 percent LTD.<sup>118</sup> Dallas also expresses concerns related to the return on equity ("ROE") level used in the DARR Tariff but does not make an adjustment.<sup>119</sup> Dallas recommends setting the ROR at 7.54 percent based on the capital structure and costs indicated below.

**Table 12**  
**Dallas's Proposed Rate of Return**

Capital Source	Capital Structure	Cost	Weighted Average
LT Debt	48%	4.77%	2.29%
Equity	52%	10.1%	5.25%
<b>Rate of Return</b>	<b>7.54%</b>		

<sup>117</sup> TEX. UTIL. CODE § 104.052 (Establishing Fair Rate of Return).

<sup>118</sup> Dallas Ex. 1 (Garrett Test.), at 17-18.

<sup>119</sup> *Id.* at 15-16.



In support, Dallas provided testimony from Mr. Garrett.

The contested components of rate of return—capital structure and cost of debt—are treated separately below.

## ***F. Capital Structure***

### **Atmos's Proposal**

Atmos maintains that its capital structure complies with Section III(d) of the DARR Tariff, which states that the capital structure will be the actual 13-month average test period ratio of long-term debt and equity.<sup>120</sup> The test period is the 12-month period ending September 30, 2016. Atmos proposes a capital structure consisting of 58.51 percent equity and 41.49 percent long-term debt.<sup>121</sup>

### ***Dallas's Opposition***

Dallas recommends a capital structure of 52 percent common equity and 48 percent LTD, which mirrors the approved amount in Atmos Pipeline Texas's recent rate case, GUD No. 10580.<sup>122</sup> Dallas explains that Atmos's equity ratio has continued to increase year by year in each DARR proceeding, benefitting shareholders at ratepayer expense.<sup>123</sup> Dallas acknowledges that the DARR allows Atmos to use its actual capital structure but recommends Atmos consider that the current equity level of 58.53 percent causes rates to be higher than necessary.<sup>124</sup> Dallas opines that from a ratemaking perspective, the optimal capital structure would have an equity ratio below 50 percent.<sup>125</sup>

### ***Atmos's Rebuttal***

Atmos reiterates that its proposed capital structure complies with the terms of the DARR Tariff, which specifies the capital structure to be used in the rate adjustment calculation.<sup>126</sup>

## ***Examiner Findings and Recommendation***

After review and consideration of the evidence, and the language in the DARR, which is controlling on this question, the Examiners find that Atmos's proposed capital structure comports with the DARR Tariff. Atmos showed that its proposed capital structure is the 13-month average of equity and LTD. As such, the Examiners recommend that the Commission approve Atmos's proposed 58.51 percent equity

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<sup>120</sup> Atmos Ex. 2 (Felan Test.), at 10.

<sup>121</sup> Atmos Ex. 1 (Atmos Appeal), Cost of Service Schedules, Schedule G, page 1, Column b, Line Nos. 10-11.

<sup>122</sup> Dallas Ex. 1 (Garrett Test.), at 18. The capital structure was ultimately adopted by the Commission on August 1, 2017 at FoF 85.

<sup>123</sup> Dallas Ex. 1 (Garrett Test.), at 17-18.

<sup>124</sup> *Id.* at 18.

<sup>125</sup> *Id.* at 18.

<sup>126</sup> Atmos Ex. 4 (Felan Rebuttal), at 4-6.

ratio and 41.49 percent LTD ratio. This capital structure reflects Atmos's actual equity ratio for the test year, and is just and reasonable, supported by the evidence, as well as consistent with the terms of the DARR and with GURA Chapter 104 (Rates and Services).

### ***G. Cost of Debt***

#### ***Atmos's Proposal***

Atmos testifies that its cost of LTD complies with Section III(d) of the DARR Tariff, which states that the cost of LTD will be the actual 13-month average for the test period.<sup>127</sup> The test period is the 12-month period ending September 30, 2016. Atmos proposes a LTD cost of 5.95 percent.<sup>128</sup>

#### ***Dallas's Opposition***

Dallas proposes an LTD cost of 4.77 percent, arguing that Atmos ignored Atmos Energy's plans to refinance \$700 million of debt.<sup>129</sup> Dallas explains that using the lower interest rates for the \$250 million of debt maturing in 2017 and \$450 million of debt maturing in 2019 will reduce Atmos's cost of debt to 4.77 percent from 5.95 percent.<sup>130</sup>

#### ***Atmos's Rebuttal***

Atmos reiterates that the LTD cost will be the actual 13-month average for the test period and that the test period in this filing ends September 30, 2016.<sup>131</sup> Atmos labels Dallas's adjustment as unreasonable because the DARR Tariff does not contemplate adjustments to the test period LTD cost.<sup>132</sup> Additionally, Atmos argues that Dallas fails to account for all of the debt financing costs, which if included, would result in a 13-month average cost of debt as of June 30, 2017, of 5.75 percent.<sup>133</sup> Finally, Atmos explains that this and any other change in Atmos's LTD costs will be reflected in its next DARR filing, which will be based on the test period ending on Sept. 30, 2017.<sup>134</sup>

### ***Examiner Findings and Recommendation***

After review and consideration of the evidence and the terms of the DARR, the Examiners find that Atmos's proposed cost of LTD comports with the DARR Tariff, and therefore is just and reasonable. Atmos met its burden of proof that its proposed

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<sup>127</sup> Atmos Ex. 2 (Felan Test.), at 10.

<sup>128</sup> Atmos Ex. 1 (Atmos Appeal), Cost of Service Schedules, Schedule G, page 1, Column b, Line No. 3.

<sup>129</sup> Dallas Ex. 1 (Garrett Test.), at 17.

<sup>130</sup> *Id.* at 17.

<sup>131</sup> Atmos Ex. 4 (Felan Rebuttal), at 7.

<sup>132</sup> *Id.* at 7.

<sup>133</sup> *Id.* at 8.

<sup>134</sup> *Id.* at 7-8.

cost of LTD is 5.95 percent.<sup>135</sup> Thus, the Examiners recommend the Commission approve Atmos's proposed 5.95 percent cost of LTD. This cost reflects Atmos's actual 13-month average for the test period and is just and reasonable, supported by the evidence, and consistent with the DARR and GURA Chapter 104 (Rates and Services).

#### ***H. Payroll Adjustment***

Atmos adjusted its employee base salaries at the end of the test year to include a 3 percent annual merit increase, which occurred and was effective October 1, 2016.<sup>136</sup> The test year ended September 30, 2016 and the merit increase adjustment is \$1,793,715.<sup>137</sup>

#### ***Opposition by Dallas***

In opposition, Dallas recommends the Commission remove the post-test year pay increase because the adjustment is inconsistent with an annual rate setting process and is not known and measurable.<sup>138</sup> Dallas's recommendation would reduce O&M expenses by \$1,793,715 for the system and \$287,153 for Dallas customers.<sup>139</sup> Dallas explains that in a normal rate proceeding it may be reasonable to adopt post-test year adjustments for known and measurable annual changes as an attempt to reduce regulatory lag, the DARR Tariff was established precisely to minimize regulatory lag, thus averting the need for additional pro forma adjustments.<sup>140</sup> Dallas explains that rates set in a standard rate proceeding can be effective for three or more years, but DARR cases are filed annually and therefore there is no need for pro forma adjustments to payroll expense.<sup>141</sup> Dallas explains that changes transpiring after the end of the test year will be captured in the following year's DARR filing, automatically reducing regulatory lag.<sup>142</sup> Dallas also explains that nominal post-test year pay raise adjustments as proposed by Atmos are not known and measurable because they do not account for employee turnover, increased productivity and other factors which could reduce the impact of the pay raises on actual payroll expense levels.<sup>143</sup>

#### ***Atmos's Rebuttal***

Atmos explains that the DARR Tariff specifically states, "The Company may also adjust rates for the Rate Effective Period to include recovery of any known and measurable changes to operating and maintenance costs including, but not limited to, payroll and compensation costs ...."<sup>144</sup> Atmos contends that its payroll adjustment is known and measurable because it occurred one day after the end of the test period

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<sup>135</sup> DARR, at 2, Sec. III (d). Atmos Ex. 1 (Atmos Appeal) Electronic Schedules Relied Upons Schedule G Capital Structure Tab "LTD Rate", Excel cell U37.

<sup>136</sup> Atmos Ex. 1 (Atmos Appeal), Cost of Service Schedules, WP\_F-2.1, page 1, Line No. 3.

<sup>137</sup> Dallas Ex. 1 (Garrett Test.), Electronic Exhibit MG-2 Draft, Tab "2.5 Payroll", Excel cell G24.

<sup>138</sup> *Id.* at 9.

<sup>139</sup> *Id.*, Electronic Exhibit MG-2 Draft, Tab "2.0 Summary", Excel cell H27.

<sup>140</sup> *Id.* at 8-9.

<sup>141</sup> *Id.*

<sup>142</sup> *Id.*

<sup>143</sup> *Id.* at 9.

<sup>144</sup> Atmos Ex. 5 (Myers Reb.), at 6-8.

and is authorized under the terms of the DARR Tariff and that a similar base payroll adjustment for pay raises was approved in Atmos's filing in GUD No. 9869.<sup>145</sup> Finally, Atmos provided updated post-test year employee count numbers in discovery and contends that Dallas provides not support for its assertion that the payroll adjustment does not account for employee turnover.<sup>146</sup>

### ***Examiner Findings and Recommendation***

Considering the evidence, the Examiners find that Atmos's requested base payroll expenses are reasonable and necessary. The evidence shows that the payroll adjustment is known and measurable and reflects ongoing expenses. The DARR Tariff allows for Atmos to adjust rates for the Rate Effective Period to include recovery of any known and measurable changes to operating and maintenance costs including, but not limited to, payroll and compensation costs....<sup>147</sup> The Examiners recommend approval of Atmos's requested base payroll expense, which are reasonable and necessary, supported by the evidence, and consistent with requirements of GURA Section 104.051(Establishing Overall Revenues) and Chapter 104 (Rates and Services).

#### ***I. Miscellaneous Adjustments Requested by Dallas***

Within Atmos's request are approximately \$3 million of expenses Dallas labels as miscellaneous and recommends removal.<sup>148</sup> Dallas argues that the North Richland Hills incident appears to be an unusual event that should be normalized, thus reducing expenses by \$513,942.<sup>149</sup> Dallas also argues that regarding Atmos's request to increase line-locate contract costs by \$2,481,049, Atmos should demonstrate that these cost increases for contract labor have been fully offset with internal labor cost decreases.<sup>150</sup>

#### **Atmos Rebuttal**

##### **1. Line Locate Costs**

Atmos explains that line-locate activities are required by the Commission's damage prevention rules and that line-locate activities significantly reduce the threat of damaging an underground utility line and protect the community.<sup>151</sup> Atmos argues that Dallas offers no credible reason why line-locate costs should be disallowed and, furthermore, ignores the fact that Atmos has relied solely on contract labor to support its line-locate activities, thus there are no internal labor costs associated with the activity that could or would be offset by the line-locate contractor costs that Atmos incurs.<sup>152</sup>

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<sup>145</sup> *Id.*

<sup>146</sup> *Id.* at 6-8, Exhibit BWM-R-1.

<sup>147</sup> DARR, at 2, Section IV (b).

<sup>148</sup> Dallas Ex. 1 (Garrett Test.), at 15.

<sup>149</sup> *Id.*

<sup>150</sup> *Id.*

<sup>151</sup> Atmos Ex. 4 (Felan Reb.), at 9-10.

<sup>152</sup> *Id.*

## 2. North Richland Hills

Atmos explains that it has already normalized this expense, which limited Atmos's expense to \$200,000, which is a five-year amortization of its \$1 million deductible per incident over any five-year period, consistent with GUD No. 9869.<sup>153</sup>

### ***Examiner Findings and Recommendation***

After review and consideration of the evidence, argument, and relevant law, the Examiners find that Atmos's treatment of line locate costs and the amortization of the North Richland Hills incident are reasonable and necessary.

## **IX. UNCONTESTED ISSUES**

### ***A. Cash Working Capital***

The term "cash working capital" refers to the net funds required by Atmos to pay for goods and services between the time they are paid for by Atmos and the time revenues are recovered from customers. For Atmos, the cost of goods and services includes: gas supply expenses; operations and maintenance ("O&M") expenses; federal, state, ad valorem, and payroll taxes; and interest on customer deposits.<sup>154</sup> Atmos's CWC is calculated using the lead/lag days approved in GUD No. 9869.<sup>155</sup>

No party opposes Atmos's proposed CWC. The Examiners find that Atmos established that its CWC amounts and methods used are just and reasonable and comply with the DARR Tariff. The Examiners recommend approval of CWC totaling \$31,159,138, which is deducted from rate base, is just and reasonable and supported by the evidence.

### ***B. Pension and Other Postemployment Benefit (OPEB)***

GURA Section 104.059 (Pension and Other Postemployment Benefits) allows Atmos to establish a pension and other postemployment benefit ("OPEB") regulatory asset. Atmos represents that it complied with GURA Section 104.059, stating that it used the current benchmark based on amounts approved by the City of Dallas in their Ordinance Number 33088, based upon amounts included in Atmos's 2016 DARR filing.<sup>156</sup> Atmos requests that the Commission, in its Final Order, include language detailing the specific annual amount of pension and OPEB approved in this filing so Atmos can calculate the amount of the Pension Regulatory Asset for future periods.<sup>157</sup> Atmos requests the Commission approve the benchmark accounts in the table below.<sup>158</sup>

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<sup>153</sup> Atmos Ex. 5 (Myers Reb.), at 23-26.

<sup>154</sup> Atmos Ex. 1 (Atmos Appeal), Cost of Service Schedules, Schedule E.

<sup>155</sup> Atmos Ex. 2 (Felan Test.), at 10.

<sup>156</sup> Atmos Ex. 3 (Myers Test.), at 18-19.

<sup>157</sup> *Id.* at 19.

<sup>158</sup> *Id.* at 19-20.

**Table 14**  
**Pension Regulatory Asset GURA Section 104.059 Benchmarks**

Entity	Pension Account Plan	Post-Employment Benefit Plan	Supplemental Executive Benefit Plan	Total
SSU Allocated to Mid-Tex	\$2,474,844	\$1,416,273	\$0	<b>\$3,891,117</b>
Mid-Tex Direct	\$5,862,161	\$3,114,627	\$194,941	<b>\$9,171,729</b>
<b>Total</b>	<b>\$8,337,005</b>	<b>\$4,530,899</b>	<b>\$194,941</b>	<b>\$13,062,845</b>

No party opposes Atmos's proposed Pension and OPEB benchmark amounts. The Examiners find that Atmos established that its benchmark amounts and methods used are just and reasonable. The Examiners recommend approval of Atmos's proposed benchmarks.

**C. Affiliate Transactions – Blueflame Insurance Services, Ltd.**

Atmos requests recovery of affiliate expenses, totaling \$438,190, associated with Blueflame Insurance Services, Ltd. ("Blueflame"), for property insurance coverage.<sup>159</sup> No party has challenged the insurance premiums Atmos paid to Blueflame. Nonetheless, the Commission is required to make specific findings related to affiliate transactions before rates may be adopted.<sup>160</sup> Those findings include: (1) a specific finding of the reasonableness and necessity of each item or class of items allowed; and (2) a finding that the price to the gas utility is not higher than the prices charged by the supplying affiliate to its other affiliates or division or to a non-affiliated person for the same item or class of items.<sup>161</sup>

Blueflame is a wholly owned subsidiary of Atmos Energy that was created to provide cost-effective property insurance coverage for Atmos Energy and its subsidiaries.<sup>162</sup> According to Derek W. Boyd, Director of Risk Management for Atmos Energy, Blueflame was formed for the purpose of providing Atmos Energy's operating units consistent property insurance rates over the long-term and a continuity of insurance product at a cost that is lower than what could be achieved if Atmos sought insurance in the general marketplace.<sup>163</sup> Mr. Boyd stated in his affidavit that Blueflame allows Atmos and other operating units to access reinsurance markets directly, without going through the general property insurance markets whose rates are inflated by profit, commissions, overhead, and other transactional costs that significantly increase premiums and that by accessing the reinsurance markets directly, Blueflame is able to ensure the most competitive rates and pricing structures.<sup>164</sup> Mr. Boyd also indicated that the costs of property insurance provided

<sup>159</sup> Atmos Ex. 2 (Felan Test.), at 3.

<sup>160</sup> Tex. Util. Code § 104.055 (Net Income; Allowable Expenses).

<sup>161</sup> *Id.*

<sup>162</sup> Atmos Ex. 3 (Myers Test.), at Exhibit BWM-1, p. 8.

<sup>163</sup> Atmos Ex. 2 (Felan Test.), at Exhibit CAF-2.

<sup>164</sup> *Id.*

by Blueflame are reasonable and necessary and are less than the coverage that could be purchased directly through a third-party insurer.<sup>165</sup> Mr. Boyd added that the prices charged to Atmos by Blueflame are no higher than the prices Blueflame charges to other affiliates or divisions or to a nonaffiliated person for the same item or class of items.<sup>166</sup> He affirmed that the rate included in this filing is \$0.075 per \$100 of gross plant through Feb. 28, 2016 and \$0.07 per \$100 of gross plant through Sept. 30, 2016. Mr. Boyd noted that this rate is \$0.15 per \$100 lower than the rate the Commission determined to be reasonable and necessary in the last eight rate cases involving Atmos Energy's Texas divisions.<sup>167</sup>

Mr. Felan testified that the costs incurred by Atmos for the property insurance coverage provided by Blueflame are reasonable and necessary and provided at a cost that meets the affiliate expense standard prescribed by TEXAS UTILITIES CODE § 104.055(b)(2).<sup>168</sup>

Considering the evidence, Atmos has established that the services provided to it by Blueflame are reasonable and necessary. The affiliate expenses included in Atmos's filing are reasonable and necessary costs of providing gas utility service, and the prices charged to Atmos by Blueflame are no higher than the prices charged by Blueflame to other affiliates or divisions of Atmos for the same item or class of items. Accordingly, the Examiners recommend the \$438,190 of expenses for Blueflame be approved.<sup>169</sup>

#### **D. 8.209 Costs**

Following GUD No. 9869, the Commission adopted Commission Rule 8.209<sup>170</sup> relating to Distribution Facilities Replacements.<sup>171</sup> Atmos's 2017 DARR Tariff filing complies with Commission Rule 8.209 and includes rate base amounts related to distribution facilities replacements as prescribed under that rule.<sup>172</sup>

No party opposes Atmos's request. The DARR Tariff, Section III (a) contemplates that there may be changes in certain treatments, principles, findings or adjustments from those established in GUD No. 9869 based on changed circumstances. Rule 8.209 is such a change.

Thus, the Examiners recommend approval of Atmos's request to include in rate base a regulatory asset accounting for the expenses to comply with Rule 8.209.

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<sup>165</sup> *Id.*

<sup>166</sup> *Id.*

<sup>167</sup> *Id.*

<sup>168</sup> *Id.* at 3.

<sup>169</sup> See letter from Parsley Coffin Renner dated Sept. 29, 2017, filed in response to Examiners' requests during the merits hearing, Electronic Filing Decision Summary ATO Adjusted, Tab "Summary Data."

<sup>170</sup> 16 TEX. ADMIN. CODE §8.209.

<sup>171</sup> Atmos Ex. 3 (Myers Test.), at 16.

<sup>172</sup> *Id.*

### ***E. Depreciation***

Atmos proposes to use the depreciation rates approved by the Commission in GUD No. 10170, since these are the rates most recently approved by the Commission for Atmos (Mid-Tex), in which Dallas participated.<sup>173</sup>

No party opposes Atmos's request. The DARR Tariff, Section III (b), prescribes the manner to develop depreciation rates, and Atmos has complied with the tariff.

Accordingly, Examiners recommend approval of Atmos's depreciation rates.

### ***F. Rate Design***

Atmos contends that its proposed rates conform as closely as practicable to the revenue allocation principles approved in the Final Order in GUD No. 9869.<sup>174</sup>

No party opposes Atmos's rate design. The DARR Tariff, Section IV (a), requires proposed DARR rate adjustments be apportioned between the customer charge and usage charge with the residential and commercial customer charged being rounded to the nearest \$0.25. Atmos's rates are in compliance.

As such, the Examiners recommend approval of Atmos's rate design to apply the Examiners' recommended revenue requirement.

## **X. TARIFFS**

### ***A. Residential, Commercial, Industrial and Transportation***

The DARR adjustment applies to Atmos's residential, commercial, industrial and transportation within Dallas. The adjusted rates will go into effect on the date of the Final Order in this case is signed.

The recommend tariff rates will allow Atmos to collect an additional \$9,865,187 in annual revenue from Dallas customers. Attachment 2 to this Proposal for Decision, Proof of Revenues, illustrates recovery at the recommended rates. The recommended revenue requirement amount is \$522,296 less than Atmos's originally proposed increase for Dallas customers.

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<sup>173</sup> Atmos Ex. 2 (Felan Test.), at 10.

<sup>174</sup> *Id.* at 11.



**Table 15**  
**Charges by Customer Class**

Customer Class	Current Customer Charge	Recommended Customer Charge	Current Volumetric Charge (per Ccf)	Recommended Volumetric Charge (per Ccf)
Residential	\$ 21.25	\$ 21.25	\$0.12862	\$0.12596
Commercial	\$ 44.00	\$ 44.00	\$0.08214	\$0.08118
Industrial and Transportation	\$ 809.25	\$ 805.75	\$0.2232 per MMBtu (1-1,500)  \$0.1623 per MMBtu (next 3,500)  \$0.0257 per MMBtu (All MMBtu over 5,000)	\$0.22170 per MMBtu (1-1,500)  \$0.16120 Per MMBtu (next 3,500)  \$0.02560 per MMBtu (All MMBtu over 5,000)

**B. Weather Normalization Adjustment Factors**

Atmos also proposes updates to the Rider Weather Normalization ("WNA") factors for the Dallas weather station as set shown in the table below. The updated factors as proposed in the WNA rider were not challenged.

**Table 16**  
**Dallas WNA Factors**

Base Use Weather Station	Residential		Commercial	
	Heat Use Ccf	Base use Ccf/HDD	Heat use Ccf	Base Use Ccf
Dallas	14.99	0.1996	211.71	0.9384

The Examiners recommend approval of the factors in the WNA rider as proposed by Atmos.

**C. Rate Case Expense Surcharge**

Rate Case Expenses will be determined in the severed rate case expense docket, GUD No. 10645.

**XI. REFUND PROCEDURE**

Upon the filing of an appeal of Dallas's ordinance denying Atmos's request, the DARR terms allowed Atmos to begin collecting the requested DARR rates on June 1,

2017, subject to refund.<sup>175</sup> The rates currently being charged in the City of Dallas are based on an increase of \$10,387,483 and the recommended rates are based on an increase of \$ 9,865,187. Because the recommended revenue requirement is an overall reduction to the proposed revenue requirement, a refund is due to incorporated customers within Dallas. Atmos's witness, Mr. Felan, testified that the refund will be applied to the first billing cycle possible after a final decision is rendered on this docket and will be coordinated at the City level.<sup>176</sup>

The Examiners recommend Atmos be required to file a compliance report with the RRC Gas Services Division and with the City of Dallas, due within 90 days of the date the Final Order in this docket is signed. The report shall contain an affidavit of completion and detail the refund by customer class.

## **XII. CONCLUSION**

Except for the adjustments recommended in this Proposal for Decision, the Examiners find that the terms and rate elements proposed by Atmos in this docket are reasonable and necessary, consistent with the terms of the DARR Tariff, as well as the requirements of the Texas Utilities Code and applicable Commission rules.

The Examiners recommend limiting the revenue increase to \$61,965,842 million for the system and \$9,865,187 million for Dallas. This recommendation, compared to Atmos's de novo review filing at the Commission, results in a decrease of \$2.96 million system wide and \$522,296 for Dallas customers. Accordingly, the Examiners recommend that the rate elements set forth in Attachment 3 to this Proposal for Decision be approved.

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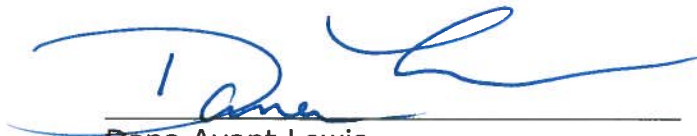
<sup>175</sup> Atmos Ex. 1, DARR, at 3.

<sup>176</sup> Hearing Tr., Felan, at 12, 19-20.

### XIII. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Findings of Fact and Conclusions of Law contained in the Proposed Final Order, issued contemporaneously with this PFD, are fully incorporated herein by reference.

**SIGNED October 30, 2017.**

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Dana Avant Lewis  
Administrative Law Judge

A handwritten signature in blue ink, appearing to read 'James P. Currier', is written over a horizontal line.

James Currier  
Technical Examiner

A handwritten signature in blue ink, appearing to read 'Rose Ruiz', is written over a horizontal line.

Rose Ruiz  
Technical Examiner

**GUD No. 10640**  
**Proposal for Decision**

**ATTACHMENT 1**

**MID-TEX DIVISION  
ATMOS ENERGY CORPORATION**

<b>RIDER:</b>	<b>DARR – DALLAS ANNUAL RATE REVIEW</b>	
<b>APPLICABLE TO:</b>	<b>Customers within the City of Dallas</b>	
<b>EFFECTIVE DATE:</b>	<b>07/01/2011</b>	<b>Page 53</b>

I. Purpose:

This mechanism is designed to provide annual earnings transparency. All rate calculations under this tariff shall be made on a system wide basis. If, through the implementation of the provisions of this mechanism, it is determined that rates should be decreased or increased, then rates will be adjusted accordingly in the manner set forth herein. The rate adjustments implemented under this mechanism will reflect annual changes in the Company's cost of service and rate base. This Rider DARR will be effective for the period commencing with the Company's first DARR filing on or before January 15, 2012.

II. Definitions

- a) The **Annual Evaluation Date** shall be the date the Company will make its annual filing under this mechanism. The Annual Evaluation Date shall be no earlier than January 2<sup>nd</sup> nor later than January 15<sup>th</sup> of each year. This filing shall be made in electronic form where practicable.
- b) **Audited Financial Data** shall mean the Company's books and records related to the Company's Mid-Tex operating area and shared services operations. Audited Financial Data shall not require the schedules and information provided under this tariff to undergo a separate financial audit by an outside auditing firm similar to the Company's annual financial audit.
- c) The **Company** is defined as Amos Energy Corporation's Mid-Tex Division.
- d) The **Test Period** is defined as the twelve month period ending September 30, of each preceding calendar year (*i.e.* the Company's January 15, 2012 filing will be based on the twelve month period ending September 30, 2011).
- e) The **Rate Effective Period** is defined as the twelve-month period commencing June 1 and ending when subsequent rates are implemented pursuant to a final order from a regulatory authority.
- f) **Final Order** is defined as the most recent final order establishing the Company's latest effective rates for customers within the City of Dallas.

III. Rate Review Mechanism

The Company shall file with the City of Dallas the schedules specified below for the Test Period, with the filing to be made by the Annual Evaluation Date following the end of the Test Period. The schedules will be based upon the Company's Audited Financial Data, as adjusted, and will include the following:

- a) Test Period ending balances for actual gross plant in service, accumulated depreciation, accumulated deferred income taxes, inventory, working capital, and other rate base components will be used for the calculation of rates for the Rate Effective Period. The ratemaking treatments, principles, findings and adjustments included in the Final Order will apply except when a departure from those treatments, principles, findings or adjustments is justified by changed circumstances. Regulatory adjustments due to prior regulatory rate base adjustment disallowances will be maintained. Cash working capital will be calculated using the lead/lag days approved in the Final Order.
- b) Depreciation rates booked in the period will be those approved in the Final Order, or the depreciation rates most recently approved for the Mid-Tex Division and the Shared Services Division by the Railroad Commission of Texas, as applicable, if and only if the City of Dallas has the right to participate in the subsequent Railroad Commission of Texas proceeding with a full

**MID-TEX DIVISION  
ATMOS ENERGY CORPORATION**

<b>RIDER:</b>	<b>DARR – DALLAS ANNUAL RATE REVIEW</b>	
<b>APPLICABLE TO:</b>	<b>Customers within the City of Dallas</b>	
<b>EFFECTIVE DATE:</b>	<b>07/01/2011</b>	<b>Page 54</b>

right to have its reasonable expenses reimbursed. All calculation methodologies will be those approved in the Final Order except where noted or included in this tariff. In addition, the Company shall exclude from operating and maintenance expense the discretionary costs to be disallowed from Rider DARR filings listed in the DARR Schedules and Information section of this tariff.

- c) Return on Equity (ROE) shall be maintained at 10.1%.
- d) Long-term cost of debt will be the actual thirteen month average for the Test Period. Capital structure will be the actual thirteen month average Test Period ratio of long-term debt and equity.
- e) All applicable accounting adjustments along with all supporting work papers. Such adjustments may include:
  - 1) Pro-forma adjustments to update and annualize costs and revenue billing determinants for the Rate Effective Period.
  - 2) Pro-forma or other adjustments required to properly account for atypical, unusual, or nonrecurring events recorded during the Test Period.
- f) Shared Services allocation factors shall be recalculated each year based on the latest component factors used during the Test Period, but the methodology used will be that approved in the Final Order.

IV. Calculation of Rate Adjustment

- a) The Company shall provide additional schedules indicating the following revenue deficiency/sufficiency calculations using the methodology accepted in the Final Order. The result shall be reflected in the proposed new rates to be established for the Rate Effective Period. In calculating the required rate adjustments, such adjustments will be apportioned between the customer charge and usage charge with the Residential and the Commercial customer charges being rounded to the nearest \$0.25.
- b) The Company may also adjust rates for the Rate Effective Period to include recovery of any known and measurable changes to operating and maintenance costs including, but not limited to, payroll and compensation expense, benefit expense, pension expense, insurance costs, materials and supplies, bad debt costs, medical expense, transportation and building and lease costs for the Rate Effective Period. Provided, however, that adjustments may only be made for costs that are reasonable and necessary.
- c) Effective with the Company's DARR filing on January 15, 2013, the Company may include in its rate base calculation all direct, incremental investment and costs associated with its Rider IR steel service line replacement program and request reconciliation of the Rider IR regulatory asset account.
  - 1. Upon implementation of new, final rates that include recovery for all direct, incremental costs and investment associated with the Company's steel service line replacement program, the Company shall cease to charge the Rider IR monthly rate attributable to this program.

**MID-TEX DIVISION  
ATMOS ENERGY CORPORATION**

<b>RIDER:</b>	<b>DARR – DALLAS ANNUAL RATE REVIEW</b>	
<b>APPLICABLE TO:</b>	<b>Customers within the City of Dallas</b>	
<b>EFFECTIVE DATE:</b>	<b>07/01/2011</b>	<b>Page 55</b>

2. Notwithstanding IV(c)(1), the Company shall be entitled to separately recover the Rider IR monthly rate attributable to its steel service line replacement program until such time as new, final rates reflective of steel service line replacement costs and investment have been established pursuant to either (i) a DARR adjustment or (ii) a Statement of Intent rate case establishing the Company's latest effective rates for customers within the City of Dallas.
- d) The regulatory authority may disallow any net plant investment that is not shown to be prudently incurred. Approval by the regulatory authority of net plant investment pursuant to the provisions of this tariff shall permit the Company to earn a return on that net investment for the Effective Period which shall not be subject to refund if in a subsequent review a portion of the plant is determined to be imprudently incurred.
- e) The Company shall provide a schedule demonstrating the "proof of revenues" relied upon to calculate the proposed rate for the Rate Effective Period. The proposed rates shall conform as closely as is practicable to the revenue allocation principles approved in the Final Order.

V. Attestation

A sworn statement shall be filed by an Officer of the Mid-Tex Division affirming that the filed schedules are in compliance with the provisions of this mechanism and are true and correct to the best of his/her knowledge, information and belief. No testimony shall be filed, but a brief narrative explanation shall be provided of any changes to corporate structure, accounting methodologies or allocation of common costs.

VI. Evaluation Procedures

The City of Dallas shall have 135 days to review and render a decision on the Company's filed schedules and work papers. The Company will be prepared to provide all supplemental information as may be requested to ensure adequate review by the relevant regulatory authority. The Company shall not unilaterally impose any limits upon the provision of supplemental information and such information shall be provided within ten (10) working days of the original request. The regulatory authority may propose any adjustments it determines to be required to bring the schedules into compliance with the above provisions.

During the 135 day period, the Company and the regulatory authority will work collaboratively and seek agreement on the proposed adjustments to the Company's schedule and proposed rates. If agreement has been reached by the Company and the regulatory authority, the regulatory authority shall authorize an increase or decrease to the Company's rates so as to achieve the revenue levels indicated for the Rate Effective Period. If, at the end of the 135 day period, the Company and the regulatory authority have not reached agreement on the proposed adjustments, the Company shall have the right to appeal the regulatory authority's action or inaction to the Railroad Commission of Texas. Upon the filing of an appeal of the City's order relating to an annual DARR filing with the Railroad Commission of Texas, the City shall not oppose the implementation of rates subject to refund or advocate the imposition of a 3<sup>rd</sup> party surety bond by the Company.

VII. Reconsideration and Appeal

Orders issued pursuant to this mechanism are ratemaking orders and shall be subject to appeal under Sections 102.001(b) and 103.021, et seq., of the Texas Utilities Code (Vernon 2007).

**MID-TEX DIVISION  
ATMOS ENERGY CORPORATION**

<b>RIDER:</b>	<b>DARR – DALLAS ANNUAL RATE REVIEW</b>	
<b>APPLICABLE TO:</b>	<b>Customers within the City of Dallas</b>	
<b>EFFECTIVE DATE:</b>	<b>07/01/2011</b>	<b>Page 56</b>

VIII. Notice

Notice of this annual DARR filing shall be provided by including the notice, in conspicuous form, in the bill of each directly affected customer no later than forty-five (45) days after the Company makes its annual filing pursuant to this tariff. The notice to customers shall include the following information:

- a) a description of the proposed revision of rates and schedules;
- b) the effect the proposed revision of rates is expected to have on the rates applicable to each customer class and on an average bill for each affected customer;
- c) the service area or areas in which the proposed rate adjustment would apply;
- d) the date the proposed rate adjustment was filed with the regulatory authority; and
- e) the Company's address, telephone number and website where information concerning the proposed rate adjustment may be obtained.

Company shall notice customers again by bill insert as soon as practical after final DARR rates are ordered by the City and agreed to by the Company if the agreed increase or decrease in rates is materially different than the initial notice.

IX. DARR Schedules and Information

The following types of employee reimbursed expenses and directly incurred costs are to be removed from all expense and rate base amounts included within Rider DARR filings for the Test Period and for the Rate Effective Period:

- Amounts incurred for travel, meals or entertainment of employee spouses, domestic partners, significant others, children and pets.
- Amounts for air travel that exceed published commercial coach air fares.
- Amounts incurred for excessive rates for hotel rooms.
- Amounts for alcoholic beverages.
- Amounts paid for admission to entertainment, sports, art or cultural events, and all event sponsorship costs.
- Amounts for social club dues or fees.



**GUD No. 10640**  
**Proposal for Decision**

**ATTACHMENT 2**

**ATMOS ENERGY CORP., MID-TEX DIVISION**  
**SUMMARY PROOF OF REVENUE AT PROPOSED RATES - BASE RATES**  
**TEST YEAR ENDING SEPTEMBER 30, 2016**

Line	Description	Total	Reference
	(a)	(b)	(c)
<b>Rate R</b>			
1	<u>Rate Characteristics:</u>		
2	Customer Charge	\$ 21.25	WP_J-5
3			
4	Consumption Charge (\$/Ccf)	\$ 0.12596	WP_J-5
5			
6	Rider GCR Part A	\$ 0.27125	Schedule H
7	Rider GCR Part B	\$ 0.26009	Schedule I
8			
9	<u>Billing Units (1):</u>		
10	Bills	17,967,024	WP_J-1 Page 1 Col. (b) Ln. 11
11	Total CCF	819,180,191	WP_J-1 Page 1 Col. (b) Ln. 12
12			
13	<u>Proposed Revenue:</u>		
14	Customer Charge	\$ 381,799,260	Ln 2 times Ln 10
15	Consumption Charge	103,183,937	Ln 4 times Ln 11
16	Base Revenue	\$ 484,983,197	Ln 14 plus Ln 15
17	Rider GCR Part A	222,202,627	Ln 6 times Ln 11
18	Rider GCR Part B	213,058,717	Ln 7 times Ln 11
19	Subtotal	\$ 920,244,541	Sum Ln 16 through Ln 18
20	Revenue Related Taxes	68,104,215	Ln 19 times WP_5.1 excel cell G36
21			
22	Total Proposed Revenue- Rate R	\$ 988,348,756	Ln 19 plus Ln 20
23			
24	Note 1: See Billing Determinants Study for details.		

**ATMOS ENERGY CORP., MID-TEX DIVISION**  
**SUMMARY PROOF OF REVENUE AT PROPOSED RATES - BASE RATES**  
**TEST YEAR ENDING SEPTEMBER 30, 2016**

Line	Description	Total	Reference
	(a)	(b)	(c)
<b>Rate C</b>			
1	<u>Rate Characteristics:</u>		
2	Customer Charge	\$ 44.00	WP_J-5
3			
4	Consumption Charge (\$/Ccf)	\$ 0.08118	WP_J-5
5			
6	Rider GCR Part A	\$ 0.27125	Schedule H
7	Rider GCR Part B	\$ 0.18780	Schedule I
8			
9	<u>Billing Units (1):</u>		
10	Bills	1,469,472	WP_J-1 Page 2 Col. (b) Ln. 11
11	Total CCF	541,316,781	WP_J-1 Page 2 Col. (b) Ln. 12
12			
13	<u>Proposed Revenue:</u>		
14	Customer Charge	\$ 64,656,768	Ln 2 times Ln 10
15	Consumption Charge	43,944,096	Ln 4 times Ln 11
16	Base Revenue	\$ 108,600,864	Ln 14 plus Ln 15
17	Rider GCR Part A	146,832,177	Ln 6 times Ln 11
18	Rider GCR Part B	101,659,100	Ln 7 times Ln 11
19	Subtotal	\$ 357,092,141	Sum Ln 16 through Ln 18
20	Revenue Related Taxes	26,427,193	Ln 19 times WP_5.1 excel cell G36
21			
22	Total Proposed Revenue- Rate C	\$ 383,519,334	Ln 19 plus Ln 20
23			
24	Note 1: See Billing Determinants Study for details.		

**ATMOS ENERGY CORP., MID-TEX DIVISION**  
**SUMMARY PROOF OF REVENUE AT PROPOSED RATES - BASE RATES**  
**TEST YEAR ENDING SEPTEMBER 30, 2016**

Line	Description	Total	Reference
	(a)	(b)	(c)
<b>Rate I &amp; T</b>			
1	<u>Rate Characteristics:</u>		
2	Customer Charge	\$ 805.75	WP_J-5
3			
4	Block 1 (\$/MMBTU)	\$ 0.22170	WP_J-5
5	Block 2 (\$/MMBTU)	\$ 0.16120	WP_J-5
6	Block 3 (\$/MMBTU)	\$ 0.02560	WP_J-5
7			
8			
9			
10			
11			
12	Rider GCR Part A	\$ 2.7125	Schedule H
13	Rider GCR Part B	\$ 0.4406	Schedule I
14			
15			
16	<u>Billing Units (1):</u>		
17	Bills	9,384	WP_J-1 Page 3 Col. (b) Ln. 18
18	Block 1	10,088,952	WP_J-1 Page 3 Col. (b) Ln. 19
19	Block 2	11,061,108	WP_J-1 Page 3 Col. (b) Ln. 20
20	Block 3	19,784,169	WP_J-1 Page 3 Col. (b) Ln. 21
21	Total MMBTU	<u>40,934,229</u>	
22			
23	Sales Volumes	<u>1,421,345</u>	WP_J-1
24			
25	<u>Proposed Revenue:</u>		
26	Customer Charge	\$ 7,561,158	Ln 2 times Ln 17
27	Block 1	2,236,721	Ln 4 times Ln 18
28	Block 2	1,783,051	Ln 5 times Ln 19
29	Block 3	506,475	Ln 6 times Ln 20
30	Base Revenue	\$ 12,087,404	Sum Ln 26 through Ln 29
31	Rider GCR Part A	3,765,037	Ln 12 times Ln 23
32	Rider GCR Part B	18,036,477	Ln 13 times Ln 21
33	Subtotal	\$ 33,888,919	Sum Ln 30 through Ln 32
34	Revenue Related Taxes	2,508,005	Ln 33 times WP_5.1 excel cell G36
35			
36	Total Proposed Revenue- Rate I&T	\$ 36,396,924	Ln 33 plus Ln 34
	<b>Total</b>	<b>\$ 1,408,265,013</b>	Note (1)

Note (1) - Does not include other revenues of \$14,807,007.

**GUD No. 10640**  
**Proposal for Decision**

**ATTACHMENT 3**

(full schedules transmitted electronically)

Atmos Mid-Tex  
GUD No. 10640 / Petition for Review filed 5/26/17  
Twelve Months Ending September 30, 2016  
Decision Summary GUD No. 10640

	Initial	Appeal	Examiners	Difference
Revenue Requirement Requested	\$ 1,428,035,512	\$ 1,426,036,942	\$ 1,423,073,533	\$ (2,963,409)
System Increase	\$ 66,927,821	\$ 64,929,251	\$ 61,965,842	\$ (2,963,409)
Dallas Increase	\$ 10,714,373	\$ 10,387,483	\$ 9,865,187	\$ (522,296)

Rate R - Residential Sales	Proposed	Recommended
Customer Charge per Bill	\$ 21.25	\$ 21.25
Commodity Charge - All Ccf	\$ 0.12862	\$ 0.12596

Rate C - Commercial Sales	Proposed	Recommended
Customer Charge per Bill	\$ 44.00	\$ 44.00
Commodity Charge - All Ccf	\$ 0.08214	\$ 0.08118

Rate I & T - Industrial Sales and Transportation Sales	Proposed	Recommended
Customer Charge per Meter	\$ 809.25	\$ 805.75
First 0 MMBtu to 1,500 MMBtu	\$ 0.2232	\$ 0.2217
Next 3,500 MMBtu	\$ 0.1623	\$ 0.1612
All MMBtu over 5,000 MMBtu	\$ 0.0257	\$ 0.0256

1	Rate of Return	<a href="#">Schedule G</a>	Revenue Requirement Impact	Dallas Impact
a.	Capital Structure		\$ (15,487,798)	\$ (2,518,012)
	Long-Term Debt	41.49%		
	Atmos (41.49%)			0.414903152
	Dallas (48%)			
	Common Equity	58.51%		
	Atmos (58.51%)			0.585096848
	Dallas (52%)			
b.	Cost of Long-Term Debt	5.95%	\$ (12,133,399)	\$ (1,953,403)
	Atmos (5.95%)			0.059504571
	Dallas (4.77%)			0.047721823
	Rate of Return Result	8.38%	7.54% \$ (29,526,023)	\$ (4,754,977)

Issue		On/Off Switch (1 is on, 0 is off)	Schedule Impacted	Cell Impacted	Adjustment	Revenue Requirement Impact	Dallas Impact
<b>Rate Base</b>							
<b>ADIT</b>							
2	SSU-General Office Director's Deferred Bonus	0	WP_B-6	<a href="#">D64</a>	\$ (166,965)	\$ (8,017)	\$ (2,775)
3	SSU-General Office Restricted Stock Grant Plan	1	WP_B-6	<a href="#">D71</a>	\$ (4,631,448)	\$ (222,364)	\$ (38,946)
4	SSU-General Office Director's Stock Awards	0	WP_B-6	<a href="#">D74</a>	\$ (5,939,395)	\$ (285,160)	\$ (51,775)
5	Mid-Tex Federal Benefit on State NOL	0	WP_B-6	<a href="#">D42</a>	\$ 225,602	\$ 28,280	\$ 5,667
6	SSU- General Office FD - NOL Credit Carryforward - Utility	0	WP_B-6	<a href="#">D93</a>	\$ (725,716,695)	\$ (35,072,400)	\$ (5,574,783)
7	Mid-Tex SEBP Adjustment	0	WP_B-6	<a href="#">D18</a>	\$ (660,822)	\$ (82,839)	\$ (14,502)
8	Capitalized Incentive Compensation--SSU	1	Schedule C	<a href="#">G159</a>	\$ (3,383,751)	\$ (426,925)	\$ (75,000)
9	Capitalized Incentive Compensation--Direct	0	Schedule C	<a href="#">G160</a>	\$ (3,549,342)	\$ (447,818)	\$ (79,221)
10	Capitalized Incentive Compensation--Prior-SSU	0	Schedule C	<a href="#">G161</a>	\$ (20,123,249)	\$ (2,538,933)	\$ (447,296)
11	Capitalized Incentive Compensation--Prior-Direct	0	Schedule C	<a href="#">G162</a>	\$ (14,487,884)	\$ (1,827,924)	\$ (321,913)
<b>O&amp;M Expenses</b>							
12	Payroll Adjustment	0	Schedule F-1	<a href="#">F63</a>	(1,793,715)	\$ (1,961,609)	\$ (344,911)
13	Incentive Compensation -- SSU	1	Schedule F-1	<a href="#">F64</a>	(2,116,055)	\$ (2,314,121)	\$ (408,350)
14	Incentive Compensation -- Direct	0	Schedule F-1	<a href="#">F65</a>	(995,635)	\$ (1,088,828)	\$ (191,777)
15	North Richland Hills Incident	0	WP_F-2.8	<a href="#">E12</a>	\$ (513,942)	\$ (562,049)	\$ (97,998)
16	Line Locate Contract Increase	0	WP_F-2.8	<a href="#">E16</a>	\$ (2,481,049)	\$ (2,713,279)	\$ (479,192)

**GUD No. 10640**  
**Proposal for Decision**

**ATTACHMENT 4**



<b>RATE SCHEDULE:</b>	<b>R – RESIDENTIAL SALES</b>	
<b>APPLICABLE TO:</b>	<b>Customers within the City of Dallas</b>	
<b>EFFECTIVE DATE:</b>	<b>Bills Rendered on or after 06/01/2017</b>	<b>PAGE:</b>

**Application**

Applicable to Residential Customers for all natural gas provided at one Point of Delivery and measured through one meter.

**Type of Service**

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

**Monthly Rate**

Customer's monthly bill will be calculated by adding the following Customer and Ccf charges to the amounts due under the riders listed below:

<b>Charge</b>	<b>Amount</b>
Customer Charge per Bill	\$21.25 per month
Commodity Charge – All Ccf	\$ 0.12596 per Ccf

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Weather Normalization Adjustment: Plus or Minus an amount for weather normalization calculated in accordance with Rider WNA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Franchise Fees are to be assessed solely to customers within municipal limits. This does not apply to Environs Customers.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

**Agreement**

An Agreement for Gas Service may be required.

**Notice**

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

<b>RATE SCHEDULE:</b>	<b>C – COMMERCIAL SALES</b>	
<b>APPLICABLE TO:</b>	<b>Customers within the City of Dallas</b>	
<b>EFFECTIVE DATE:</b>	<b>Bills Rendered on or after 06/01/2017</b>	<b>PAGE</b>

**Application**

Applicable to Commercial Customers for all natural gas provided at one Point of Delivery and measured through one meter and to Industrial Customers with an average annual usage of less than 30,000 Ccf.

**Type of Service**

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

**Monthly Rate**

Customer's monthly bill will be calculated by adding the following Customer and Ccf charges to the amounts due under the riders listed below:

<b>Charge</b>	<b>Amount</b>
Customer Charge per Bill	\$ 44.00 per month
Commodity Charge - All Ccf	\$ 0.08118 per Ccf

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Weather Normalization Adjustment: Plus or Minus an amount for weather normalization calculated in accordance with Rider WNA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Franchise Fees are to be assessed solely to customers within municipal limits. This does not apply to Environs Customers.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

**Agreement**

An Agreement for Gas Service may be required.

**Notice**

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

<b>RATE SCHEDULE:</b>	<b>I – INDUSTRIAL SALES</b>	
<b>APPLICABLE TO:</b>	<b>Customers within the City of Dallas</b>	
<b>EFFECTIVE DATE:</b>	<b>Bills Rendered on or after 06/01/2017</b>	<b>PAGE</b>

#### Application

Applicable to Industrial Customers with a maximum daily usage (MDU) of less than 3,500 MMBtu per day for all natural gas provided at one Point of Delivery and measured through one meter. Service for Industrial Customers with an MDU equal to or greater than 3,500 MMBtu per day will be provided at Company's sole option and will require special contract arrangements between Company and Customer.

#### Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

#### Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and MMBtu charges to the amounts due under the riders listed below:

<b>Charge</b>	<b>Amount</b>
Customer Charge per Meter	\$ 805.75 per month
First 0 MMBtu to 1,500 MMBtu	\$ 0.22170 per MMBtu
Next 3,500 MMBtu	\$ 0.16120 per MMBtu
All MMBtu over 5,000 MMBtu	\$ 0.02560 per MMBtu

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Franchise Fees are to be assessed solely to customers within municipal limits. This does not apply to Environs Customers.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

#### Curtailment Overpull Fee

Upon notification by Company of an event of curtailment or interruption of Customer's deliveries, Customer will, for each MMBtu delivered in excess of the stated level of curtailment or interruption, pay Company 200% of the midpoint price for the Katy point listed in *Platts Gas Daily* published for the applicable Gas Day in the table entitled "Daily Price Survey."

#### Replacement Index

In the event the "midpoint" or "common" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" is no longer published, Company will calculate the applicable imbalance fees utilizing a daily price index recognized as authoritative by the natural gas industry and most closely approximating the applicable index.

#### Agreement

An Agreement for Gas Service may be required.

<b>RATE SCHEDULE:</b>	<b>I – INDUSTRIAL SALES</b>	
<b>APPLICABLE TO:</b>	<b>Customers within the City of Dallas</b>	
<b>EFFECTIVE DATE:</b>	<b>Bills Rendered on or after 06/01/2017</b>	<b>PAGE</b>

**Notice**

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

**Special Conditions**

In order to receive service under Rate I, Customer must have the type of meter required by Company. Customer must pay Company all costs associated with the acquisition and installation of the meter.

<b>RATE SCHEDULE:</b>	<b>T – TRANSPORTATION</b>	
<b>APPLICABLE TO:</b>	<b>Customers within the City of Dallas</b>	
<b>EFFECTIVE DATE:</b>	<b>Bills Rendered on or after 06/01/2017</b>	<b>PAGE</b>

**Curtailment Overpull Fee**

Upon notification by Company of an event of curtailment or interruption of Customer's deliveries, Customer will, for each MMBtu delivered in excess of the stated level of curtailment or interruption, pay Company 200% of the midpoint price for the Katy point listed in *Platts Gas Daily* published for the applicable Gas Day in the table entitled "Daily Price Survey."

**Replacement Index**

In the event the "midpoint" or "common" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" is no longer published, Company will calculate the applicable imbalance fees utilizing a daily price index recognized as authoritative by the natural gas industry and most closely approximating the applicable index.

**Agreement**

A transportation agreement is required.

**Notice**

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

**Special Conditions**

In order to receive service under Rate T, customer must have the type of meter required by Company. Customer must pay Company all costs associated with the acquisition and installation of the meter.

<b>RATE SCHEDULE:</b>	<b>T – TRANSPORTATION</b>	
<b>APPLICABLE TO:</b>	<b>Customers within the City of Dallas</b>	
<b>EFFECTIVE DATE:</b>	<b>Bills Rendered on or after 06/01/2017</b>	<b>PAGE</b>

#### Application

Applicable, in the event that Company has entered into a Transportation Agreement, to a customer directly connected to the Atmos Energy Corp., Mid-Tex Division Distribution System (Customer) for the transportation of all natural gas supplied by Customer or Customer's agent at one Point of Delivery for use in Customer's facility.

#### Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

#### Monthly Rate

Customer's bill will be calculated by adding the following Customer and MMBtu charges to the amounts and quantities due under the riders listed below:

<b>Charge</b>	<b>Amount</b>
Customer Charge per Meter	\$ 805.75 per month
First 0 MMBtu to 1,500 MMBtu	\$ 0.22170 per MMBtu
Next 3,500 MMBtu	\$ 0.16120 per MMBtu
All MMBtu over 5,000 MMBtu	\$ 0.02560 per MMBtu

Upstream Transportation Cost Recovery: Plus an amount for upstream transportation costs in accordance with Part (b) of Rider GCR.

Retention Adjustment: Plus a quantity of gas as calculated in accordance with Rider RA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Franchise Fees are to be assessed solely to customers within municipal limits. This does not apply to Environs Customers.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

#### Imbalance Fees

All fees charged to Customer under this Rate Schedule will be charged based on the quantities determined under the applicable Transportation Agreement and quantities will not be aggregated for any Customer with multiple Transportation Agreements for the purposes of such fees.

#### Monthly Imbalance Fees

Customer shall pay Company the greater of (i) \$0.10 per MMBtu, or (ii) 150% of the difference per MMBtu between the highest and lowest "midpoint" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" during such month, for the MMBtu of Customer's monthly Cumulative Imbalance, as defined in the applicable Transportation Agreement, at the end of each month that exceeds 10% of Customer's receipt quantities for the month.

**MID-TEX DIVISION  
ATMOS ENERGY CORPORATION**

<b>RIDER:</b>	<b>WNA – WEATHER NORMALIZATION ADJUSTMENT</b>	
<b>APPLICABLE TO:</b>	<b>Customers within the City of Dallas</b>	
<b>EFFECTIVE DATE:</b>	<b>06/01/2017</b>	<b>PAGE</b>

Provisions for Adjustment

The base rate per Ccf (100 cubic feet) for gas service set forth in any Rate Schedules utilized by the cities of the Mid-Tex Division service area for determining normalized winter period revenues shall be adjusted by an amount hereinafter described, which amount is referred to as the "Weather Normalization Adjustment." The Weather Normalization Adjustment shall apply to all temperature sensitive residential and commercial bills based on meters read during the revenue months of November through April. The regional weather station is Dallas.

Computation of Weather Normalization Adjustment

The Weather Normalization Adjustment Factor shall be computed to the nearest one-hundredth cent per Ccf by the following formula:

$$WNAF_i = R_i \frac{(HSF_i (NDD-ADD))}{(BL_i + (HSF_i \times ADD))}$$

Where

- $i$  = any particular Rate Schedule or billing classification within any such particular Rate Schedule that contains more than one billing classification
- $WNAF_i$  = Weather Normalization Adjustment Factor for the  $i^{th}$  rate schedule or classification expressed in cents per Ccf
- $R_i$  = base rate of temperature sensitive sales for the  $i^{th}$  schedule or classification utilized by the Commission in the Relevant Rate Order.
- $HSF_i$  = heat sensitive factor for the  $i^{th}$  schedule or classification divided by the average bill count in that class
- $NDD$  = billing cycle normal heating degree days
- $ADD$  = billing cycle actual heating degree days
- $BL_i$  = base load sales for the  $i^{th}$  schedule or classification divided by the average bill count in that class

The Weather Normalization Adjustment for the  $j^{th}$  customer in  $i^{th}$  rate schedule is computed as:

$$WNA_j = WNAF_i \times q_{ij}$$

Where  $q_{ij}$  is the relevant sales quantity for the  $j^{th}$  customer in  $i^{th}$  rate schedule.

**MID-TEX DIVISION  
ATMOS ENERGY CORPORATION**

<b>RIDER:</b>	<b>WNA – WEATHER NORMALIZATION ADJUSTMENT</b>	
<b>APPLICABLE TO:</b>	<b>Customers within the City of Dallas</b>	
<b>EFFECTIVE DATE:</b>	<b>06/01/2017</b>	<b>PAGE</b>

Base Use/Heat Use Factors

Weather Station	<u>Residential</u>		<u>Commercial</u>	
	Base use Ccf	Heat use Ccf/HDD	Base use Ccf	Heat use Ccf/HDD
Dallas	14.99	.1996	211.71	.9384



**GUD No. 10640**  
**Proposal for Decision**

**ATTACHMENT 5**

**GAS UTILITIES DOCKET NO. 10640**

**PETITION FOR DE NOVO REVIEW BY ATMOS ENERGY CORP., MID-TEX DIVISION, OF THE DENIAL  
BY THE CIYT OF DALLAS OF THE DALLAS ANNUAL RATE REVIEW MECHANISM TARIFF**

**ATMOS EXHIBIT LIST**

<b>EX. NO.</b>	<b>DESCRIPTION</b>	<b>OFFERED</b>	<b>ADMITTED/DATE</b>
1	Atmos DARR Appeal filed on May 26, 2017 (Schedules and Relied Upons included electronically)	✓	09/26/17
2	Direct Testimony and Exhibits of Christopher A. Felan	✓	09/26/17
3	Direct Testimony and Exhibit of Barbara W. Myers	✓	09/26/17
4	Rebuttal Testimony, Exhibits and Workpapers of Christopher A. Felan	✓	09/26/17
5	Rebuttal Testimony, Exhibits and Workpapers of Barbara W. Myers	✓	09/26/17
6	Rebuttal Testimony, Exhibit and Workpapers of Jennifer K. Story	✓	09/26/17
7	Affidavit of Notice of Christopher A. Felan	✓	09/26/17
8	City of Dallas Ordinance No. 30466	✓	10/27/17

**DALLAS EXHIBIT LIST**

<b>EX. NO.</b>	<b>DESCRIPTION</b>	<b>OFFERED</b>	<b>ADMITTED/DATE</b>
1	Direct Testimony of Mark E. Garrett	✓	09/26/17