

2023 ACSC Newsletter



2023 YEAR IN REVIEW ISSUE

This past year was a busy one for ACSC. This annual review highlights the significant events of 2023 that impacted ACSC and what's on the horizon next year.

Atmos 2023 Rate Case Round-Up

Atmos Pipeline-Texas will increase the amount it collects on its system for transporting gas by \$12 million annually — or by 1.66 percent — under a settlement agreement approved in December 2023 by state regulators.

This change to the company's "transportation revenue requirement" will affect home rates, albeit indirectly. The company's previous transportation revenue requirement was \$723 million annually. Under the settlement, it now goes to \$735 million. However, even with the increase, the company has accepted \$105 million less under the settlement than the \$839,982,742 it initially sought.

Various intervenors, including the Atmos Cities Steering Committee and other city representatives, reached a unanimous settlement with Atmos in the case during October 2023. The Railroad Commission approved the settlement on December 13 without discussion.

Background of the Case

- On May 19, 2023, Atmos Pipeline-Texas, a Division of Atmos Energy Corporation, filed paperwork at the Railroad Commission to change its rates. ACSC intervened in the rate case, engaged consultants, conducted discovery, and identified aspects of the Atmos request that it found unreasonable.
- The company's overall revenue requirement (which includes extraneous pass-through costs to third parties) will be \$841,924,105 under the settlement, which is \$109 less than the \$951.1 million the company originally sought.
- The adopted changes will result in a capacity charge of \$18.80038 per million British thermal units of MDQ (where MDQ is defined as the maximum daily quantity of gas over the pipeline system). This represents a \$.30614 increase over the current capacity charge of \$18.49424 — or an increase of 1.66 percent.
- The new capacity charge under the approved settlement agreement remains less than the \$21.25 initially requested by APT.
- The company will operate under an approved cost of equity of 11.45 percent under the approved settlement — as opposed to the company's initial request of 13.5 percent.
- This is the company's first full rate case since 2016. More information can be found on the Railroad Commission website, under Case No. 00013758.

OTHER 2023 RATE MATTERS

- On February 24, 2023, Atmos Energy filed for a GRIP rate adjustment for customers within the unincorporated areas of its Mid-Tex Division. Under the adjustment, the monthly customer charge would increase from \$34.29 per month to \$38.38 per month — an increase of \$5.09. More information can be found on the Railroad Commission website, at Case No. 00012759.
- On February 24, 2023, Atmos Energy filed for a GRIP adjustment for customers within the unincorporated areas of its West Texas Division. Under the adjustment, the customer charge would increase from \$27.99 per month to \$31.49 per month — an increase of \$3.50. More information can be found on the Railroad Commission website, at Case No. 00012760.
- On March 31, 2023 Atmos Energy filed for a rate increase for its Mid-Tex service areas under an interim ratemaking process known as the Rate Review Mechanism. In its filing, the company requested a rate increase of \$165.9 million on a system-wide basis. This was reduced to \$156.1 million due to limitations in the RRM tariff. After ACSC consultants prepared a report detailing various adjustments, the company agreed to settle the case for \$142 million. This amounts to a \$23.9 million reduction from the company’s initial request. It includes payment of an additional \$19.5 million for the securitization regulatory assert expenses related to Winter Storm Uri. For residential customers, the agreement will result in a 70-cent increase in the customer charge, from \$21.55 per month to \$22.25. The settlement was approved by all parties in September, and the rates went into effect in October.
- On March 31, 2023, Atmos Energy filed for a rate increase for its West Texas service areas under the Rate Review Mechanism process. In its filing, the company requested a \$12.1 million increase for WTX Cities. This was reduced to \$11.4 million due to limitations in the RRM tariff. After ACSC consultants prepared a report detailing various adjustments, the company agreed to settle the case for \$8.4 million. This amounts to a reduction of \$3.7 million to the company’s initial request. It includes \$2.7 million for the securitization regulatory assert expenses related to Winter Storm Uri. Under the settlement, the customer charge will increase by .70 cents per month from \$18.27 to \$18.97. The settlement was approved by all parties in September, and the rates went into effect in October.

About GRIP and RRM Like the separate Gas Reliability Infrastructure process, the RRM process allows for annual rate increases to reflect capital investments by the utility over the preceding 12 months. Various cities and city coalitions have objected to GRIP as piecemeal ratemaking because GRIP does not allow for an evaluation of rising revenues or declining expenses that may offset the need for rate increases. Additionally, under the GRIP process, cities cannot challenge any portion of the rate filing as unreasonable.

For those reasons the Atmos Cities Steering Committee negotiated the Rate Review Mechanism with Atmos as a substitute for GRIP. The RRM has no existence in statute, but rather exists only pursuant to city ordinances. Environs (areas outside municipal limits) are subject to GRIP, and some non-ACSC member cities have chosen to remain under GRIP.

Atmos Customers Face 16 Years of Winter Storm Charges

Texas gas utility customers can expect to pay at least \$4 more each month for the next 16 years because of a few days of high-cost gas, according to bond financing information released in 2023.

The natural gas was consumed during Winter Storm Uri in 2021 and reached prices as high as \$100 per million British thermal units — or more than 33 times higher than average. Utility customers needed the gas to heat their homes during the crisis and rather than engaging in their

customary practice of charging customers promptly for it, utilities instead deferred the costs for later recovery through a bond-financing arrangement.

In 2021 adopted House Bill 1520 that authorized the bond financing arrangement, which is known as securitization. In October 2023, the Texas Railroad Commission issued a press release providing more details of the resulting charges. According to the agency, securitization charges of \$1.10 per thousand cubic feet (mcf) for

residential customers began going onto bills of nine participating utilities.

The billing charges may be adjusted periodically as financial conditions warrant. For a typical residential utility consuming using 3.9 mcf of gas each month, the “Customer Rate Relief Charge” will add \$4.29 to bills.

Participating Utilities

Under the bond financing arrangement, Atmos Energy has securitized approximately \$2 billion in fuel costs, CenterPoint approximately \$1.1 billion and Texas Gas Service about \$197.3 million. Other utilities to receive recovery through securitized debt include Corix Utilities (Texas) Inc.; EPCOR Gas Texas Inc.; Rockin’ M Gas; SiEnergy, LP; Summit Utilities Arkansas; Texas Gas Service Company, a Division of ONE Gas, Inc. (excluding the West Texas Service Area); and Universal Natural Gas, LLC.

Under a settlement with Atmos Cities Steering Committee and others, Atmos agreed to reduce its recovery by more than \$9 million. Similarly, CenterPoint agreed to reduce its recovery by \$39.7 million under a settlement with a separate city group.

By law, gas distribution utilities such as Atmos, CenterPoint and TGS cannot profit from the sale of the gas commodity, but instead pass those costs directly to end users without markups. However, some gas suppliers made massive profits from the price surge, according to reports.

More information about the Texas Natural Gas Securitization Finance Corporation at their website, can be found [here](#). The Texas Railroad Commission also has released information about the gas charges, that can be found [here](#).

Railroad Commission Penalizes Atmos for Service Quality

On February 7, 2023, the Texas Railroad Commission closed its investigation into Atmos Energy service disruptions during a cold weather event that occurred in late December of 2022.

In its investigation, the agency’s Oversight and Safety Division (“OCD”) determined that the gas utility’s extensive, localized service interruptions from December 22 through December 26 constituted violations of the Railroad Commission’s Quality of Service rules. Atmos’ cold weather contingency planning fell short, and the utility lacked sufficient staffing at its call centers to adequately respond to customer concerns, according to OCD.

The Railroad Commission referred the alleged rule violations to the Enforcement Section of its Office of General Counsel, according to filings at the agency.

The Texas Railroad Commission began examining Atmos after more than 2,300 customers lost service or had their service curtailed during the winter storm late last year. Both Gov. Greg Abbott and local city officials complained about what they described as the company’s lack of planning before the event and called for the inquiry.

In a January 13 filing with the agency, Atmos Energy said the service interruptions were not due to an inability to obtain natural gas supplies — as occurred during Winter Storm Uri in 2021 — but “primarily due to instances of capacity constraints where demand exceeded our contingency plans in localized areas.” The company highlighted its emergency planning efforts, but noted that “going forward, we recognize the need to have even more robust contingency planning and to enhance our redundant capabilities.”

More about the Railroad Commission inquiry can be found on the agency’s website, under Case No. 00012215.

ACSC Welcomes New Member

In 2023, the Atmos Cities Steering Committee welcomed New Fairview, a city of 14,000 residents in Wise County, as its newest member. Located along US 81/SH 287 and FM 407 in the DFW Metroplex, the city is nearly 16 square miles in size — which makes it the largest in Wise County by land area. New Fairview joined ACSC in May, 2023.

Growing from a settlement called Illinois Community, the city was called Fairview until 1999, when it changed its name to distinguish it from several other “Fairviews” in Texas. To maintain a quieter, more rural atmosphere, residential lots are legally limited to a minimum size of 1 acre. Welcome New Fairview!

Atmos Billing Errors

Some Atmos customers received unwelcomed surprises in their natural gas bills during the summer of 2023 — unexpected past due amounts.

The charges, however, were in error. Atmos, in comments to its local NBC affiliate, acknowledged that it delivered erroneous bills in July to some of its customers, and that in some cases the mistakes were substantial. For instance, one Atmos customer reported to the media that he received a bill incorrectly showing a \$2,000 past-due amount, when he owed only \$45.

Atmos said that fewer than 3 percent of its outgoing bills were in error. However — given that Atmos serves more than 2 million customers statewide — that means that tens of thousands of people may have been affected.

Atmos says that after becoming aware of the errors it began notifying customers via email, when possible. The company also told the NBC affiliate in Dallas that corrected bills are being sent out, and that customers will not be charged late fees because of the errors.

88th Texas Legislature Recap: Gas Legislation

Approximately 300 bills relating to electric and gas utilities, their customers and energy markets were filed during the 88th Texas Legislature, which adjourned *sine die* on May 29, 2023. However, most bills pertained to electric issues — as opposed to gas issues — and only about 40 of them overall made it to the finish line. An even fewer number of gas-related bills won passage.

Below is a final status summary of several bills of significance relating to gas utility issues.

- **PASSED: HB 2263**, by Rep. Drew Darby, relating to the authority of a natural gas local distribution company to offer energy conservation programs,” adds a new subsection to the Gas Utility Regulatory Act that would allow retail gas distribution systems to create energy conservation programs while also creating rules for rate recovery outside a typical ratemaking proceeding. The legislation passed out of both chambers and was sent to the governor on May 30. Sen. Bryan

Hughes authored the Senate companion, **SB 1050**.

- **FAILED: House Bill 2128**, by Rep. Ernest Bailes, is intended to limit price gouging on natural gas sales during declared disasters. This is another bill that arose from legislative concerns over high natural gas prices charged by suppliers during Winter Storm Uri. The House Business and Industry Committee conducted a hearing on HB 2128 on April 17, but the legislation proceeded no further.
- **FAILED: House Bill 2262**, by Rep. Drew Darby, “relating to gas utility alternative gas expenses and infrastructure investments,” would have allowed gas utilities to include “alternative gas” in their portfolios and recover the costs of purchasing it. HB 2262 also provides for a presumption that alternative gas costs included in rates are prudent, reasonable, and necessary. The bill defines “alternative gas” as fuel with a lower carbon content than natural gas. HB 2262 made it through most of the legislative process before dying in the Senate. The Senate companion, SB



1049 by Sen. Bryan Hughes, never received a hearing.

- **FAILED: SB 1701 and HB 4788**, by Sen. Nathan Johnson and Rep. Rafael Anchia respectively, would have mandated changing the agency name of the Railroad Commission of Texas. Neither bill received any traction during the 88th Texas Legislature.
- **FAILED: SB 1291, Sen. King**, “relating to the reimbursement of a municipality’s expenses in a ratemaking proceeding for electric or gas utilities.” This legislation would have restricted

city participation in electric and gas utility rate-making by restricting municipal reimbursement in such matters. It was referred to the Senate Business and Commerce committee in early March but proceeded no further.

- **FAILED: SB 1501 and HB 4099**, by Sen. Joan Huffman and Rep. Greg Bonnen respectively, would have allocated tax dollars to pay off securitization borrowing costs assessed by gas utilities to pay for fuel charges from Winter Storm Uri. A similar provision in a supplemental budget bill, **Senate Bill 30**, also failed to win approval.

Railroad Commission Agency Recap 2023

Texas Railroad Commission Considers Rules Pertaining to Energy Conservation Programs

On September 19, 2023, staff at the Texas Railroad Commission proposed new rules to implement House Bill 2263, legislation from the 2021 session pertaining to the creation of energy conservation programs by gas utilities.

The rules, if given final approval, would modify 16 Texas Administrative Code §7.480, relating to Energy Conservation Programs. **The Atmos Cities Steering Committee is participating in this rulemaking matter.**

The proposed changes include the following:

- A proposed new subsection (a) that states the Railroad Commission has exclusive original jurisdiction over energy conservation programs implemented by gas distribution utilities, and that political subdivisions shall not limit, restrict, or otherwise prevent an eligible customer from participating in such programs based on the type or source of energy delivered through it.
- A proposed new subsection (c) that lists the general requirements for a gas utility to recover the costs it incurs for the implementation of an Energy Conservation Program. A gas distribution utility must apply for each service area in which it seeks to implement an Energy Conservation Program to recover those costs.
- A proposed subsection (d)(1) that lists the items to be included in initial applications and a proposed subsection (d)(2) that lists the items to be included in subsequent applications, and that details timing requirements for subsequent applications.
- A proposed new subsection (f) that describes what the Energy Conservation Program portfolio must accomplish, including that it be designed to overcome barriers to the adoption of energy-efficient equipment, technologies, and processes, and to change customer behavior as necessary. The portfolio may also include measures such as direct financial incentives, technical assistance, discounts or rebates, and weatherization for low-income customers.
- A proposed new subsection (j) requires gas utilities to file an annual Energy Conservation Program report each year such a portfolio is implemented. The report shall be filed no later than 45 days following the end of the utility’s program year.

The Commission accepted comments on the rulemaking through late October and is expected to issue final approval in February or March 2024.

The status of Commission rulemakings in progress is available at www.rrc.texas.gov/general-counsel/rules/proposed-rules.

Railroad Commission Sets Emergency Disconnection Fines

On November 15, 2023, the Texas Railroad Commission adopted new rules pertaining to improper gas utility service disconnections during extreme weather emergencies.

The new rules, which correspond to provisions of Senate Bill 3 adopted in 2021 after Winter Storm Uri, include a classification system for fines that can be assessed for improper disconnections, as well as new prohibitions against demanding full payment of utility bills during weather emergencies.

The rules modify 16 Texas Administrative Code §7.460. Among the highlights:

- The new rules contemplate four categories of disconnection violations — Class A, Class B, Class C and Class D — with fines ranging from \$3,000

to more than \$5,000 per violation.

- Under the new classification matrix for fines, a utility that improperly disconnects a customer for 24 hours or more during a weather emergency and with temperatures lower than 10 degrees would be subject to a Class B violation fine of \$5,000. If the same company had a history of repeated violations, then it would become a Class A violation of more than \$5,000.
- Under the new rules, any demand by a utility for full payment of a bill during a weather emergency could increase the severity of fines. Any good faith effort to remedy a violation could decrease the severity of fines.

The new rules can be found online, [here](#).

Railroad Commission Conducts more than 7000 Weatherization Inspections

In November 2023, the Texas Railroad Commission reported that it conducted more than 7,200 weatherization inspections of critical natural gas infrastructure during the winter and summer seasons.

It also reported that the inspection process began again on December 1, 2024 when operators faced a deadline to submit attestations summarizing what weatherization methods they utilized at their facilities. The agency says that RRC inspections by its Infrastructure Division will begin again right after that deadline.

“The RRC has been in contact with operators as we get ready for the next winter inspection season,” the agency reported in November. Agency officials said it had conducted two webinars in November to walk operators through reporting requirements and the inspection process.

As per Senate Bill 3, adopted in 2021, the Railroad Commission implemented weatherization and critical designation rules that includes an inspection process of critical facilities.

2024 ACSC Meetings

March 5
June 6 - Virtual
September 12
December 12 - Virtual

2024 Officers

Chair—Jennifer Richie (Waco)
Vice Chair—Meg Jakubik (Bedford)
Secretary—Lupe Orozco (Keller)
Treasurer—David Johnson (Arlington)

For more questions or concerns regarding any ACSC matter or communication, please contact the following representative, who will be happy to provide assistance: