JOHN N. HUGHES
ATTORNEY AT LAW
PROFESSIONAL SERVICE CORPORATION
124 WEST TODD STREET
FRANKFORT, KENTUCKY 40601

TELEPHONE: (502) 227-7270 JNHUGHES@JOHNNHUGHESPSC.COM

March 4, 2016

James Gardner
Acting Executive Director
Public Service Commission
211 Sower Blvd.
Frankfort, KY 40601

Re: Atmos Energy Corporation
Case No. 2016-00070

Dear Mr. Gardner:

Atmos Energy Corporation submits the responses to the Office of the Attorney General's First Data Requests. I certify that the electronic documents are true and correct copies of the original documents.

If you have any questions about this filing, please contact me.

Submitted By:

Mark R. Hutchinson
Wilson, Hutchinson and Littlepage
611 Frederica St.
Owensboro, KY 42301
270 926 5011
randy@whplawfirm.com

And

John N. Hughes

John N. Hughes
124 West Todd St.
Frankfort, KY 40601
Phone: 502 227 7270
jnhughes@johnnhughespsc.com

Attorneys for Atmos Energy Corporation

AFFIDAVIT

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF AN INVESTIGATION OF AN INCREASE IN R & D RIDER PROPOSED BY ATMOS ENERGY	))))	Case No. 2016-00070

AFFIDAVIT

The Affiant, Mark A. Martin, being duly sworn, deposes and states that the attached responses to the Office of the Attorney General's first request for information are true and correct to the best of his knowledge and belief.

Mark A. Martin

Mark A. Martin

STATE OF KENTUCKY

COUNTY OF DAVIESS

SUBSCRIBED AND SWORN to before me by Mark A. Martin on this the 1st day of March, 2016.

PEARL ANN SIMON
NOTARY PUBLIC
KENTUCKY, STATE AT LARGE
MY COMMISSION EXPIRES 09-26-17
NOTARY ID 496385

Pearl Ann Simon

Notary Public - State of KY at Large

My Commission Expires: Sept. 26, 2017

Notary ID: 496385

REQUEST:

With regard to Mark A. Martin's discussion of the R&D surcharge at Page 13, Lines 14 and 15 of his Direct Testimony, please provide the data, analyses, etc. supporting the Company's claim that by 2004 the R&D charge "should have equaled $0.0174 per Mcf".

RESPONSE:

The R&D unit charge was developed in 1999. The corresponding phase-in of the R&D unit charge was calculated in 1999 as well. Unfortunately, the Company is having difficulty in finding records and analyses from 1999. Please see Attachment 1 for a memo that outlines what the rates should have been for each year after implementation.

ATTACHMENT:

ATTACHMENT 1 - Atmos Energy Corporation, AG_1-01_Att1 - WKG Rider for GRI.pdf, 1 Page.

Respondent: Mark Martin

WESTERN KENTUCKY GAS COMPANY

GAS RESEARCH INSTITUTE R & D UNIT CHARGE TRANSPORTATION RIDER

APPLICATION: This Transportation Rider applies system wide to billings for all gas transported by Western Kentucky Gas Company under all of its existing tariffs.

UNIT CHARGE: The Gas Research Institute R & D Unit Charge will be calculated by deducting the present Gas Research Institute R & D contributions required to be paid by applicable Federal Energy Regulatory Commission regulations from the 1998 authorized surcharge of 1.74 cents per dth. For the year 1999, this would amount to .23 cents per dth. The Unit Charge will be increased to .36 cents per dth in 2000, .74 cents per dth in 2001, 1.04 cents per dth in 2002, 1.18 cents per dth in 2003 and 1.74 cents per dth in 2004 and following years.

REMITTANCE OF FUNDS: All funds collected under this Transportation Rider will be remitted to Gas Research Institute on a monthly basis. The amounts so remitted shall be reported to the Commission at the time payments are made.

REPORTS TO THE COMMISSION: A statement setting forth the manner in which the funds remitted have been invested in research and development will be filed with the Commission on an annual basis.

TERMINATION OF TRANSPORTATION RIDER: Participation in the Gas Research Institute R & D program is voluntary on the part of Western Kentucky Gas Company. This Transportation Rider may be terminated at any time by Western Kentucky Gas Company by the filing of a notice of recission with the Commission.

REQUEST:

Company Witness Mr. Martin discusses funds collected by the Company from the R&D Rider at Page 15, Lines l through 7 of his Direct Testimony. Please provide the following regarding this discussion of the R&D Rider:

a) the reasons for the remittance of the R&D Rider funds only to the Gas Technology Institute ("GTI") by the Company; and,

b) Atmos Kentucky's annual payment to each trade and/or research organization (including GTI) for each of the last five years.

RESPONSE:

a) The Company only remits R&D funds to GTI due to the work products and reputation of GTI. Also, the Company is not aware of another organization that offers similar research.

b) The Atmos-Kentucky operations contributed the following amounts by calendar year to Gas Technology Institute (GTI). GTI is the only research organization that receives contributions from Atmos-Kentucky.

2011	$58,817.22
2012	$60,922.15
2013	$59,252.09
2014	$66,503.94
2015	$62,672.12

Respondent: Mark Martin

REQUEST:

Please provide the amount of annual GTI payments made by Atmos Corporate or its service company during each of the last five years.

RESPONSE:

Below are the annual payments made by Atmos Energy Corporation to GTI over the last five years:

2011	$884,253.72
2012	$1,032,290.65
2013	$1,075,785.09
2014	$1,115,097.44
2015	$1,350,818.12

Respondent: Mark Martin

REQUEST:

Please provide the amount of annual GTI payments made by each Atmos affiliate or division during each of the last five years.

RESPONSE:

Please see Attachment 1.

ATTACHMENT:

ATTACHMENT 1 - Atmos Energy Corporation, AG_1-04_Att1 - GTI payments by Division.xlsx, 1 Page.

Respondent: Mark Martin

Atmos Energy Corporation
GTI Payments by Division

	Kentucky	Virginia	Mid-Tex	Mississippi	Illinois	West Texas	Louisiana	Shared Services	Total
2011	58,817	109,000	100,000	250,000	40,000	20,000	306,437	0	884,254
2012	60,922	109,000	225,000	250,000	40,000	40,000	307,369		1,032,291
2013	59,252	109,000	225,000	350,000	0	0	307,533	25,000	1,075,785
2014	66,504	109,000	200,000	350,000	0	80,000	309,594		1,115,097
2015	62,672	109,000	200,000	600,000	0	40,000	319,146	20,000	1,350,818
Total	308,168	545,000	950,000	1,800,000	80,000	180,000	1,550,078	45,000	5,458,245

REQUEST:

Please provide a copy of all invoices from GTl to Atmos Kentucky for each of the last five years.

RESPONSE:

Atmos-Kentucky does not receive invoices from GTI, and payment to GTI is generated by a check request from the Company to GTI.

Respondent: Mark Martin

REQUEST:

Please provide the total annual Mcf throughput for each affiliate or division in which GTI payments have been made during each of the last five years.

RESPONSE:

Please see Attachment 1.

ATTACHMENT:

ATTACHMENT 1 - Atmos Energy Corporation, AG_1-06_Att1 - Throughput.xlsx, 1 Page.

Respondent: Mark Martin

Atmos Energy Corporation

Income Statements

Total Year

		Fiscal 2011	Fiscal 2012	Fiscal 2013	Fiscal 2014	Fiscal 2015
Louisiana Div - 020COM	Total Gas Volumes	21,386,871	17,939,944	19,931,664	24,205,152	22,053,707
	Transportation Volumes	5,892,877	5,724,628	6,522,514	7,280,404	7,559,210
	Total Operating Volumes	**27,279,748**	**23,664,572**	**26,454,178**	**31,485,556**	**29,612,917**
West Texas Div - 030COM	Total Gas Volumes	30,613,867	30,643,791	30,599,675	31,350,151	30,031,085
	Transportation Volumes	24,161,624	21,637,771	19,816,372	25,047,871	25,215,077
	Total Operating Volumes	**54,775,492**	**52,281,562**	**50,416,047**	**56,398,022**	**55,246,162**
Kentucky Division - 009DIV	Total Gas Volumes	17,624,098	14,003,513	17,131,136	19,571,708	18,367,628
	Transportation Volumes	25,979,181	25,934,024	27,401,228	28,808,481	30,207,541
	Total Operating Volumes	**43,603,279**	**39,937,537**	**44,532,364**	**48,380,189**	**48,575,169**
Virginia Division - 096DIV	Total Gas Volumes	5,141,408	3,731,642	3,634,953	3,771,534	3,696,722
	Transportation Volumes	1,981,483	2,792,534	3,678,296	3,650,694	3,879,674
	Total Operating Volumes	**7,122,891**	**6,524,176**	**7,313,250**	**7,422,228**	**7,576,396**
Illinois Division - 092DIV	Total Gas Volumes	2,397,586	1,820,718	-	-	-
	Transportation Volumes	765,492	518,809	-	-	-
	Total Operating Volumes	**3,163,078**	**2,339,527**	**-**	**-**	**-**
Mid-Tex Div - 080COM	Total Gas Volumes	130,236,418	118,712,941	127,599,534	161,180,552	148,471,490
	Transportation Volumes	46,594,096	48,970,160	48,533,485	51,688,543	50,108,284
	Total Operating Volumes	**176,830,514**	**167,683,101**	**176,133,019**	**212,869,095**	**198,579,774**
Mississippi Division - 070COM	Total Gas Volumes	29,947,574	25,237,618	29,551,049	33,422,256	30,416,478
	Transportation Volumes	5,237,539	6,139,908	6,781,390	6,998,222	6,669,598
	Total Operating Volumes	**35,185,113**	**31,377,526**	**36,332,438**	**40,420,477**	**37,086,076**

REQUEST:

Please explain why it is appropriate to collect this one expense in a rider as opposed to incorporating any appropriate level within base rates.

RESPONSE:

The Company has experience with both options and it really depends on the preference of the regulator. The Company's R&D Rider was approved in Case No. 99-070. The Company is not aware of any opposition from any party since implementation.

Respondent: Mark Martin

REQUEST:

Refer to page 14 line 21 though page 15 line I of Mr. Martin's Direct Testimony wherein he asks himself the question: "Does the proposed R&D unit charge increase create additional revenues for the Company?" and then answers that question with "No."

a. Please confirm that the proposed increase in the R&D unit charge will result in increased revenues even though the Company plans to remit the increase in revenues to GTI.

b. Please confirm that the Company's funding to GTI or a similar research organization is discretionary, i.e., there is no contractual or other obligation to increase funding to GTI compared to the amount presently recovered through the R&D rider.

RESPONSE:

a) Any funds collected through the R&D Rider are not booked as revenue to the Company. The proposed increase in the R&D unit charge is purely to match the spirit of the Order in Case No. 99-070, which was for the R&D unit charge to be $0.0174/Mcf by 2004.

b) The Company's participation in a R&D funding program is purely voluntary. While there is no contract between the Company and GTI or a similar research organization, the initial goal of the R&D Rider was to mimic the contributions made by the interstate pipelines. The Company's R&D unit charge should have increased annually from 1999 to 2004. While one could argue that the Company's proposed R&D unit charge, which could have been billed and collected annually since 2004, is somewhat stale, the Company is purely seeking to increase its R&D unit charge to a previously approved level.

Respondent: Mark Martin

REQUEST:

Please refer to Mr. Martin's Direct Testimony starting at page 13, wherein he discusses the proposed increase in the R&D rider surcharge and payments remitted to the Gas Technology Institute ("GTI").

a. Please provide the quantification of the proposed increase showing the increases attributable to each year until the 2004 level as described in the testimony.

b. At page 14, lines 10-13, Mr. Martin states that "Upon investigating what the Company annually contributes to GTI on a company-wide base, it appeared the portion related to Kentucky was quite low." Please provide a copy of the investigation results and provide the annual amount contributed to GTI by the Company segregated by area or division and in total. If portions related to any areas or divisions are zero, please so designate.

RESPONSE:

a) Please see the Company's response to AG DR No. 1-01.

b) A Company employee was collecting data on what the Company annually remits to GTI. During this process, a question was raised in regards to the amount associated with Kentucky as it appeared quite low. After further review, it was determined that the Company's R&D unit charge had not been changed since inception. Below are the amounts remitted to GTI by the Company by state for calendar year 2015. The $20,000 listed in 2015 for Shared Services in the Company's response to AG DR No. 1-04 is included with the amount for Texas - Mid-Tex for purposes of this response.

State	Amount
Colorado	$0
Kansas	$0
Kentucky	$62,672
Louisiana	$319,146
Mississippi	$600,000
Tennessee	$0
Texas - Mid-Tex	$220,000
Texas - West Texas	$40,000
Virginia	$109,000
Total	$1,350,818

Respondent: Mark Martin

REQUEST:

Please confirm whether additional revenue or cost reductions were added to the Company's filing related to results of GTI's research and development efforts. If so, then please identify and quantify all such revenues and/or cost reductions and provide all workpapers and a copy of all supporting documentation.

RESPONSE:

The Company did not include any additional revenue or cost reduction to its filing related to results of GTI's research and development efforts.

Respondent: Mark Martin

REQUEST:

Please provide a copy of the order approving the Company's R&D Rider in Case No. 99070.

RESPONSE:

Please see Attachment 1.

ATTACHMENT:

ATTACHMENT 1 - Atmos Energy Corporation, AG_1-11_Att1 - WKG Order 99-070.pdf, 9 Pages.

Respondent: Mark Martin

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF WESTERN KENTUCKY GAS COMPANY FOR AN ADJUSTMENT OF RATES	)))	CASE NO. 99-070

ORDER

On June 23, 1999, Western Kentucky Gas Company (Western), a division of Atmos Energy Corporation, filed a general rate application based on a forecasted test year ending December 31, 2000. Western proposed an increase in revenues of $14,127,666, an increase of approximately 11.7 percent over its existing revenues.

To determine the reasonableness of the request, the Commission suspended the proposed rates for six months from their effective date pursuant to KRS 278.190(2) up to and including January 23, 2000. The Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention, and WBI Southern, Inc. (WBI) intervened. The Commission established a procedural schedule that afforded all parties the opportunity to file direct testimony and engage in discovery.

On December 3, 1999, the parties filed a Joint Stipulation and Settlement (Settlement) resolving, to their satisfaction, the issues in this case. The Settlement is attached as Appendix A. On December 6, 1999, the Commission ordered the parties to file evidence in support of the reasonableness of the Settlement. The parties filed their responses to this Order on December 9, 1999. After review of the Settlement, direct testimony, extensive discovery and the information submitted by the parties to support the settlement, the Commission determined the record to be sufficient to render a decision and cancelled the hearing on Western s rate application scheduled to begin on December 14, 1999.

The parties agree that the Settlement is for the purposes of this case only and shall not be binding on the parties in any other proceeding before this Commission or in any court and shall not be offered or relied upon in any other proceeding involving Western or any other utility regulated by this Commission.

The parties urge the Commission to review and accept the Settlement in its entirety as a reasonable resolution of the issues in this proceeding. While the overall reasonableness of the Settlement is an important factor, the Commission is bound by law to act in the public interest and review all elements of the Settlement. In determining whether the results of the Settlement are in the public interest and beneficial to the ratepayers, the Commission considered the fact that the Settlement is a unanimous agreement of the parties.

After review of the Settlement, an examination of the record, and being otherwise sufficiently advised, the Commission finds that the Settlement is generally reasonable, but that certain modifications should be made. Although acceptance of the Settlement is conditioned on certain modifications, the modifications described herein should not significantly affect the agreement.

The following is a synopsis of the terms of the Settlement and together with comments and descriptions of modifications the Commission finds necessary.

1. The parties agree that Western will receive additional annual revenues of approximately $9,940,000, an overall revenue increase of 8.24 percent. The rate

increase will be effective December 15, 1999 and will be allocated among Western s customer classes as follows:

Residential	$ 6,238,259
Commercial	2,385,006
Industrial	901,580
Other revenues	415,089

In determining the overall reasonableness of the proposed increase in annual revenues, the Commission has evaluated all revenue and expense adjustments proposed by Western in light of its traditional rate-making treatment. In addition, it has considered the current economic conditions and the rates of return on common equity that have been authorized in recent cases. Based on a review of all these factors and the evidence of record, the Commission finds that the $9,940,000 revenue increase will result in earnings that fall within a range reasonable to both Western and its customers and result in rates that are fair, just and reasonable. The Commission finds the rates included in Exhibit A of the Settlement, which is attached as Appendix B of this Order, to be fair, just and reasonable. However, we find the effective date of the rates agreed to by the parties of December 15, 1999 to be untenable. Therefore, the effective date of the rates should be for services rendered on and after the date of this Order.

2. Western will recover its demand side management program expenses prospectively for three years beginning in January 2000.

3. Western will adjust and establish certain non-recurring charges, including a new late payment charge of 5 percent applicable to all customers served under Rate G-1 that fail to pay for services by the due date shown on their bill. Western will implement this late payment charge in April of 2000. This will provide Western sufficient time to educate its customers on this new provision. The Commission finds that, in order

for it to be familiar with Western s education program and be better prepared to respond to possible customer inquiries, all educational materials should be submitted to the Commission at the same time they are disseminated to Western s customers.

4. Western will implement, as a pilot program for a period of five years, the weather normalization adjustment (WNA) tariff included in its application, commencing November 1, 2000. Under the terms of the Settlement, Western will submit a monthly report to the Commission summarizing the effect of its WNA on customer bills by cycle for each customer class as well as actual and normal degree days and the number of days in a normal cycle. In addition Western will report a WNA factor and actual total revenues for each cycle.

The Commission finds that a greater amount of information than Western proposes to file on the WNA is necessary, but finds that annual reports, rather than monthly reports, should be filed. Western should file annual reports on the WNA, including the information set out in Appendix C, as soon after each heating season as possible but no later than June 30th of the following summer.

The Commission finds that the commencement date of November 1, 2000 affords Western an opportunity to educate its customers on this new provision and that Western should prepare and disseminate information on this new provision to its customers no later than 90 days prior to the implementation. The Commission further finds that all educational materials and information disseminated by Western to its customers on the WNA should be filed with the Commission for the same reasons enumerated above in Paragraph 3.

Should Western wish to continue the WNA pilot beyond the five year period or implement the WNA on a permanent basis, Western should make such a request in the form of a formal application to be submitted to the Commission when it files its annual WNA report in June 2005.

5. Western will adjust its base customer charges as follows: (1) the residential customer charge will increase from \$5.10 to \$7.50; (2) the commercial customer charge will increase from \$13.60 to \$20.00; and (3) the industrial customer charge will increase from \$150.00 to \$220.00.

6. Western will implement the industrial margin loss recovery (MLR) mechanism proposed in its application with one modification. Per the terms of the Settlement the parties agree on a 50-50 sharing of the lost revenue between shareholders and residential customers rather than the originally proposed sharing ratio of 10-90. Western will make semi-annual filings with the Commission, in January and July, that reflect the discounts implemented during the six months ended November and May, respectively.

The Commission finds that this proposal is one of first impression before this Commission and, as such, should be implemented as a pilot for a period of three years. Western should file semi-annual reports on the MLR with the Commission as agreed to in the Settlement with the first report filed in July 2000 reflecting all discounts implemented from the date of this Order through May of 2000. Should Western wish to continue the MLR pilot beyond the three year period or implement the MLR on a permanent basis, Western should make such a request in the form of a formal application to be submitted to the Commission when it makes its semi-annual MLR filing in July 2003.

The Commission finds that there is an unintended discrepancy between the text of the Settlement and the MLR tariff as to the applicability of the 50-50 sharing of lost revenues. Per the MLR tariff attached to the Settlement the 50-50 sharing of lost revenues is to be between the shareholders and all G-1, G-2, LVS-1 and LVS-2 customers. The proposed MLR tariff in Western s application also identified these rate classes as the classes that were to share in the lost revenues. The sharing of lost revenues is approved to apply to all customers served under these rate schedules, as stated in the tariff at Tariff Sheet 29L, not to residential customers only.

7. Western will separate its gas cost from base rates by bifurcating its commodity charge into a distribution charge and a gas charge. However, the parties agree that Western is not bound by this provision in future cases.

8. Western will begin filing its gas cost adjustment on a quarterly basis beginning with the first quarter following the Commission s ruling on the Settlement.

9. Western will begin collecting a Gas Research Institute research and development surcharge.

10. Western will modify its proposal on the Alternative Receipt Point T-5 Tariff. It will change the net monthly rate of $0.10 per Mcf it originally proposed to a $50.00 monthly administrative fee per customer. The fee will be waived if, during the month, the Alternate Receipt Point represents the only point of receipt utilized by the customer.

11. With regard to the interconnection of the East Diamond Field into Western s system, WBI or its subsidiary Kentucky Pipeline and Storage Company will

contract for and install facilities in accordance with Western s specifications. Western will take title to the facilities and operate and maintain the facilities as the parties agree to and outline in a finalized interconnection agreement.

IT IS THEREFORE ORDERED that:

1. The Settlement set forth in Appendix A to this Order is hereby incorporated into this Order as if fully set forth herein.

2. The terms and conditions set forth in the Settlement are approved as modified in this Order.

3. The rates and charges, and all other tariff changes included in Exhibit A of the Settlement and attached hereto as Appendix B to this Order are fair, just and reasonable and are approved for service on and after the date of this Order.

4. Any party wishing to exercise its right to withdraw from the Settlement because of modifications ordered herein shall notify the Commission in writing of its intent within 10 working days of the date of this Order.

5. If the Settlement is withdrawn due to any party s withdrawal from the Settlement, this Order will be vacated.

6. Western shall disseminate educational materials to its customers on the WNA beginning at least 90 days before its implementation on November 1, 2000.

7. Western shall file annual reports on the WNA as soon after each heating season as possible but no later than June 30th of the following summer in the format shown in Appendix C.

8. Western shall provide the Commission with all educational materials it provides its customers with regard to the late payment penalty and the WNA at the time such materials are provided to its customers.

9. Should Western seek to continue the WNA beyond the pilot period it shall do so only after filing a formal application requesting Commission approval of its proposal to continue the WNA.

10. The MLR proposed in the Settlement is approved as a pilot program for a period of three years and shall be applicable to all customers served under Western s G-1, G-2, LVS-1 and LVS-2 rate schedules.

11. Western shall file its first MLR report with the Commission in July 2000. The July 2000 MLR report shall reflect all discounts implemented from the date of this Order through May 31, 2000.

12. Should Western seek to continue the MLR beyond the pilot period it shall do so only after filing a formal application requesting Commission approval of its proposal to continue the MLR.

13. Within 20 days from the date of this Order, Western shall file with the Commission revised tariff sheets setting out the rates and tariffs approved herein for service rendered on and after the date of this Order. These tariff sheets shall show their date of issue, the effective date, and that they were issued by authority of this Order.

Done at Frankfort, Kentucky, this 21st day of December, 1999.

By the Commission

ATTEST:

____
Executive Director

REQUEST:

Please provide copies of any reports, testimony, or other documentation supplied to the Company or on behalf of the Company in the last five years that describe the benefits to Kentucky ratepayers originating from support to GTI for research and development.

RESPONSE:

In addition to the information submitted in this docket, the Company has had a similar docket in its Louisiana jurisdiction and documentation from that docket is provided in Attachment 1 through Attachment 3.

ATTACHMENTS:

ATTACHMENT 1 - Atmos Energy Corporation, AG_1-12_Att1 - LA R&D.pdf, 5 Pages.

ATTACHMENT 2 - Atmos Energy Corporation, AG_1-12_Att3 - LA R&D.pdf, 6 Pages.

ATTACHMENT 3 - Atmos Energy Corporation, AG_1-12_Att2 - LA R&D.pdf, 8 Pages.

Respondent: Mark Martin

LOUISIANA PUBLIC SERVICE COMMISSION

GENERAL ORDER NO. R-30479-A

LOUISIANA PUBLIC SERVICE COMMISSION
EX PARTE

In re: Development of a funding mechanism for jurisdictional gas utilities for research and development programs.

(Decided at the Open Session dated September 7, 2011)

General Background

In the General Order dated October 28, 2008, the Louisiana Public Service Commission ("Commission") authorized the creation of the Louisiana Research and Development Committee ("RDC"), a coalition of representatives from the Commission Staff and all Group I gas utility companies (as defined in the Commission's General Order dated March 24, 1999)[1] under the jurisdiction of the Commission. The RDC is comprised of one member from each Group I gas utility company and is chaired by a Commission Staff member, and each Group I gas utility company is required to separately become a member of Utilization Technology Development ("UTD"), a collaborative research and development ("R&D") funding program that is dedicated to developing or increasing the efficiency of gas end use equipment, while reducing the environmental impact of gas-consuming equipment. Additionally, each Group I gas utility company is required to become a member of Operations Technology Development ("OTD"), an R&D funding program focused on pipeline and distribution operations, with projects that reduce operational costs while enhancing reliability and safety.[2]

The RDC is tasked with reviewing proposals for R&D projects and selecting projects that have a reasonable chance to benefit Louisiana gas utility customers within a reasonable amount of time. Proposals are submitted to the RDC by Gas Technology Institute[3] ("GTI"), the managing entity for UTD and OTD. Approved proposals are then submitted by GTI to the full UTD membership and OTD membership, where the Louisiana funds are supplemented by funding from other OTD and UTD members for the projects selected. The selected projects are

1 Section II(b) of that General Order defines Group I gas utility companies as, "all local gas distribution companies serving in excess of 25,000 jurisdictional customers."

2 Both UTD and OTD are stand alone, 501c(6) not-for-profit companies controlled by their respective members.

3 GTI is a not-for-profit 501c(3) corporation designated to perform R&D programs for the benefit of natural gas consumers and jurisdictional gas local distribution companies ("LDCs") nationwide. It is subject to the rules and regulations of public utility commissions across the country where R&D surcharges are collected from jurisdictional gas LDCs.

funded through UTD and OTD, as applicable, by an R&D charge of ninety cents ($0.90) per meter per year ("R&D charge"). The R&D charge is submitted by the Group I gas utilities to UTD and to OTD, and the Group I gas utilities may recover the R&D charge through their respective rates or via other recovery mechanisms at the discretion of the Group I gas utility.

Jurisdiction

The Commission exercises jurisdiction in this proceeding pursuant to Article 4, Section 21 of the Louisiana Constitution, La. R.S. 45:1163(A)(1), and La. R.S. 33:4510. Louisiana Constitution, Article 4, Section 21 provides in pertinent part:

> The Commission shall regulate all common carriers and public utilities and have such other regulatory authority as provided by law. It shall adopt and enforce reasonable rules, regulations, and procedures necessary for the discharge of its duties, and shall have other powers and perform other duties as provided by law.

La. R.S. 45:1163 provides:

> A. (1) The Commission shall exercise all necessary power and authority over any street, railway, gas, electric light, heat, power, waterworks, or other local public utility for the purpose of fixing and regulating the rates charged or to be charged by and service furnished by such public utilities.

Committee Review of R&D Charge-funded Programs

The October 28, 2008 General Order established the R&D charge for a period of three (3) years, at which time the RDC was required to review the results of the R&D charge and determine if it should be continued or whether it should be cancelled. To that end, the RDC conducted a formal meeting at the Commission's central office in Baton Rouge on April 27, 2011 to review the general progress of natural gas R&D programs that are both directly funded by the RDC and to which RDC members have access through UTD and OTD. At that time, the member representatives of the RDC unanimously agreed that the program goals and objectives are being met and that the R&D charge should be continued.

On August 1, 2011 GTI circulated to the RDC member representatives a "Gas Technology R&D Program Progress Report" detailing the effects that the R&D charge has had on several issues germane to Louisiana ratepayers, to wit:

- Specific benefits provided to Louisiana customer classes as a result of the OTD and UTD programs;

- Examples of impact(s) that the UTD and OTD programs have had on employment in Louisiana;
- Specific examples of companies in Louisiana that benefit from the OTD and UTD programs;
- Comparisons of Louisiana's gas R&D programs with other states;
- Specific benefit projections associated with the OTD and UTD programs;
- Impact(s) of the OTD and UTD programs on natural gas vehicle and transportation technologies in Louisiana (including the cost of conversion of diesel trucks to natural gas); and
- Any technologies funded by the R&D charge that enhance water conservation.

Staff Review

Subsequent to the April 27, 2011 meeting of the RDC and the issuance of the August 1, 2011 Program Progress Report, Staff Attorney Stephen Kabel had the opportunity to tour and to inspect GTI's headquarters and to accordingly observe the projects funded by the R&D charge. Based on (1) the RDC member representatives' evaluation of the program goals and objectives, (2) the August 1, 2011 Progress Report, and (3) Staff's observations of the projects under development at GTI's headquarters, Staff concluded that the programs financed by the R&D charge are in the public interest, that the OTD and UTD programs selected by the RDC are producing and will continue to produce economic advantages to LPSC-jurisdictional ratepayers, and that those programs increase convenience to customers and system reliability. Staff furthermore concluded that the ninety cents ($0.90) per meter per year cost of the R&D charge was sufficiently outweighed by the benefits provided to the Commission's jurisdictional ratepayers.

Staff accordingly issued a recommendation on August 25, 2011, in which Staff recommended that the RDC created by the General Order dated October 28, 2008 should continue to operate according to its current organizational structure, and that the R&D charge created by the General Order dated October 28, 2008 should be renewed for another period of three years.

Commission Consideration

Staff's recommendation was considered by the Commission at the September 7, 2011 Business and Executive Session in Baton Rouge, Louisiana. On motion of Commissioner Skrmetta, seconded by Commissioner Field, and unanimously adopted, the Commission voted to accept the Staff Recommendation and to continue all provisions of the General Order dated October 28, 2008 for a period of three years, after which time Staff and the members of the RDC must review the results of the R&D funding mechanism in order to determine if that funding mechanism should be continued or whether it should be cancelled.

IT IS ACCORDINGLY THEREFORE ORDERED:

1) That all provisions of the General Order dated October 28, 2008 are hereby continued for a period of three years.

2) That compliance with the provisions of the General Order dated October 28, 2008 and with this Order is mandatory for all Group I gas utilities, as defined in the Commission's General Order dated March 24, 1999.

3) That the R&D funding mechanism created by the General Order dated October 28, 2008 will continue in effect for an additional period of three years until October 28, 2014. At the end of that time, the Staff and the members of the RDC will again review the results of the R&D funding mechanism in order to determine if it should be continued or whether it should be cancelled.

4) That if the R&D funding mechanism is discontinued after October 28, 2014, any funds remaining in the RDC escrow account will be remitted back to the utilities and ultimately refunded to Group I gas utility customers.

5) That this Order shall be effective immediately.

BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA

September 16, 2011

/s/ JAMES M. FIELD
DISTRICT II
CHAIRMAN JAMES M. FIELD

/s/ CLYDE C. HOLLOWAY
DISTRICT IV
VICE CHAIRMAN CLYDE C. HOLLOWAY

/s/ FOSTER L. CAMPBELL
DISTRICT V
COMMISSIONER FOSTER L. CAMPBELL

/s/ LAMBERT C. BOISSIERE, III
DISTRICT III
COMMISSIONER LAMBERT C. BOISSIERE, III

EVE KAHAO GONZALEZ
SECRETARY

/s/ ERIC SKRMETTA
DISTRICT I
COMMISSIONER ERIC SKRMETTA

LOUISIANA PUBLIC SERVICE COMMISSION

GENERAL ORDER NO. R-30479-B

LOUISIANA PUBLIC SERVICE COMMISSION
EX PARTE

Docket No. R-30479. In re: Development of a funding mechanism for jurisdictional gas utilities for research and development programs.

(Decided at the Open Session dated September 10, 2014)

General Background

In its General Order dated October 28, 2008 ("the 2008 General Order"), the Louisiana Public Service Commission ("Commission") authorized the creation of the Louisiana Research and Development Committee ("RDC"), a coalition of representatives from the Commission Staff and all Group I gas utility companies (as defined in the Commission's General Order dated March 24, 1999)[1] under the jurisdiction of the Commission. The RDC is comprised of one member from each Group I gas utility company and is chaired by a Commission Staff member, and each Group I gas utility company is required to separately become a member of Utilization Technology Development ("UTD"), a collaborative research and development ("R&D") funding program that is dedicated to developing or increasing the efficiency of gas end use equipment, while reducing the environmental impact of gas-consuming equipment. Additionally, each Group I gas utility company is required to become a member of Operations Technology Development ("OTD"), an R&D funding program focused on pipeline and distribution operations, with projects that reduce operational costs while enhancing reliability and safety.[2]

The RDC is tasked with reviewing proposals for R&D projects and selecting projects that have a reasonable chance to benefit Louisiana gas utility customers within a reasonable amount of time. Proposals are submitted to the RDC by Gas Technology Institute[3] ("GTI"), the managing entity for UTD and OTD. Approved proposals are then submitted by GTI to the full UTD membership and OTD membership, where the Louisiana funds are supplemented by funding from other OTD and UTD members for the projects selected. The selected projects are

1 Section II(b) of that General Order defines Group I gas utility companies as, "all local gas distribution companies serving in excess of 25,000 jurisdictional customers."

2 Both UTD and OTD are stand alone, 501c(6) not-for-profit companies controlled by their respective members.

3 GTI is a not-for-profit 501c(3) corporation designated to perform R&D programs for the benefit of natural gas consumers and jurisdictional gas local distribution companies ("LDCs") nationwide. It is subject to the rules and regulations of public utility commissions across the country where R&D surcharges are collected from jurisdictional gas LDCs.

funded through UTD and OTD, as applicable, by an R&D charge of ninety cents ($0.90) per meter per year ("R&D charge"). The R&D charge is submitted by the Group I gas utilities to UTD and to OTD, and the Group I gas utilities may recover the R&D charge through their respective rates or via other recovery mechanisms at the discretion of the Group I gas utility.

Jurisdiction

The Commission exercises jurisdiction in this proceeding pursuant to Article 4, Section 21 of the Louisiana Constitution, La. R.S. 45:1163(A)(1), and La. R.S. 33:4510. Louisiana Constitution, Article 4, Section 21 provides in pertinent part:

> The Commission shall regulate all common carriers and public utilities and have such other regulatory authority as provided by law. It shall adopt and enforce reasonable rules, regulations, and procedures necessary for the discharge of its duties, and shall have other powers and perform other duties as provided by law.

La. R.S. 45:1163 provides:

> A. (1) The Commission shall exercise all necessary power and authority over any street, railway, gas, electric light, heat, power, waterworks, or other local public utility for the purpose of fixing and regulating the rates charged or to be charged by and service furnished by such public utilities.

Committee Review of R&D Charge-funded Programs

The 2008 General Order established the R&D charge for a period of three (3) years, at which time the RDC was required to review the results of the R&D charge and determine if it should be continued or whether it should be cancelled. On August 25, 2011, Staff filed a Report and Recommendation into the official record of Docket No. R-30479, in which Staff recommended that all provisions of the 2008 Order be continued and remain in effect for a period of three years. After that time, Staff recommended that the RDC and Staff review the results of the R&D funding mechanism created by the 2008 Order so as to determine if that funding mechanism should be continued or whether it should be cancelled. Staff's recommendation was then approved by the Commission at the September 7, 2011 Business and Executive Session, and the provisions of the 2008 Order were renewed until October 28, 2014. The Commission's decision was memorialized as General Order No. R-30479-A, dated September 16, 2011 ("the 2011 Order").

The RDC continued to hold annual meetings to review the general progress of natural gas

R&D programs that both are directly funded by the RDC, and to which RDC members have access through UTD and OTD. These meetings were held on August 16, 2012, August 14, 2013, and July 11, 2014.

At the July 11, 2014 meeting, the member representatives of the RDC discussed the value and benefit of OTD and UTD membership to Louisiana customers. RDC member representatives observed that the program provides a high value of benefits versus costs, including access to information and initiatives that the Group I utility companies could not attain on their own. The member representatives therefore unanimously agreed that the program goals and objectives are being met, and that the Commission should authorize the renewal of both the RDC and the R&D charge. The member representatives also discussed the possibility of eliminating the three-year sunset provision created by the 2008 Order and renewed by the 2011 Order. The member representatives agreed that the program has sufficiently proven its value for six years, and so both the RDC and the R&D charge of ninety cents ($0.90) per meter per year should be authorized to continue on this merit without renewal every three years and without an annual update meeting.

Staff Review

Staff reviewed the positions of the RDC member representatives, as well as examples cited at RDC's 2012, 2013, and 2014 annual meetings as producing benefits for LPSC-jurisdictional ratepayers. Since R&D clearly enables the identification of new applications for using natural gas, Staff determined that R&D is critical to maintaining both the competitiveness of natural gas as a resource and the viability of the LPSC-jurisdictional entities supplying gas to Louisiana customers. The funds collected pursuant to the R&D charge are pooled with other available, similar R&D dollars that are collected in other jurisdictions, and then invested in projects deemed important and meaningful by LPSC-jurisdictional utility companies. As a result, the monies collected via the R&D charge are leveraged many times over, allowing the three Group I natural gas utilities to fund, participate in, and access bleeding edge technology that would be unaffordable individually. The funding is leveraged over 20 to 1 by research funding from private donations, government agencies, and other gas utilities located across the nation, which increases the effectiveness of Louisiana's contribution. This pooling of funds consequently allows the different Group I gas utility companies to accomplish many deliverables that could never have been accomplished by any one system. Moreover, the R&D charge has not only helped to further innovation in natural gas technologies deployed nationwide, but has also resulted in direct, quantifiable benefits to Louisiana businesses.

Staff therefore concluded that investment in R&D improves operational efficiencies and helps to minimize the cost of natural gas service. Staff also determined that the programs selected for funding by the RDC are producing and will continue to produce economic advantages to LPSC-jurisdictional ratepayers, and that those programs increase convenience to customers and system reliability. Moreover, when considering the comparatively low cost to ratepayers – ninety cents ($0.90) per meter per year, or about seven and one-half cents ($0.075) per month – Staff contended that the benefits provided to the ratepayers more than outweigh the cost imposed.

To that end, Staff filed a Report and Recommendation on August 25, 2014 in which Staff asserted that the programs financed by the R&D charge are in the public interest. Staff observed that the benefits created by the R&D charge have remained consistent since the charge was first authorized in 2008, and that the RDC as an organization has functioned cohesively, efficiently, and effectively. As such, Staff concurred with the member representatives that the RDC and the R&D charge should continue to operate for an indefinite period, subject to the Commission's authority to revisit this determination.

Commission Consideration

Staff's recommendation was considered by the Commission at its September 10, 2014 Business and Executive Session in Baton Rouge, Louisiana. Commissioner Skrmetta made a motion to adopt Staff's Recommendation and Commissioner Holloway seconded. On substitute motion of Commissioner Angelle, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to adopt Staff's Recommendation and continue the Louisiana Research and Development Committee ("RDC") and the research and development charge that were created by the General Order dated October 28, 2008 and extended by General Order No. R-30479-A (September 16, 2011), subject to the following modifications: (a) the three (3) year sunset provision included in those General Orders shall remain in effect; (b) the RDC and the R&D charge shall therefore continue in effect until October 28, 2017, at which time the Staff and the members of the RDC will again review the results of the R&D charge in order to determine if it should be continued or whether it should be cancelled; and (c) the RDC shall continue to conduct and attend meetings in order to carry out its duties, and shall provide annual reports to the Commission and to Staff.

IT IS ACCORDINGLY THEREFORE ORDERED:

1) That all provisions of the General Order dated October 28, 2008 and renewed by General Order No. R-30479-A are hereby continued for a period of three years;

2) That compliance with the provisions of the General Order dated October 28, 2008, General Order No. R-30479-A dated September 16, 2011, and with this Order is mandatory for all Group I gas utilities, as defined in the Commission's General Order dated March 24, 1999;

3) That the R&D funding mechanism created by the General Order dated October 28, 2008 will continue in effect for an additional period of three years until October 28, 2017. At the end of that time, the Staff and the members of the RDC will again review the results of the R&D funding mechanism in order to determine if it should be continued or whether it should be cancelled;

4) That the RDC shall continue to conduct and attend meetings in order to carry out its duties, and shall provide annual reports to the Commission and to Staff;

5) That if the R&D funding mechanism is discontinued after October 28, 2017, any funds remaining in the RDC escrow account will be remitted back to the utilities and ultimately refunded to Group I gas utility customers; and

"This space is intentionally left blank."

6) That this Order shall be effective immediately.

BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA
December 23, 2014

/S/ ERIC F. SKRMETTA
DISTRICT I
CHAIRMAN ERIC F. SKRMETTA

/S/ CLYDE C. HOLLOWAY
DISTRICT IV
VICE CHAIRMAN CLYDE C. HOLLOWAY

/S/ FOSTER L. CAMPBELL
DISTRICT V
COMMISSIONER FOSTER L. CAMPBELL

/S/ LAMBERT C. BOISSIERE
DISTRICT III
COMMISSIONER LAMBERT C. BOISSIERE, III

S/ SCOTT A. ANGELLE
DISTRICT II
COMMISSIONER SCOTT A. ANGELLE

EVE KAHAO GONZALEZ
SECRETARY

LOUISIANA PUBLIC SERVICE COMMISSION

GENERAL ORDER

**LOUISIANA PUBLIC SERVICE COMMISSION
EX PARTE**

Docket No. R-30479. In re: Development of a funding mechanism for jurisdictional gas utilities for research and development programs.

(Decided at the October 15, 2008 Business and Executive Session)

General Background

At the December 4, 2007 Business and Executive Session, Mr. Ronald Edelstein, who is the Director of Regulatory and Government Relations for the Gas Technology Institute ("GTI"), made a presentation to the Louisiana Public Service Commission ("Commission" or "LPSC") regarding funding mechanisms for jurisdictional gas utilities for research and development programs. Following the presentation, the Commission directed the Staff to investigate the matter further.

Thereafter, notice of this rule making was published on January 25, 2008. Specifically, the notice sought comments from jurisdictional gas utilities regarding the feasibility a funding mechanism for research and development programs for natural gas utilities in Louisiana. Timely interventions were submitted by: CenterPoint Energy-Arkla and CenterPoint Energy Entex ("CenterPoint"); Atmos Energy Corporation; and Entergy Gulf States Louisiana, L.L.C. ("EGSL"). A Motion for Untimely Intervention was submitted by GTI, which was ultimately granted by the Commission Staff.

Jurisdiction

The Commission exercises jurisdiction in this proceeding pursuant to Article 4, Section 21 of the Louisiana Constitution, La. R.S. 45:1163(A)(1), and La. R.S. 33:4510. Louisiana Constitution, Article 4, Section 21 provides in pertinent part:

> The Commission shall regulate all common carriers and public utilities and have such other regulatory authority as provided by law. It shall *adopt and enforce* reasonable rules, regulations, and procedures necessary for the discharge of its duties, and shall have other powers and perform other duties as provided by law. [Emphasis added.]

La. R.S. 45:1163 provides:

A. (1) The Commission shall exercise all necessary power and authority over any street, railway, gas, electric light, heat, power, waterworks, or other local public utility for the purpose of fixing and regulating the rates charged or to be charged by and service furnished by such public utilities.

Analysis of comments and data responses

In addition to initial comments submitted by the parties, the Staff issued a set of data requests to the parties. Substantive comments were initially provided primarily by GTI; responses to the data requests were submitted by EGSL, CenterPoint and GTI.

A. General Comments of GTI:

GTI provided a summary of its efforts in the research and development ("R&D") area related to natural gas usage and the need for further R&D. For example, GTI helped develop a fully condensing furnace at 90% efficiency. With respect to gas-fired hot water systems, GTI states that while the efficiency off-the-shelf tank-based equipment ranges from 50 – 55% (annual fuel use efficiency), more efficient tankless gas water heaters are available which provide an efficiency rating of 80%; however, costs related to these new heaters are high. Thus, GTI asserts that R&D is needed to develop a range of reliable, cost-effective, and high-efficiency tankless and tank-based gas water heaters. GTI asserts that development in this area would drive down costs of high efficiency gas water heaters, making them available to a wider range of customers (including commercial and low-income customers).

GTI discussed the need for more efficient water-heating devices; typical boilers in the 1960's – 1980's provide 50 to 75% efficiency, while newer condensing boilers run from 80 to 85% efficiency. Finally, GTI stated that R&D is needed in the area of gas operations to provide better software, sensors and hardware to detect plastic pipe, enhance system integrity, provide quicker and more accurate leak detection and pinpointing, etc.

GTI stated that R&D was formerly funded through a FERC-approved recovery mechanism from 1977 through 2004; however, that mechanism was phased out as a result of increased competition between and amongst industry sectors. Currently, individual public service commissions have authorized R&D funding mechanisms in 22 states.

GTI submitted that a R&D funding mechanism is feasible for the State of Louisiana. To begin, the plan would be voluntary, with gas utilities choosing what R&D project to devote funds. GTI notes that the R&D would not have to be conducted by it. Instead, the choice of what programs to fund would be decided by the utility.

As set forth in GTI's comments, for the 22 States with R&D funding mechanisms, collection amounts range from $0.90 to $2.00 per residential customer per year. GTI suggested a charge of

$0.90 per residential customer per year for Louisiana.

B. Responses to Data Requests:

On April 4, 2008, the Staff submitted data requests to the parties to determine whether jurisdictional gas utilities within the State of Louisiana are currently spending money on R&D and, if so, whether the costs were being recovered in rates. The Staff also asked for the parties' opinion regarding GTI's proposed charge of $0.90 per residential ratepayer per year. Finally, the Staff asked for comments regarding the following ratepayer protections, if the Commission decided to implement a R&D funding mechanism:

a. Any money collected, as a result of the R&D surcharge, but not ultimately spent on R&D will be refunded to customers on an annual basis.

b. The surcharge, if approved, should be implemented as a pilot program for a period not to exceed of 3 years. At the end of the 3-year period, the Staff and parties will review the results of the R&D program in order to determine if it should be continued or whether it should be cancelled.

Both GTI and EGSL provided comments. In particular, EGSL stated that it would agree to a $0.90 charge to residential customers under a R&D funding mechanism. EGSL also recommended that, "all monies collected would be managed centrally by a newly created Louisiana Gas R&D Committee comprised of one member from each Louisiana gas LDC and chaired by a LPSC staff member. The committee would decide which projects to fund and the results would be shared with all Louisiana gas LDCs."

C. Policy question of allowing current recovery of R&D costs:

(1) R&D costs do not squarely fall into a recoverable cost or expense:

A utility's revenue requirement is the sum of the utility's operating expenses and its rate of return times the amount of its rate base. Operating expenses include "maintenance, depreciation, and taxes, incurred to produce revenues;" rate base is "the value of the property, plant and equipment (less accumulated depreciation) which provide the service, and on which a return should be earned." *Central La.Elec. Co. v. Louisiana Pub. Serv. Comm'n,* 508 So.2d at 1365 (La.1987).

Funds spent on R&D do not squarely fit in either operating expenses or rate base. As a matter of policy, the Commission must decide whether current ratepayers can reasonably benefit from current R&D activities. If R&D activities are reasonably likely to cause benefits to flow to ratepayers, then customers could be charged for R&D costs.

(2) FERC precedent regarding benefit and recovery of R&D costs:

As GTI stated in its comments, previously FERC authorized surcharges to provide funds for R&D activities. Under those procedures, FERC could provide advance approval of R&D cost recovery to utilities by approving an R & D organization's annual budget. *Process Gas Consumers Group v. Federal Energy Regulatory Commission*, 866 F.2d 470, 275 U.S.App.D.C. 269. Through this approach, multiple R&D organizations submitted budgets and research plans, which were reviewed, and some approved, by the FERC. To enable FERC to make an intelligent assessment of research initiatives submitted for advance approval under these procedures, the regulations required jurisdictional companies and research organizations to include in their submissions, *inter alia,* "[e]vidence that the project or program ... has a reasonable chance of benefiting the ratepayer in a reasonable period of time" and that "whatever achievements may result ... will accrue to the benefit of the sponsoring jurisdictional compan[ies] and their customers." 18 C.F.R. § 154.38(d)(5)(iii)(*d*) & (*e*) (1988).[1]

In *Process Gas Consumers Group*, the United States Court of Appeals (District of Columbia) reviewed a FERC-approval of one particular R&D organization's budget (Gas Research Institute ("GRI")). The decision, while disapproving the review performed by the FERC, provides helpful guidance on how to determine whether a project or program has a "reasonable chance of benefiting the ratepayer in a reasonable period of time". *Process Gas Consumers Group*, 866 F.2d 470, at 472.

For example, the Court of Appeals cited its decision in *Public Util. Comm'n of Colorado v. FERC,* 660 F.2d 821 (D.C.Cir.1981), *cert. denied,*456 U.S. 944, 102 S.Ct. 2009, 72 L.Ed.2d 466 (1982) as supporting the notion that projects should not be limited to production or transportation of natural gas, but also include conservation. In particular, in *Colorado* the Court addressed a fuel conservation project by GRI and held

> "Since the probable effect of successful GRI projects in that case would have been a reduction in gas prices (occasioned by reduced consumer demand or enhanced natural gas supplies), we thought it clear that the ratepayers being "taxed" to support GRI's research efforts would be benefited. In other words, because the subject research was designed to "assur[e] ... an adequate and reliable supply [of natural gas] *at reasonable prices,*", the research was within FERC's jurisdiction to approve. Thus, FERC, consistent with the Natural Gas Act, may authorize ratepayer financing of end-item research that has as its "broad goal" the purpose of "keeping consumer rates down." *Process Gas Consumers Group*, 866 F.2d 470, at 474.

1 FERC required RD & D organizations annually to submit not only their proposed expenditures for the coming year but also a five-year projection of research initiatives and expenditures. FERC required this latter out-year information to assess more thoroughly the overall objectives of organizational programs. The FERC Staff would perform a comprehensive review of the submittal along with comments from the public. *See* 18 C.F.R. § 154.38(d)(5)(iii) (1988) and *Process Gas Consumers Group v. Federal Energy Regulatory Commission*, 866 F.2d 470, at 472.

In addition, the Court stated that, "when considering whether a proposed research project 'has a reasonable chance of benefiting the ratepayer in a reasonable period of time,' 18 C.F.R. § 154.38(d)(5)(iii)(*d*), the Commission need not undertake scientific 'peer review' or otherwise attempt to determine with precision whether the efficiency gains from an end-use application will outweigh the costs to ratepayers of the research. It is enough for the Commission rationally to conclude that the research contemplated is *by its nature* likely to benefit ratepayers if successful." *Id.*

Moreover, while the Court acknowledged that, "RD & D financing is one of those unusual settings in which it is appropriate for FERC to authorize 'the charging to current ratepayers of expenditures incurred by a jurisdictional company' even though the fruits of those expenditures may flow to future ratepayers." *Id.* However, the Court clarified that it would be improper, for instance, in the case of projects that would ultimately increase demand and increase rates, to charge existing ratepayers with a cost that not only brings no benefit to them but, rather, may or will imply future detriment. *Id.*, 476.

The LPSC believes that in order to allow R&D funds to be recovered from gas utility ratepayers, the projects to be funded must be determined to have a "reasonable chance of benefiting the ratepayer in a reasonable period of time." That determination should be made by Commission or its Staff with input from jurisdictional gas utilities.

Commission Action

This matter was considered by the Commission at its October 15, 2008 Business and Executive Session. On motion of Commissioner Boissiere, seconded by Commissioner Field, and unanimously adopted, the Commission voted to adopt the Proposed General Order.

IT IS THEREFORE ORDERED THAT:

(1) Compliance with the provisions of this Order is mandatory for all Group I gas utilities, as defined in the Commission's General Order dated March 24, 1999.[2]

(2) A Research and Development funding mechanism (R&D funding mechanism) is hereby authorized for the Group I gas utilities under the jurisdiction of the Louisiana Public Service Commission.

2 Section II(b), on page 3 of the Commission's General Order dated March 24, 1999, defines all Group I gas utilities as, "all local gas distribution companies serving in excess of 25,000 jurisdictional customers."

(3) A Research and Development charge ("R&D") of $0.90 per meter per year is hereby authorized for all Group I gas utilities.

(4) The R&D charge, as authorized by this Order, is determined to be in the public interest and is authorized for recovery by the Group I gas utilities through its rates or via other recovery mechanism at the discretion of the Group I gas utility.

(5) A gas utility research and development committee ("RDC") shall be formed within 60 days from the implementation of this Order. The RDC will be comprised of one member from each Louisiana Group I gas utility and chaired by a LPSC Staff member.

i. With oversight by the RDC, each Group I gas utility will separately become a member of Utilization Technology Development ("UTD") and Operations Technology Development ("OTD").

ii. The RDC will review proposals for R&D projects and select projects that have a reasonable chance to benefit Louisiana gas utility customers within a reasonable amount of time. The selected R&D projects will be funded through the UTD and OTD, as applicable, with collections from the R&D charge.

iii. The RDC will conduct and attend meetings in order to carry out its duties.

iv. The RDC may collaborate and work with the Louisiana Gas Association, as necessary, in order to carry out its duties.

(6) Group I gas utilities will remit the R&D charge collections to Gas Technology, Inc. ("GTI"), which is the managing entity for OTD and UTD. GTI will, among other duties:

i. Submit all R&D proposals offered to the RDC for review and submit approved proposals to its full OTD membership and UTD membership so as to leverage Louisiana funding.

ii. Circulate all OTD and UTD R&D proposals to the RDC for consideration.

iii. Receive all R&D funds and place the funds into an escrow account and remit funds to any R&D projects selected by the RDC, as set forth in Section 5(ii) above.

(7) GTI is authorized to receive a 10% fee for UTD for its services and a 5% fee for OTD for its services, including administrative, R&D project management, contracting and licensing negotiations, planning and project closeout services. On average, the total fee will be approximately 7.5%; however, the fee is subject to modification based upon decisions by the OTD and UTD boards. If the fee is changed by the OTD and/or UTD, GTI will provide notice to the RDC and the Commission Staff will provide an update to the Commission.

(8) The R&D funding mechanism will be in effect for a period of three years. At the end of three years, the Staff and parties will review the results of the R&D funding mechanism in order to determine if it should be continued or whether it should be cancelled.

(9) If the R&D funding mechanism is discontinued after three years, any funds remaining in the RDC escrow account will be remitted back to the utilities and ultimately refunded to Group I gas utility customers.

BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA
October 28, 2008

/S/ JACK "JAY" A. BLOSSMAN
DISTRICT I
CHAIRMAN JACK "JAY" A. BLOSSMAN

/S/ LAMBERT C. BOISSIERE, III
DISTRICT III
VICE CHAIRMAN LAMBERT C. BOISSIERE, III

/S/ JAMES M. FIELD
DISTRICT II
COMMISSIONER JAMES M. FIELD

LAWRENCE C. ST. BLANC
SECRETARY

/S/ FOSTER L. CAMPBELL
DISTRICT IV
COMMISSIONER FOSTER L. CAMPBELL

/S/ E. PAT MANUEL
DISTRICT IV
COMMISSIONER E. PAT MANUEL