

**BEFORE THE
TENNESSEE PUBLIC SERVICE COMMISSION
DOCKET NO. 05-00258
PREPARED DIRECT TESTIMONY OF
PATRICIA J. CHILDERS
On Behalf of
ATMOS ENERGY CORPORATION**

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I. INTRODUCTION

1 Q. Please state your name, position and business address.

2 A. My name is Patricia J. Childers. I am Vice President – Rates and Regulatory Affairs for
3 Atmos Energy Corporation’s Mid States Division which includes the Company’s
4 Tennessee operations. My business address is 810 Crescent Centre Drive, Suite 600,
5 Franklin, Tennessee, 37067-6226.

6 **Q. Please briefly describe your current responsibilities, and professional and**
7 **educational background.**

8 A. I am responsible for rates and regulatory affairs for the Company’s Mid States Division,
9 which consists of the states of Illinois, Iowa, Missouri, Georgia, Virginia and Tennessee.
10 I am a 1972 graduate from Middle Tennessee State University with a Bachelor of Science
11 in Business Administration. I have been employed with Atmos Energy Corporation
12 (formerly United Cities Gas Company) since 1979 and have worked in the areas of Gas
13 Supply and Rates. I assumed my current position of Vice President in 2001.

14 **Q. Have you ever testified before this Authority?**

15 A. Yes. Throughout my years with the Company I have provided testimony in several
16 dockets, most recently in Docket No. 01-00704.

1 **Q. Have you testified on matters before other State regulatory Commissions?**

2 A. Yes. I have provided testimony before the Illinois State Corporation Commission, the
3 Missouri Public Service Commission, the Virginia State Corporation Commission and
4 the Georgia Public Service Commission.

5 **II. PURPOSE OF TESTIMONY**

6 **Q. What is the purpose of your testimony in this proceeding?**

7 A. The purpose of my testimony is to describe the Company proposals with regard to all
8 areas of rate design, including the Company's proposal to modify the Weather
9 Normalization Adjustment ("WNA") to include a Customer Utilization Adjustment.

10 **III. WNA CUSTOMER UTILIZATION ADJUSTMENT**

11 **Q. The Company is proposing to modify its WNA Rider to include a Customer**
12 **Utilization Adjustment. By way of background, please explain the general**
13 **purpose of the Company's WNA Rider.**

14 A. In 1991 in Docket No. 91-01712, the Tennessee Public Service Commission adopted the
15 WNA Rider for the state's three regulated gas utilities (United Cities Gas Company,
16 Chattanooga Gas Company and Piedmont Natural Gas). The purpose of the WNA Rider
17 is to protect both the consumer and the company from fluctuations in gas consumption
18 caused by weather that is colder or warmer than normal. During the process of rate
19 design, a utility's authorized revenue requirement is divided between a fixed monthly
20 customer charge component and volumetric rate component charged per unit of gas
21 transported to the customer, with the utility recovering most of its costs through the
22 volumetric charge. The volumetric charge is designed based on the level of gas demand
23 assuming normal weather conditions. The vast majority of non-gas costs borne by a

1 utility, and correspondingly its revenue requirements, are fixed and are basically
2 unaffected by the volumes sold or transported. Thus, in warmer than normal weather,
3 annual volumes drop below the weather-normalized rate case volumes upon which the
4 revenue requirements were divided, and the utility under-recovers its authorized
5 revenues. Alternatively, in colder than normal weather, higher annual volumes lead to
6 earnings above the established revenue requirement. The WNA Rider adjusts to remove
7 the impact of volume variances relating to weather. The benefit of the WNA is that
8 neither the customer nor the Company bears an advantage or disadvantage as a result of
9 abnormal weather variations during any heating season.

10 **Q. Why is Atmos proposing modifications to the existing WNA Rider?**

11 A. The WNA Rider has performed well in correcting for volume fluctuations due to
12 abnormal weather. However, even with the WNA Rider, the Company's revenues
13 remain linked to the volumes of gas sold. The Company is proposing a Customer
14 Utilization Adjustment ("CUA") to the WNA Rider which will fully decouple, or break
15 the link between, the Company's revenues and the amount of gas consumed by its
16 customers. The CUA will operate in a similar manner as the WNA, but will correct for
17 fluctuations in customer gas consumption which are unrelated to weather, including
18 declining usage due to conservation measures. The CUA will adjust the Company's rates
19 up or down to reflect the level of sales revenue authorized by the Authority.

20 **Q. Why is it appropriate to implement a mechanism to decouple the Company's**
21 **revenues from volumes sold?**

22 A. As noted previously, the Company's cost of service is recovered largely thorough
23 volumetric based charges. However, absent the cost of commodity gas supply, few gas

1 utility costs are driven by changes in volume. Thus, the Company's cost of service,
2 almost exclusively fixed in nature, is dependent on sustained volume levels to afford the
3 recovery of authorized revenue requirements. Even when the effects of weather are
4 removed, the volumes consumed by the Company's customers, on a weather normalized
5 basis, are not sustained over time. Instead, the Company has experienced a trend of
6 declining usage which is expected to continue. For residential customers, the annual
7 consumption has declined from 71.62 mcf in FY2000 to 65.43 mcf for the year ended
8 March 2006, which represents a rate of decline of approximately 1.5% annually.

9
10 This trend is not unique to Atmos. A 2004 study conducted by the American Gas
11 Association ("AGA") concluded that, removing the effects of weather, natural gas usage
12 per household, which has dropped by over 20% since 1980, will continue to decline over
13 the next several years. This decline is due in large part to conservation measures,
14 including progressive increases in the energy-efficiency of appliances and newer homes.
15 In addition, utilities have witnessed consumers responding to soaring gas prices by
16 curtailing their usage. In warmer climates such as Tennessee, increased competition by
17 electric heat pumps is also a factor. Some commentators have noted the 2004 AGA study
18 may have underestimated the future decline in natural gas simply because natural gas
19 prices have risen dramatically since the date of the study. With the acknowledged trend
20 of declining usage, a decoupling mechanism is necessary in order to afford the Company
21 a reasonable opportunity to achieve its authorized revenue requirement. In addition, the
22 Company has little influence over the level of volumes consumed by its customers, and
23 therefore, should neither be rewarded nor punished financially for the inevitable

1 variations that occur. This applies to all variations in volumes sold, not just that which is
2 directly related to weather.

3 **Q: What are the larger policy implications of decoupling?**

4 **A:** The practice of allowing gas utilities to recover fixed costs through the use of volumetric
5 rates was initiated years ago with the major objective of motivating gas utilities to sign up
6 new customers and increase gas sales. Since the dramatic rise of natural gas prices
7 around 2000, public policy has shifted away from promoting increased gas consumption.
8 Instead, policymakers have stressed the importance of encouraging conservation in order
9 to reduce overall demand, and place downward pressure on skyrocketing gas prices.

10
11 One industry analyst described volumetric rate design as an obsolete anomaly in light of
12 recent changes in public policy towards conservation:

13
14 As the fixed charges appear year in and year out regardless of gas
15 usage, the volumetric approach to cost recovery for operating a gas
16 distribution system is a faulty equation which needs to be rectified in
17 ratemaking. It would appear therefore, that unless and until this anomaly
18 is corrected, the LDC would lack the necessary tools with which to earn
19 its allowed rate of return.¹

20 To the extent that conservation efforts affect volumes sold, and correspondingly, the
21 Company's non-gas commodity revenue recovery, the Company's current rate design has
22 the unintended consequence of pitting the Company's financial performance at odds with

¹ Moody's Investors Service Special Comment *Local Gas Distribution Companies: Update on Revenue Decoupling and Implications for Credit Ratings*, p. 4 (June 2006).

1 conservation efforts. The proposed CUA will decouple the revenues from the volumes of
2 gas consumed, and thus remove the disincentive the Company currently has to encourage
3 energy efficiency and conservation while at the same time stabilizing customers' bills.

4 **Q: What evidence exists to support this shift in policy towards conservation and away**
5 **from rate design which encourage increased gas sales?**

6 **A:** Numerous policy groups and government bodies have issued public statements on the
7 issue. The following list, while not exhaustive, outlines the most recent examples of such
8 public policy statements:

- 9 • In July 2004, the American Gas Association ("AGA") and the Natural Resources
10 Defense Council ("NRDC") issued a joint statement encouraging state
11 commissions to consider mechanisms to decouple the link between volumes sold
12 and revenues. A copy of the Joint Statement is attached as Exhibit PJC-1. The
13 Joint Statement states that "NRDC and AGA agree on the importance of state
14 Public Utility Commissions' consideration of innovative programs that encourage
15 total energy efficiency and conservation in ways that align the interests of state
16 regulators, natural gas utility company customers, utility shareholders, and other
17 stakeholders." The Joint Statement expressly recognizes the link between
18 conservation and controlling the rising costs of natural gas, and notes that if
19 companies, commissions and consumers work together to make natural gas
20 consumption more efficient, particularly on peak days, and reduce overall
21 demand, many experts believe we can put more downward pressure on natural gas
22 prices and decrease price volatility. The Joint Statement acknowledges that
23 decoupling mechanisms could have significant widespread benefits, including:

- Customers could save money by using less natural gas;
- Reduced overall use will help to push down short-term prices at times when markets are under stress, reducing costs for all customers (whether or not they participate in the utility program);
- Utilities would recover their costs and have a fair opportunity to earn their allowed return;
- State policies to encourage economic development could be enhanced by increased energy efficiency and lower business energy costs;
- State PUCs would be able to support larger state policy objectives as well as programs that reflect the public's desire to use energy efficiently and wisely.

The Joint Statement concludes that in "today's climate of rapidly changing natural gas prices, such reforms make good sense for consumers, shareholders, state governments, and the environment."

- Also in July 2004, prompted by the concerns cited in the Joint Statement, the National Association of Utility Regulators ("NARUC") issued a resolution encouraging regulators to approve decoupling mechanisms for the utilities they regulate. A copy of the Resolution is attached as Exhibit PJC-2. The 2004 NARUC Resolution states, in relevant part:

"WHEREAS, the Natural Resources Defense Council (NRDC), the American Gas Association (AGA) and the American Council for an Energy Efficient Economy (ACEEE) have urged public utility commissions to align the interests of consumers, utility shareholders, and

1 society as a whole by encouraging conservation. Among the mechanisms
2 supported by these groups are the use of automatic rate true-ups *to ensure*
3 *that a utility's opportunity to recover authorized fixed costs is not held*
4 *hostage to fluctuations in retail gas sales.*" (emphasis added)

- 5 • In November 2005, NARUC issued a second resolution which, citing record high
6 gas prices and damage suffered from Hurricanes Katrina and Rita, again
7 encouraged state commissions to "implement innovative rate designs that will
8 encourage energy conservation and energy efficiency that will assist in
9 moderating natural gas demand and reducing upward pressure on natural gas
10 prices." A copy of the 2005 NARUC Resolution is attached as Exhibit PJC-3.
- 11 • Congress has also weighed in on decoupling. The Energy Policy Act of 2005
12 requires the U.S. Department of Energy, in consultation with NARUC and the
13 National Association of State Energy Officials, to conduct a study of state and
14 regional policies to promote energy conservation. Under the Act, those policies
15 should consider methods of removing disincentives for gas and electric utilities to
16 implement energy efficient programs.
- 17 • Also at the national level, the U.S. Environmental Protection Agency's recently
18 begun Clean Energy Policy Initiative will review decoupling in terms of removing
19 disincentives for natural gas and electric utilities to promote energy efficiency.

20 **Q. How will the Customer Utilization Adjustment work with the WNA Rider?**

21 A. In general terms, whenever gas sales deviate, either up or down, from the level of sales
22 approved by the Authority in this docket to set rates, the CUA will adjust the Company's
23 rates either up or down to coincide with the level of sales revenue assumed in this docket.

1 Specifically, under the CUA, each year the total margin revenue collected from base rates
2 (margin revenue being the total revenue from sales, including WNA Rider collected or
3 refunded amounts, less gas costs), will be compared to the margin revenue that should
4 have been collected by Rate Schedules 210, 211, and 225 assuming the sales revenue had
5 been equal to the amounts set in this docket. Any over or under collection will be divided
6 by the forecasted twelve month volumes to determine the amount of the CUA needed to
7 refund (in the case of over collections) or collect (in the case of under collections).

8 **Q. Is the conservation adjustment to be “trued-up”?**

9 A. Yes. The calculation includes a cumulative “true-up” to ensure that the Company does
10 not over or under collect from the ratepayer. The true-up will work similar to the ACA
11 (actual cost adjustment) of the PGA (purchased gas adjustment).

12 **Q. Will the approval of the CUA guarantee that Atmos Energy will always earn its**
13 **allowed rate of return?**

14 A. No. As previously stated the CUA, like the WNA Rider, merely ensures that the
15 Company’s ability to recover the costs approved in this docket is not held hostage to
16 fluctuations in gas consumption which are entirely beyond the Company’s control. The
17 Company is still responsible for controlling its costs and remains subject to the overall
18 risks and uncertainties associated with doing business. The proposed CUA only
19 compensates the Company for lost sales revenues the Company has been authorized to
20 recover by this Authority. Approval of the CUA will give the Company the reasonable
21 opportunity to recover its TRA-authorized revenues, and nothing more. The CUA does
22 not increase rates above the TRA established revenue level.

23 **Q. Have other states adopted mechanisms to decouple revenues from volumes?**

1 A. Yes. In a recent Special Comment on decoupling, Moody's Investors Service concluded
2 that "[w]hile RD [revenue decoupling] may have originally begun as a regional concept
3 in certain jurisdictions, it has quickly become a nationwide phenomenon that will
4 challenge regulators and gas utilities alike, as they seek to correct a structural imbalance
5 in their rate design that has become increasingly difficult to ignore."² In addition to
6 WNA mechanisms, which have been in use since the 1980s, several states have approved
7 decoupling mechanisms for gas utilities. Pacific Gas and Electric in California was the
8 first gas utility to adopt a decoupling mechanism, starting in 1978. As of April 2006,
9 state commissions have approved decoupling mechanisms for 6 gas utilities, including:

- 10 • Atmos Energy Corporation in Mississippi and Louisiana
- 11 • Baltimore Gas and Electric in Maryland
- 12 • Washington Gas Light in Maryland
- 13 • Southwest Gas in California
- 14 • Northwest Natural in Oregon, and
- 15 • Piedmont Natural Gas in North Carolina.

16 In addition, as of early this year, at least 8 gas utilities have filed decoupling proposals,
17 including Chattanooga Gas' recently filed rate case before this Authority. Proposals in
18 other states include:

- 19 • Cascade Natural Gas (Washington)
- 20 • Puget Sound Energy (Washington)
- 21 • Questar Gas (Utah)

² Moody's Investors Service Special Comment *Local Gas Distribution Companies: Update on Revenue Decoupling and Implications for Credit Ratings*, p. 6 (June 2006).

- Citizens Gas and Coke Utility (Indiana)
- Vectren Energy Delivery (Indiana, Ohio)
- New Jersey Natural Gas (New Jersey)
- South Jersey Gas (New Jersey)

Many of the decoupling proposals have met with support from regulators. The decoupling proposal by Questar Gas has received the support of the Utah Division of Public Utilities, and Consumers' Counsel for the State of Ohio has come out publicly in support of decoupling, calling such mechanisms a "win-win" for utilities and consumers. The Iowa Utilities Board issued a Notice of Inquiry (NOI) in Docket No. NOI-06-01 into the effect of reduced usage on rate regulated gas utilities, and the Missouri Public Service Commission is currently evaluating the appropriateness of a customer usage variation rate adjustment.

Q: Have the decoupling mechanisms that have been implemented in other states been successful in producing positive benefits to companies and consumers?

A: Yes. Members of the Maryland Public Service Commission Staff have reported that the decoupling mechanism implemented for Baltimore Gas and Electric has fulfilled the regulatory objectives, including: (1) producing more stable revenues by eliminating attrition caused by declining usage; (2) reducing the volatility of gas bills; and (3) providing incentives for conservation, while at the same time remaining easy for the utility to administer and the commission staff to monitor. A 2005 study conducted for Northwest Natural Gas concluded that under its decoupling mechanism: (1) revenues had stabilized; (2) the company had shifted its focus from marketing to promoting energy efficiency; and (3) service quality did not decline.

1 **Q: How will the CUA benefit consumers?**

2 **A:** The CUA would permit the Company to aggressively promote conservation without
3 jeopardizing its recovery of authorized revenues. Conservation is the best interests of
4 consumers, as it will aid in lowering their gas bills. Due to the expedited nature of this
5 docket, the Company has not had the opportunity to solicit input from Authority Staff and
6 the Consumer Advocate to design a specific conservation plan proposal. However, the
7 Company would like to dedicate some portion of the CUA revenues to create a program
8 to assist customers in their effort to conserve natural gas use. For example, we could
9 craft a program with the assistance of the Authority Staff and the Consumer Advocate to
10 assist low-income weatherization efforts, or to create a rebate program to make higher
11 efficiency appliances more affordable, etc. As of the date of this filing, projected winter
12 well-head natural gas prices are in the range of \$9 per mmBtu. The rising natural gas
13 market prices in recent years are generally attributed to the strain for the nation's supply
14 to meet demands. While support for increased supplies is a part of the solution,
15 conservation is equally important. In addition, conservation is something an individual
16 can act upon and directly influence in their home or business. Subjecting the Company to
17 traditional rate design, through which fixed costs we incur are dependent on sustained
18 usage at current levels, particularly with the higher gas costs, would not create a
19 reasonable opportunity for the Company to achieve its authorized revenue requirements
20 to be set in the Docket. Failing to align the interests of the utility service provider with
21 its consumers efforts to conserve energy, in this price environment, would not be in the
22 best interest of the Tennessee ratepayers.

23 **Q: Can consumers see significant benefits from conservation?**

1 **A:** Yes. For example, a recent study by the American Council for an Energy-Efficient
2 Economy sponsored by a number of state agencies from the Midwest United States,
3 indicated that a 1% reduction in natural gas demand over a 5-year period in that region
4 could result in a 10 to 20 percent reduction in natural gas prices. That study also
5 indicated that the average residential customer in that region that participates in energy
6 efficiency measures could save up to \$44.52 per year, due to both reductions in that
7 consumer's consumption plus a conservative estimated 5% decrease in commodity costs
8 as a result of the regional participation in reducing energy demand.

9 **Q. Does the addition of the Correction Factor negate for affected customers the benefit**
10 **of any conservation measures that they are taking?**

11 **A.** No, it does not. Traditional rate design often allocates some portion of the Company's
12 authorized revenue requirement in the "per MCF" or volumetric billing determinant. Gas
13 costs, as delivered to the Atmos Energy system, obviously, are also billed on a per
14 volume-consumed basis. With winter gas cost levels projected at \$9.64 per mmBtu for
15 this winter and more than \$10 next winter, customers should be very motivated to avoid
16 consuming any volume unnecessarily. The Company, which merely passes through the
17 gas costs incurred dollar-for-dollar, would be pleased to fully support the customer's
18 efforts to avoid purchasing an MCF of gas; unfortunately, traditional rate design attaches
19 the large majority of our authorized revenue requirement on that same MCF conserved.
20 Of course, the Company's proposal to add the WNA CUA would eliminate the
21 dependence on volumes for our opportunity to achieve the authorized revenue
22 requirement. However, if the WNA CUA is approved, the customer's conservation effort
23 is still rewarded by avoiding the much larger commodity component – the gas cost itself.

1 Gas costs typically make up approximately 80% of customers' bills, with the distribution
2 charge comprising the remaining 20%. Customer conservation efforts are rewarded
3 through significant savings on the 80% gas cost portion.

4
5 The following example illustrates the point. Assuming the base distribution rate for
6 delivery to a residential customers is \$1.00 per therm and the customer buys a high-
7 efficiency furnace that reduces his consumption by 50 therms per year, saving him \$50
8 per year on his gas bill. Assuming that the CUA increases the base rate for all customers
9 by 2% to account for system-wide declining usage, the customer's conservation savings
10 would go from \$50 to \$47.70.

11 **Q. Why is the continuation of the WNA and the addition to the CUA good**
12 **regulatory policy?**

13 A. Continuation of the WNA, with approval of the CUA, is good regulatory policy because
14 it is in the best interest of both the ratepayers and Atmos Energy. It will benefit
15 ratepayers by adding stability to their annual energy bill. It can further benefit all
16 consumers, if through the proposed weatherization and educational programs to promote
17 efficiency and help reduce energy consumption. Atmos Energy will not be harmed
18 financially by such actions with the approval of the CUA. The CUA will benefit Atmos
19 Energy by providing the opportunity to collect each year the revenue required to recover
20 its costs and earn a fair return, regardless of fluctuations in sales due to weather and
21 conservation efforts. This will afford Atmos the ability to continually and consistently
22 make new investments, and provide safe and reliable service year after year at the level of
23 excellence ratepayers expect. I believe that, for the reasons stated above, and especially

1 in such times of uncertainty in our nation's energy environment, approval of this
2 conservation rider is good regulatory policy, and good for the State of Tennessee.

3 **IV. OVERALL RATE DESIGN CHANGES**

4 **Q. Please summarize the Company's proposals with regard to overall rate design.**

5 A. Due to the expedited nature of this proceeding, the Company is proposing relatively few
6 changes to the existing tariffs. The Company is proposing to redistribute normalized
7 revenue between the customer charges and the volumetric charges within each existing
8 rate schedule. The result is revenue neutral within the existing customer class or rate
9 schedules. The Company is proposing any additional change in revenue requirement
10 ordered by the TRA in this proceeding be proportionately distributed among the rate
11 schedules as an adjustment to the volumetric base charge. The Company is proposing to
12 increase the customer charge applicable to rate schedules 210 and 211 (residential and
13 public housing) from \$6 year round to \$12 per month during the winter period
14 (November – April) and \$9 per month during the summer period (May – September)
15 However, residential customers 65 or older meeting the threshold for low-income will be
16 exempt from the monthly customer charge. The Company's customer charges have not
17 changed since its last rate case filed in 1995 *and are well below the customer charges of*
18 *the other Tennessee regulated gas utilities.* The Company is proposing to increase the
19 customer charge for rate schedule 220 from \$12 per month to \$24 per month. Although
20 the Company has not prepared a cost of service study, these modest changes more
21 appropriately recover fixed cost. There are no changes being proposed in the customer
22 charges for the other rate schedules.

1 **Q. Is the Company proposing any changes to Rate Schedule 260, Transportation**
2 **Service.**

3 A. Yes. The Company is economically indifferent in revenues received by sales customers
4 eligible to switch to the transportation tariff. Although the Company is not proposing any
5 change in those rates, we are proposing to change terms and conditions within the
6 existing transportation tariff. The Company has previously shared its proposed changes
7 with the Tennessee Regulatory Staff but have yet to file an application for a tariff change
8 prior to this proceeding. Most of these changes, I would consider either housekeeping in
9 nature or beneficial to those customers eligible and electing to transport. Attached as
10 Exhibit PJC-4 is a copy of the revised transportation tariff. The changes that have been
11 made include:

- 12 • The addition of a definition of an MDQ
- 13 • The addition of a definition of an OFO
- 14 • The addition of a statement stipulating that daily nominations can not exceed
15 the MDQ
- 16 • The addition of an explanation clarifying the current procedures used to
17 calculate the monthly cash out.
- 18 • The addition of proposed daily scheduling fees for daily imbalances over 10%
- 19 • Additional language regarding OFO.
- 20 • Change in L&U from 12 month historical to a flat 2%.
- 21 • The addition of a pooling service which will allow a pool manage to aggregate
22 the volumes of customers in a pool.

1 **Q: Is the Company proposing any changes relative to its main and service line**
2 **extension policies and utility related charges?**

3 **A:** Yes. Currently, the company will run one foot of 2" main free of charge to a customer for
4 every one Mcf (thousand cubic feet) estimated to be used annually by the customer.
5 This practice stems from the average installation costs and the average customer
6 consumption of many years ago. Labor and material costs have increased substantially
7 since that time while the average annual consumption of all customers has continued to
8 decline at a steady rate. The Company proposes to eliminate any allowance of free
9 footage based strictly on consumption and replaces that method by requiring a feasibility
10 study for each and every project. The results of the feasibility study will guide the
11 company's investment decision in this regard. This will insure that the customer
12 requesting the service will pay, or otherwise justify, the cost to serve them as well as
13 eliminate the placement of the investment burden on existing customers and rate payers.

14 The main extension provisions contained in Revised Sheet Nos. 62 through 64
15 have been amended to read as follows;

16 "The cost to the customer(s) of any gas main extended by the
17 Company to supply new Customers will be based on the results of
18 an individual feasibility study, considering the required
19 investment, character and economic life of the load, and any other
20 appropriate information.

21 With regard to service related charges, the Company is also proposing an Activation
22 Charge in the amount of \$40.00 applicable to all Rate Schedules (210, 220, 221, 222, 230,
23 250, 260, 280, 292, and 293). The proposed charge will apply to all meter turn-ons at an
24 existing premise "location." No charge would apply for the initial, first time activation
25 for a home or business that has not had gas service previously, nor would the charge

1 apply to builders for activation of gas for new construction. This charge would also
2 apply to any situation where a reconnect is performed by the Company at a location
3 where gas service has been disconnected, i.e., such as reconnection due to delinquency or
4 reinitiating service at the request of the customer after being temporarily off for seasonal
5 reasons. Presently the charge for reconnection is \$25.00. There is currently an
6 additional reconnection charge for temporary discontinuance of service which allows the
7 Company to charge the monthly customer charge times the number of months of
8 discontinued service when service has been discontinued at the customer's request. The
9 current language addressing this charge in Section 5.2 has been deleted. In the proposed
10 tariff, the language in Section 5.3 has been amended to read as a \$40.00 charge as
11 opposed to the \$25.00 charge. The Company's proposal is easier to administer and
12 easier for the customer to understand than the current process. Customers requesting
13 that their service be temporarily disconnected will be informed of the fixed \$40.00 charge
14 at the time of their request. This charge does not apply when a transfer of service is
15 required and only a meter read is required as opposed to reconnection. The new
16 proposed charge in Section 5.3 for a meter read only is \$20.00.

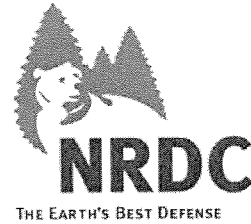
17 **Q. Are there any other proposals you would like to address?**

18 A. Yes. The Company in response to data requests has proposed that approximately 10
19 miles of bare steel be replaced each year. All cast iron in Tennessee has *already* been
20 replaced. The associated estimated cost of \$1,800,000 in response to MFR 52 has been
21 factored into the revenue requirement in this case. As an alternative and as a preference,
22 the Company is proposing that the actual replacement costs be determined annually and a
23 recovery mechanism (surcharge) collect those costs over the next 12 months with a

1 continuing true-up over the life of the program (proposed at 10 years). If this alternative
2 proposal is accepted by the Authority, this amount adjusted for taxes would be removed
3 from the revenue requirement set forth in this case.

4 **Q. Does this conclude your testimony?**

5 A. Yes.



Joint Statement of the American Gas Association and the Natural Resources Defense Council

Submitted to the National Association of Regulatory Utility Commissioners
July 2004

The American Gas Association (AGA) and the Natural Resources Defense Council (NRDC) recognize the many benefits of using clean-burning natural gas efficiently to provide high quality energy services in all sectors of the economy. This statement identifies ways to promote both economic and environmental progress by removing barriers to natural gas distribution companies' investments in urgently needed and cost-effective resources and infrastructure.

NRDC and AGA agree on the importance of state Public Utility Commissions' consideration of innovative programs that encourage increased total energy efficiency and conservation in ways that will align the interests of state regulators, natural gas utility company customers, utility shareholders, and other stakeholders. Cost-effective opportunities abound to improve the efficiency of buildings and equipment in ways that promote the interests of both individual customers and entire utility systems, while improving environmental quality. For example, when energy supply and delivery systems are under stress, even relatively modest reductions in use can yield significant additional cost savings for all customers by relieving strong upward pressures on short-term prices.

NRDC and AGA also encourage state Commissions to support gas distribution company efforts to manage volatility in energy prices and reduce volatility risks for customers.

The Energy Efficiency Problem: Regulated Natural Gas Utilities are Penalized for Aggressively Promoting Energy Efficiency

Local natural gas distribution companies (gas utilities) have very high fixed costs. These fixed costs include the costs of maintaining system safety and reliability throughout the year, staffing customer service telephone lines 24 hours a day and doing what it takes each day of the year to ensure the safe and reliable delivery of natural gas to homes, schools, hospitals, retailers, factories and other customers.

Natural gas utilities typically purchase natural gas on behalf of their customers, and pass through the cost without markup. This means that natural gas utilities do not

profit from their acquisitions of natural gas to serve customer needs. The profit (authorized level of rate of return) comes from the rates utilities charge for transporting the natural gas to customers' homes and businesses.

The vast majority of the non-commodity costs of running a gas distribution utility are fixed and do not vary significantly from month to month. However, traditional utility rates do not reflect this reality. Traditional utility rates are designed to capture most of approved revenue requirements for fixed costs through volumetric retail sales of natural gas, so that a utility can recover these costs fully only if its customers consume a certain minimum amount of natural gas (these amounts are normally calculated in rate cases and generally are based on what customers consumed in the past). Thus, many states' rate structures offer – quite unintentionally – a significant financial disincentive for natural gas utilities to aggressively encourage their customers to use less natural gas, such as by providing financial incentives and education to promote energy-efficiency and conservation techniques.

When customers use less natural gas, utility profitability almost always suffers, because recovery of fixed costs is reduced in proportion to the reduction in sales. Thus, conservation may prevent the utility from recovering its authorized fixed costs and earning its state-allowed rate of return. In this important respect, traditional utility rate practices fail to align the interests of utility shareholders with those of utility customers and society as a whole. This need not be the case. Public utility commissions should consider utility rate proposals and other innovative programs that reward utilities for encouraging conservation and managing customer bills to avoid certain negative impacts associated with colder-than-normal weather. There are a number of ways to do this, and NRDC and AGA join in supporting mechanisms that use modest automatic rate true-ups to ensure that a utility's opportunity to recover authorized fixed costs is not held hostage to fluctuations in retail gas sales.¹ We also support performance-based incentives designed to allow utilities to share in independently verified savings associated with cost-effective energy efficiency programs.

Many states' rate structures also place utilities at risk for variations in customer usage based on variations in weather from a normal pattern. This variation can be both positive and negative. Utilities' allowed rate of return is premised on the

¹For example, in 2003 the Oregon Public Utility Commission approved a "conservation tariff" for Northwest Natural Gas Company (NW Natural) "to break the link between an energy utility's sales and its profitability, so that the utility can assist its customers with energy efficiency without conflict." The conservation tariff seeks to do that by using modest periodic rate adjustments to "decouple" recovery of the utility's authorized fixed costs from unexpected fluctuations in retail sales. See Oregon PUC Order No. 02-634, *Stipulation Adopting Northwest Natural Gas Company Application for Public Purpose Funding and Distribution Margin Normalization* (Sept. 12, 2003). In California, PG&E and other gas utilities have a long tradition of investment in energy efficiency services, including those targeting low-income households, and the PUC is now considering further expansion of these investments along with the creation of performance-based incentives tied to verified net savings. California also pioneered the use of modest periodic true-ups in rates to break the linkage between utilities' financial health and their retail gas sales, and has now restored this policy in the aftermath of an ill-fated industry restructuring experiment. Thus, in March 2004, Southwest Gas Company received an order that authorizes it to establish a margin tracker that will balance actual margin revenues to authorized levels.

expectation that weather will be normal, on average, and that customer use of gas will maintain a predictable pattern going forward. Proposals by utilities to decouple revenues from both conservation-induced usage changes and variations in weather from normal have sometimes been characterized as attempts to reduce utilities' risk of earning their authorized return. The result of these rate reforms, in this regulatory view, should be a lowered authorized return. But reducing authorized returns would penalize utilities for socially beneficial advocacy and action, including efforts to create mechanisms that minimize the volatility of customer bills.

Our shared objective is to give utilities real incentives to encourage conservation and energy efficiency. With properly designed programs, the benefits could be significant and widespread:

- Customers could save money by using less natural gas;
- Reduced overall use will help push down short-term prices at times when markets are under stress, reducing costs for all customers (whether or not they participate in the utility programs);
- Utilities would recover their costs and have a fair opportunity to earn their allowed return;
- State policies to encourage economic development could be enhanced by increased energy efficiency and lower business energy costs;
- State PUCs would be able to support larger state policy objectives as well as programs that reflect the public's desire to use energy efficiently and wisely.

In today's climate of rapidly changing natural gas prices, such reforms make good sense for consumers, shareholders, state governments, and the environment.

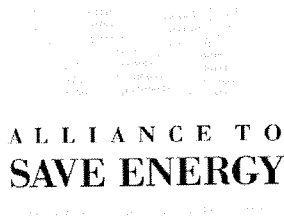
Natural Gas Consumers, Price Volatility and Resource Portfolio Management.

Another area of concern shared by NRDC and AGA is the impact of natural gas price volatility on natural gas consumers, which can be exacerbated by limited diversification of utilities' resource portfolios. Today many of the nation's natural gas utilities find themselves relying on short-term markets for most of their gas needs, with either the encouragement or the acquiescence of their regulators. During much of the 1990's this approach was typically advantageous to consumers, as the market price of natural gas was generally low and did not fluctuate dramatically. As wholesale natural gas prices have risen since 2000 and become more volatile, however, many utilities and commissions are reconsidering this emphasis on short-term market purchases.

While purchasing practices based on short-term supply contracts may offer consumers relatively low-cost natural gas, those consumers are also exposed to more volatile prices and natural gas bills that may rise and fall unpredictably. Public Utility Commissions should favorably consider gas distribution company proposals to manage volatility, such as through hedging, fixed-price contracts of various durations, energy-efficiency improvements in customers' buildings and equipment, and other measures designed to provide greater certainty about both supply

adequacy and price stability. Achieving these goals will sometimes require paying a premium over prevailing spot market prices. Like diversified investment portfolios that are designed to mitigate risk, prudent hedging plans should be encouraged as a way to help stabilize gas prices and ensure long-term access to affordable natural gas services.

This Joint Statement also has been reviewed and endorsed by:



Alliance to Save Energy



American Council for an Energy-Efficient Economy

Resolution on Gas and Electric Energy Efficiency

WHEREAS, The National Association of Regulatory Utility Commissioners (NARUC), at its July 2003 Summer Meetings, adopted a *Resolution on State Commission Responses to the Natural Gas Supply Situation* that encouraged State and Federal regulatory commissions to review and reconsider the level of support and incentives for existing gas and electric utility programs designed to promote and aggressively implement cost-effective conservation, energy efficiency, weatherization, and demand response in both gas and electricity markets; *and*

WHEREAS, The National Petroleum Council (NPC), in its September 25, 2003 report on *Balancing Natural Gas Policy – Fueling the Demands of a Growing Economy*, found that greater energy efficiency and conservation are vital near-term and long-term mechanisms for moderating price levels and reducing volatility and recommended all sectors of the economy work toward improving demand flexibility and efficiency; *and*

WHEREAS, The NPC, in its report, identified key elements of the effort to maintain and continue improvements in the efficient use of electricity and natural gas, including (but not limited to):

- (i) enhanced and expanded public education programs for energy conservation, efficiency, and weatherization,
- (ii) DOE identification of best practices utilized by States for low-income weatherization programs and to encourage nation-wide adoption of these practices,
- (iii) a review and upgrade of the energy efficiency standards for buildings and appliances (to reflect current technology and relevant life-cycle cost analyses) to ensure these standards remain valid under potentially higher energy prices
- (iv) promote the use of high-efficiency consumer products including advanced building materials, Energy Star appliances, energy “smart” metering and information control devices
- (v) on-peak electricity conservation to minimize the use of gas-fired electric generating plants,
- (vi) the use of combined-cycle gas-fired electric generating units instead of less-efficient gasfired boilers, and
- (vii) clear natural gas and power price signals; and
- (viii) remove regulatory and rate structure incentives to inefficient use of natural gas and electricity; and

WHEREAS, The NARUC, at its November 2003 annual convention, adopted a *Resolution Adopting Natural Gas Information “Toolkit”* which encouraged the NARUC Natural Gas Task Force, to review (among other things) the findings and recommendations in the NPC report that have regulatory implications for State

commissions for improving and promoting energy efficiency and conservation initiatives, including consumer outreach and education, review of regulatory throughput incentives; *and*

WHEREAS, The American Council for an Energy-Efficient Economy (“ACEEE”), in its December 2003 report on *Responding to the Natural Gas Crisis: America’s Best Natural Gas Energy Efficiency Programs*, (i) identified States and utilities with programs that many would consider best practice or model programs for all types of natural gas customers and all principal natural gas end-use technologies, and (ii) found that these programs are concentrated in relatively few States and regions and could be expanded in other parts of the country to great benefit; *and*

WHEREAS, the Natural Resources Defense Council (NRDC), the American Gas Association (AGA) and the ACEEE have recently adopted a Joint Statement noting that traditional rate structures often act as disincentives for natural gas utilities to aggressively encourage their customers to use less gas. Therefore, the NRDC, AGA, and the ACEEE have urged public utility commissions to align the interests of consumers, utility shareholders, and society as a whole by encouraging conservation. Among the mechanisms supported by these groups are the use of automatic rate true-ups to ensure that a utility’s opportunity to recover authorized fixed costs is not held hostage to fluctuations in retail gas sales; *now therefore be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners (NARUC), convened in its 2004 Summer Meetings in Salt Lake City, Utah, encourages State commissions and other policy makers to support the expansion of natural gas energy efficiency programs and electric energy efficiency programs, including those designed to promote consumer education, weatherization, and the use of high-efficiency appliances, where economic, and to address regulatory incentives to address inefficient use of gas and electricity; *and be it further*

RESOLVED, That the Board of Directors of the NARUC, encourages State and Federal policy makers to: (i) review and upgrade the energy efficiency standards for buildings and appliances, where economic, to ensure these standards remain valid under potentially higher energy prices, and (ii) promote the use of high-efficiency consumer products, where economic, including advanced building materials, Energy Star appliances, and energy “smart” metering and information control devices; *and be it further*

RESOLVED, That Board of Directors of NARUC encourages State Commissions to review and consider the recommendations contained in the enclosed *Joint Statement of the American Gas Association, the Natural Resources Defense Council, and the American Council for an Energy-Efficient Economy*; *and be it further*

RESOLVED, That the Board of Directors of the NARUC recognizes that the best approach towards promoting gas energy efficiency programs and electric energy efficiency programs for any single utility, State or region may likely depend on local issues, preferences and conditions.

Sponsored by the NARUC Natural Gas Task Force, Committee on Gas, Committee on Consumer Affairs, Committee on Electricity, and Committee on Energy Resources and the Environment

Adopted by the NARUC Board of Directors July 14, 2004

Resolution on Energy Efficiency and Innovative Rate Design

WHEREAS, The National Association of Regulatory Utility Commissioners (NARUC), at its July 2003 Summer Meetings, adopted a *Resolution on State Commission Responses to the Natural Gas Supply Situation* that encouraged State and Federal regulatory commissions to review the incentives for existing gas and electric utility programs designed to promote and aggressively implement cost-effective conservation, energy efficiency, weatherization, and demand response; *and*

WHEREAS, The NARUC at its November 2003 annual convention, adopted a *Resolution Adopting Natural Gas Information "Toolkit,"* which encouraged the NARUC Natural Gas Task Force to review the findings and recommendations of the September 23, 2003 report by the National Petroleum Council on *Balancing Natural Gas Policy – Fueling the Demands of a Growing Economy* and its recommendations for improving and promoting energy efficiency and conservation initiatives; *and*

WHEREAS, The NARUC at its 2004 Summer Meetings, adopted a *Resolution on Gas and Electric Energy Efficiency* encouraging State commissions and other policy makers to support expansion of energy efficiency programs, including consumer education, weatherization, and energy efficiency and to address regulatory incentives to inefficient use of gas and electricity; *and*

WHEREAS, These NARUC initiatives were prompted by the substantial increases in the price of natural gas in wholesale markets during the 2000-2003 period when compared to the more moderate prices that prevailed throughout the 1990s; *and*

WHEREAS, The wholesale natural gas prices of the last five years largely reflect the fact that the demand by consumers for natural gas has been growing steadily while, for a variety of reasons, the supply of natural gas has had difficulty keeping pace, leading to a situation where natural gas demand and supply are narrowly in balance and where even modest increases in demand produce sharp increases in price; *and*

WHEREAS, Hurricanes Katrina and Rita, in addition to damaging the States of Alabama, Mississippi, Louisiana, and Texas, significantly damaged the nation's onshore and offshore energy infrastructure, resulting in significant interruption in the production and delivery of both oil and natural gas in the Gulf Coast area; *and*

WHEREAS, The confluence of a tight balance of natural gas supply and demand and these natural disasters has driven natural gas prices in wholesale markets to unprecedented levels; *and*

WHEREAS, The present high and unprecedented level of natural gas prices are imposing significant burdens on the nation's natural gas consumers, whether residential, commercial, or industrial, and will likely be injurious to the nation's economy as a whole; *and*

WHEREAS, The recently enacted Energy Policy Act of 2005 contains a number of provisions aimed at encouraging further natural gas production in order to bring down prices for consumers,

but these actions, together with any further action on energy issues by Congress, are unlikely to bring forth additional supplies of natural gas in the short term; *and*

WHEREAS, Energy conservation and energy efficiency are, in the short term, the actions most likely to reduce upward pressure on natural gas prices and to assist in bringing energy prices down, to the benefit of all natural gas consumers; *and*

WHEREAS, Innovative rate designs including “energy efficient tariffs” and “decoupling tariffs” (such as those employed by Northwest Natural Gas in Oregon, Baltimore Gas & Electric and Washington Gas in Maryland, Southwest Gas in California, and Piedmont Natural Gas in North Carolina), “fixed-variable” rates (such as that employed by Northern States Power in North Dakota, and Atlanta Gas Light in Georgia), other options (such as that approved in Oklahoma for Oklahoma Natural Gas), and other innovative proposals and programs may assist, especially in the short term, in promoting energy efficiency and energy conservation and slowing the rate of demand growth of natural gas; *and*

WHEREAS, Current forms of rate design may tend to create a misalignment between the interests of natural gas utilities and their customers; *now therefore be it*

RESOLVED, That the National Association of Regulatory Utility Commissioners (NARUC), convened in its November 2005 Annual Convention in Indian Wells, California, encourages State commissions and other policy makers to review the rate designs they have previously approved to determine whether they should be reconsidered in order to implement innovative rate designs that will encourage energy conservation and energy efficiency that will assist in moderating natural gas demand and reducing upward pressure on natural gas prices; *and be it further*

RESOLVED, That NARUC recognizes that the best approach toward promoting energy efficiency programs for any utility, State, or region may likely depend on local issues, preferences, and conditions.

Sponsored by the Committee on Gas

Recommended by the NARUC Board of Directors November 15, 2005

Adopted by the NARUC November 16, 2005

TRANSPORTATION SERVICE

Schedule 260: All Service AreasA. Availability

This rate schedule provides for the transportation of gas received by the Company from the Connecting Pipeline Company for the Customer's account to that Customer's facilities. Service under this rate schedule is available to commercial and industrial customers using 100,000 Ccf or more per year. This rate schedule is offered as a companion to the customers existing sales rate schedule.

B. Definitions

For purposes hereof:

- (i) "Connecting Pipeline Company" means a pipeline supplier to the Company whose facilities in the sole judgment of the Company can be utilized to transport gas to the Company for delivery by the Company to the Customer under this rate schedule.
- (ii) "Transportation Imbalance" occurs when more or less gas is received by the Company from the Connecting Pipeline Company for the Customer's account, less the unaccounted for gas adjustment, than is delivered to that customer's facilities for the month.
- (iii) "PGA Rider" means the Company's Purchased Gas Adjustment Rider, as amended and approved by the Tennessee Regulatory Authority from time to time.
- (iv) "Maximum Daily Quantity" (MDQ) means the maximum daily volume of gas, as determined by the Company based on Customer's historical metered volumes, that a Customer under this Rate Schedule will be allowed to nominate and have delivered into the Company's system for the Customer's account.
- (v) "Operational Flow Order" (OFO) is any order from the Company or the Connecting Pipeline Company that requires transporter to hold to their daily allocated volumes, or any other pipeline directive, or any Company directive.

C. Terms and Provisions of Service Under This Rate Schedule

- (i) Except as expressly modified by the provisions of this rate schedule, all of the terms, provisions, and conditions of the rate schedule (as made effective by the Tennessee Regulatory Authority from time to time) applicable to Customer shall also apply to service by the Company to Customer under this rate schedule.
- (ii) The Customer must notify the Company on Company's standard form of the quantity of gas to be received by the Company from the Connecting Pipeline Company for the Customer's account during the billing month and the daily rate of delivery. This nomination must be received by the Company by the nomination deadline of the Connecting Pipeline Company for both first of the month nominations and mid-month changes. The quantity of gas received by the Company from the Connecting Pipeline Company for the Customer's account shall be based on the transportation nomination for that month. Adjustments will be made if the Connecting Pipeline Company's allocated volumes vary from the nominated volume. Daily nominations shall not exceed the Customer's Maximum Daily Quantity (MDQ).

C. Terms and Provisions of Service Under This Rate Schedule (Continued)

- (iii) The Customer is responsible for making all arrangements for transporting the gas from its source of supply to the Company's interconnection with the Connecting Pipeline Company unless other arrangements have been made between the Customer and the Company.
- (iv) The Customer shall warrant that they have good and legal title to all gas which Customer causes to be delivered into the Company's facilities and Customer shall hold the Company harmless from any loss or claim in regard to the same.
- (v) The Customer shall have the obligation to balance receipts of transportation gas by the Company at the Company's applicable Receipt Point(s) with deliveries of such gas by the Company to the Customer's Point of Delivery plus retention amounts pursuant to item (vi) below. Cash outs for Positive and Negative imbalances will be levied as described below.
 - (a) Imbalance equals the volume of gas received by the Company from the Connecting Pipeline Company for the Customer's account minus the volume of gas delivered to the Customer's Point of Delivery.
 - (b) Imbalance percentage equals the difference of the volume of gas received by the Company from the Connecting Pipeline Company for the Customer's account minus the volume of gas delivered to the Customer's Point of Delivery divided by the volume of gas received by the Company from the Connecting Pipeline Company for the Customer's account.
 - (c) Cash out of Monthly Imbalances
 - 1. If the volume of gas delivered to the Customer's point of delivery is greater than the volume of gas received by the Company from the Connecting Pipeline Company for the Customer's account (negative imbalance), the Company will sell the difference in gas volumes to the Customer based on the highest index price for the respective Connecting Pipeline Company for any week beginning in the calendar month as published in *Natural Gas Week*, plus applicable pipeline fuel and transportation charges. If the volume of gas delivered to the Customer's point of delivery is less than the volume of gas received by the Company from the Connecting Pipeline Company for the Customer's account (positive imbalance), the Company will buy the difference in gas volumes from the Customer based on a price equal to the lowest index price for the respective Connecting Pipeline Company for any week beginning in the calendar month as published in *Natural Gas Week*, plus applicable pipeline fuel and transportation charges.
 - 2. The monthly cash out bill will be based on the accumulated sum of the results of the formulas listed below such that and until the total monthly imbalance is fully accounted for:

<u>% of Imbalance</u>	<u>Cash out Price</u>	
	<u>for Positive Imbalances</u>	<u>for Negative Imbalances</u>
0% up to 5%	100%	100%
5% up to 10%	85%	115%
10% up to 15%	70%	130%
15% up to 20%	60%	140%
20% and over	50%	150%

(d) Daily Scheduling Fees

The Company may assess a daily scheduling fee for any daily transportation imbalance in excess of 10% of the Customer's daily confirmed nomination. The fee will be calculated as follows:

$$([\text{annual storage demand charges}/\text{MDWQ}]/365) + (\text{annual storage capacity charges}/\text{total capacity}) + \text{average injection and withdrawal costs.}$$

Costs for all storages used in providing for balancing will be included.

Customers' agents shall be allowed to aggregate their customers' usages and the daily scheduling fee will be applied to the aggregated volume of the pool, pursuant to the Pooling Service in Section E

(e) Operational Flow Orders (OFO)

1. Company will have the right to issue an Operational Flow Order that will require actions by the Customer to alleviate conditions that, in the sole judgment of the Company, jeopardize the operational integrity of Company's system required to maintain system reliability. Customer shall be responsible for complying with the directives set forth in the OFO.
2. Upon issuance of an OFO, the Company will direct Customer to comply with one of the following conditions:
 - a. Customer must take delivery of an amount of natural gas from the Company that is no more than the hourly or daily amount being received by the Company from the Connecting Pipeline Company for the Customer's account. All volumes delivered to the Customer in excess of volumes received by the Company from the Connecting Pipeline Company for the Customer's account, that are in violation of the above condition, with the exception of a 5% daily tolerance, shall constitute an unauthorized overrun by Customer on the Company's system. Customer shall be charged a penalty of \$25.00 per dth, plus the Gas Daily Index price for the respective Connecting Pipeline Company for such unauthorized overruns during the OFO, or
 - b. Customer must take delivery of an amount of natural gas from the Company that is no less than the hourly or daily amount being received by the Company from the Connecting Pipeline Company for the Customer's account. All volumes delivered to the Customer which are less than volumes received by the Company from the Connecting Pipeline Company for the Customer's account, that are in violation of the above condition, with the exception of a 5% daily tolerance, shall constitute an unauthorized delivery by Customer to Company. Customer shall be charged a penalty of \$25.00 per dth for such unauthorized deliveries to Company's system.
3. Any penalties charged due to unauthorized overruns or deliveries during an OFO will be in addition to any cash out charges described in Subsection C(v)(c) above.

- (f) The Company may charge the Customer for any daily or monthly overrun penalties assessed to the company, which are applicable to the Customer, by the Connecting Pipeline Company.
- (g) Customers' agents shall be allowed to aggregate their customers' usages for the purposes of balancing, pursuant to the Pooling Service in Section E.
- (vi) A percentage adjustment for lost and unaccounted for gas shall be made to the volumes of gas received by the Company from the Connecting Pipeline Company for the Customer's account, and the volumes of gas deliverable to the Customer under this rate schedule shall be reduced by such percentage. The adjustment shall be equal to two percent (2%) of the volume of gas delivered into the Company's facilities.
- (vii) If the rendition of service to Customer under this rate schedule causes the Company to incur additional charges from the Connecting Pipeline Company, Customer shall reimburse Company for all such charges.
- (viii) All volumes transported under the terms of this rate schedule shall be included in the Purchased Gas Adjustment computations and included in the sales volumes of the Purchased Gas Adjustment computations.
- (ix) The Customers served under this Rate Schedule shall be required to pay for the cost of, installation of, replacement of, and maintenance of measurement data collection and verification equipment, including applicable income taxes. Customers shall also be required to pay the cost of installation, maintenance and any monthly usage charges associated with dedicated telephone, power or other utilities or energy sources required for the operation of the data collection and verification equipment, including applicable income taxes. Customers shall also be required to provide adequate space in new or existing facilities for the installation of the data collection equipment.
- (x) Once a customer elects and has qualified for service under this rate schedule, all services will be provided under the terms and conditions of this rate schedule for a term of no less than 12 months. At any time following the first six months of service under this rate schedule, service may be terminated by either party following at least six months written notice to the other party. After termination of this service, Customer may not re-elect for transportation service for a period of no less than 12 months after termination.

D. Rate

Customer Charge

A monthly customer charge of \$310.00 per meter is payable regardless of the usage of gas.

Monthly Demand Charge

The Customers eligible to receive service under companion Rate Schedule 240 shall be billed the applicable Monthly Demand Charge.

Monthly Rate

The Customer shall be billed for the quantity of gas delivered under this rate schedule at the monthly rate of the companion rate schedule, plus any applicable taxes or fees.

Minimum Bill

The minimum monthly bill shall be the Customer Charge plus the Monthly Demand Charge, if any, as described above.

E. Pooling Service

- (i) For the purpose of this section, A Pool Manager is defined as an entity which has been appointed by a customer or group of customers served under this rate schedule to perform the functions and responsibilities of requesting information, nominating supply, and other related duties. The Pool Manager shall have all of the rights under this Transportation Service as does a Customer transporting gas supply directly under this Transportation Service.
- (ii) The Pool Manager will be responsible for arranging for volumes of transportation gas to meet the daily and monthly requirements of customers in the pool. The cash out provisions and daily scheduling provisions of Subsection C (v) shall be applied against the aggregate volume of all customers in a specific pool. The Pool Manager will be responsible for the payment of any monthly cash out payments, scheduling fees and any penalties incurred by a specific pool as a result of monthly, daily, or hourly imbalances.
- (iii) The Company, at the Company's sole discretion, shall establish pooling areas by Connecting Pipeline, Pipeline zone, Company receipt point, geographic area, operational area, administrative or other appropriate parameters.
- (iv) No customer shall participate in a Pool that does not individually meet the availability conditions of this rate schedule, and no customer shall participate in more than one pool concurrently.
- (v) To receive service hereunder, the Pool Manager shall enter into a Pool Management Agreement with Company and shall submit an Agency Authorization Form for each member of the pool, signed by both Customer and its Pool Manager.
- (vi) The Pool Manager shall submit a signed Pool Management Agreement and an Agency Authorization Form for each member of the pool at least 30 days prior to the beginning of a billing period when service under this rate schedule shall commence. A customer who terminates service under this rate schedule or who desires to change Pool Managers shall likewise provide Company with a written notice at least 30 days prior to the end of a billing period.
- (vii) The Pool Manager shall upon request of the Company agree to maintain a cash deposit, a surety bond, an irrevocable letter of credit, or such other financial instrument satisfactory to Company in order to assure the Pool Manager's performance of its obligations under the Pool Management Agreement. In determining the level of the deposit, bond, or other surety to be required of the Pool Manager, the Company shall consider such factors, including , but not limited to, the following: the volume of natural gas to be transported on behalf of the Pool members, the general credit worthiness of the Pool Manager, and the Pool Managers prior credit record with the Company, if any. In the event that the Pool Manager defaults on its obligations under this rate schedule or the Pool Management Agreement, the company shall have the right to use such cash deposit, or proceeds from such bond, irrevocable letter of credit, or other financial instrument to satisfy the Pool Manager's obligation hereunder. Specific terms and conditions regarding credit requirements shall be included in the Pool Management Agreement. Such credit requirements shall be administered by the Company in

a non-discriminatory manner, and such credit requirements may change as the requirements of the pool change.

- (viii) The Pool Manager shall notify the Company in writing of any changes in the composition of the pool at least 30 days prior to the beginning of the first billing period that would apply to the modified pool.
- (ix) The Pool Management Agreement will be terminated by the Company upon 30 days written notice if a Pool Manager fails to meet any condition of this rate schedule. The Pool Management Agreement will also be terminated by the Company upon 30 days written notice if the Pool Manager has payments in arrears. Written notice of termination of the Pool Management Agreement shall be provided both to the Pool Manager and to the individual members of the pool by the Company.
- (x) Company shall directly bill the Pool Manager for the monthly cash out charges, penalties, or other payments contained in this rate schedule. The monthly bill will be due and payable on the date it is issued. A charge of five percent (5%) may be added to the amount of any bill remaining unpaid at the close of the first business day after fifteen (15) days following such date of issue.
- (xi) Company shall directly bill the individual customers in the pool for all Customer Charges, Demand Charges, and Commodity Charges as provided for in either this rate schedule or its companion rate schedule.