ORDINANCE NO. 2005

AN ORDINANCE GRANTING TO ATMOS ENERGY CORPORATION, A TEXAS AND VIRGINIA CORPORATION, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE TO CONSTRUCT, MAINTAIN, AND OPERATE PIPELINES AND EQUIPMENT IN THE CITY OF EULESS, TARRANT COUNTY, TEXAS, FOR THE TRANSPORTATION, DELIVERY, SALE, AND DISTRIBUTION OF GAS IN, OUT OF, AND THROUGH SAID CITY; PROVIDING FOR THE PAYMENT OF A FEE OR CHARGE FOR THE USE OF THE PUBLIC RIGHTS-OF-WAY; AND PROVIDING THAT SUCH FEE SHALL BE IN LIEU OF CERTAIN OTHER FEES AND CHARGES.

WHEREAS, Atmos Energy Corporation is engaged in the business of providing gas utility service within the City of Euless and is using the Public Rights-of-Way for that purpose under the terms of an ordinance granting a franchise agreement and ordinance heretofore duly passed by the governing body of the City; and

WHEREAS, the franchise expires at midnight, November 7, 2013 and the City and Grantee desire to enter into a new franchise agreement;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EULESS, TEXAS:

SECTION 1.
GRANT OF AUTHORITY

(A) That the City hereby grants to Grantee consent to use and occupy, subject to the terms hereof, the Public Right-of-Way, for the purpose of laying, maintaining, constructing, protecting, operating, and replacing therein and thereon pipelines and all other appurtenant equipment to deliver, transport and distribute gas in, out of, and through City for persons, firms, and corporations, including all the general public, and to sell gas to persons, firms, and corporations, including all the general public, within the City corporate limits, as such limits may be amended from time to time during the term of this Franchise.

(B) The provisions set forth in this Ordinance represent the terms and conditions under which Grantee shall construct, operate, and maintain its System facilities within the City. Grantee, by its acceptance of this Franchise, agrees that all such lawful regulatory powers and rights as the same may be from time to time vested in the City shall be in full force and effect and subject to the exercise thereof by the City at any time.

(C) This Franchise does not grant to the Grantee the right, privilege or authority to engage in any other activities within the City other than those set forth in Section 1(A).

SECTION 2.
DEFINITIONS

For the purpose of this Franchise, the following words and phrases shall have meaning given in this section. When not inconsistent with the context, words used in the present tense include future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is mandatory and "may" is permissive. Words not defined in this section shall be given their common and ordinary meaning.

"Affiliate" means any entity controlling, controlled by or under common control with the entity in question. As used in this definition, the term “control” means, with respect to an entity that is a corporation, the ownership, directly or indirectly, of more than 50% of the voting securities of such entity or, with respect to an entity that is not a corporation, the power to direct the management or policies of such entity, whether by operation of law, by contract or otherwise.

"City" means the municipal corporation designated as the City of Euless and includes the territory as currently is or may in the future be included within the boundaries of the City, with its principal office at 201 N. Ector Dr., Euless, Texas 76040

"Franchise" or “Agreement” means the rights and obligations of the City and the Grantee set forth in this Franchise ordinance, as the same may be amended from time to time, and includes those rights and duties provided under the laws of Texas and of the United States.

"Gas" means such gaseous fuels as natural, artificial, synthetic, liquefied natural gas, liquefied petroleum, manufactured, or any mixture thereof.

"Grantee" means Atmos Energy Corporation, but does not include its affiliates, subsidiaries or any other entity in which it has an ownership interest, with its principal office at 5430 LBJ Freeway, Dallas, Texas 75240.

"Gross Revenues" means all revenue derived or received, directly or indirectly, by the Grantee from or in connection with the operation of the System within the corporate limits of the City and including, without limitation:

(A) all revenues received by the Grantee from the sale of gas to all classes of customers (excluding gas sold to another gas utility in the City for resale of gas to its customers within City) within the City;

(B) all revenues received by the Grantee from the transportation of gas through the pipeline system of Grantee within the City to customers located within the City (excluding any gas transported to another gas utility in City for the sale of gas to its customers within City);

(C) the value of gas transported by Grantee for transport customers through the System of Grantee within the City (“Third Party Sales”), (excluding the value of any gas transported to another gas utility in City which has executed a franchise agreement with the City for the sale of gas to its customers within City), with the value of such gas to be established by

utilizing Grantee's monthly weighted average cost of gas charged to industrial customers in the Mid-Tex division, as reasonably as is possible near the time as the transportation service is performed; and

(D) "Gross Revenues" shall also include amounts collected from customers for fees paid to the City pursuant to this agreement and the following "miscellaneous charges": charges to connect, disconnect, or reconnect gas and charges to handle returned checks from consumers within the City and State gross receipts fees.

(E) "Gross Revenues" shall not include:

(1) revenues billed but not ultimately collected or received by Atmos Energy;

(2) contributions in aid of construction;

(3) the revenue of any affiliate or subsidiary of Atmos Energy;

(4) sales tax paid to the City;

(5) interest or investment income earned by Atmos Energy; and

(6) monies received from the lease or sale of real or personal property, provided, however, that this exclusion does not apply to the lease of facilities within the City's right of way.

"Public Rights-of-Way" means the public streets, medians, boulevards, roads, lanes, alleys, highways, public utility easements, viaducts, and bridges across water ways and other public places that are deeded or dedicated to the City and are available for Grantee's use.

"Railroad Commission" means the Railroad Commission of the State of Texas or other authority succeeding to the regulatory powers of the Railroad Commission.

"Residents" means all persons, businesses, industry, governmental agencies, and any other entity whatsoever, located, in whole or part, within the City that are or may be served by the Grantee hereunder.

"System" and/ or "System facilities" means all of the Grantee's pipes, pipelines, gas mains, laterals, feeders, regulators, meters, fixtures, connections or other appurtenant equipment used in or incident to providing delivery, transportation, distribution, and sales of natural gas for heating, lighting and power.

SECTION 3.
USE OF RIGHT-OF-WAY

(A) The grant to Grantee in Section 1 is subject to the terms and conditions contained herein, the Texas Constitution, the City's ordinances, all as amended, and subject to applicable and controlling local, state and federal laws, including the rules and regulations of any and all agencies thereof, whether presently in force or whether enacted or adopted at any time in the future. This franchise agreement shall in no way affect or impair the rights, obligations or

remedies of the parties under the Texas Public Utility Regulatory Act, other state or federal law or the Texas Constitution. Nothing herein shall be deemed a waiver, release or relinquishment of either party's right to contest, appeal, or file suit with respect to any action or decision of the other party, including ordinances adopted by the City, that Grantee believes is in violation of any federal, state, or local law or regulation.

(B) Grantee shall provide reasonable notice to the City of planned work within the Public Right-of-Way and shall, except in cases of emergency conditions, obtain a permit if required by the City's ordinances before commencing work. If so required, Grantee shall comply with permitting requirements that do not conflict with this Ordinance; provided however Grantee or contractors working on behalf of Grantee shall not be required to pay fees related to its use of the public right-of-way other than in accordance with Section 7 hereof.

(C) The location of all pipes, mains, laterals, and other equipment shall be subject to approval by the City Manager or designee prior to construction; provided however, said approval shall not be unreasonably withheld. In the event of a conflict between the location of the facilities of Grantee and the location of the facilities of City or other utility franchisees within the Public Rights-of-Way that cannot be resolved, the City Manager or designee shall resolve the conflict and determine the location of the respective facilities. Grantee shall not interfere with power, telephone, cable or water facilities, sanitary or storm sewer facilities or other municipal or public use of the Public Right-of-Way. Grantee has the right to request City Council review of any actions concerning Grantee's use of the Public Right-of-Way. City shall provide Grantee with its annual capital improvements plan as well as any updates or changes as soon as the plan, update, or change becomes available. City shall notify Grantee as soon as reasonably possible of any projects that will affect Grantee's facilities located in the Public Rights-of-Way.

(D) The Grantee shall construct, maintain and operate its System facilities in a manner which provides reasonable protection against injury or damage to persons or property.

(E) When the Grantee is required by City to remove or relocate its mains, laterals, and other facilities to accommodate construction of streets and alleys by City, and Grantee is eligible under Federal, State, County, City or other local agencies or programs for reimbursement of costs and expenses incurred by Grantee as a result of such removal or relocation, and such reimbursement is required to be handled through City, the City shall include Grantee costs and expenses in an application by City for reimbursement only when the City applies for a grant or program where the eligible relocation costs are delineated separately such that the City has constructive notice that Grantee relocation costs are eligible for reimbursement and only if Grantee submits a request together with its cost and expense documentation to City a reasonable time prior to the filing of the application. City shall provide reasonable notice to Grantee of the deadline for Grantee to submit documentation of the costs and expenses of such relocation to City. In the event that the City makes application for and receives reimbursement for a project where the Grantee's relocation costs and expenses are delineated separately as set forth above and does not provide sufficient notice to Grantee as set forth in this paragraph, the City shall be responsible for fifty percent (50%) of the cost of the removal or relocation of Grantee's facilities. In the event that the City receives only a portion of any reimbursement costs sought and the reimbursement received is not delineated separately such that Grantee's eligible relocation costs

are clearly noted, the City will reimburse Grantee only after the City's costs have been paid in full. When Grantee is required to remove or relocate any System facility without reimbursement, Grantee shall have the right to seek recovery of relocation costs as provided for in applicable state and/or federal law. Nothing herein shall be construed to prohibit, alter, or modify in any way the right of Grantee to seek or recover a surcharge from customers for the cost of relocation pursuant to applicable state and/or federal law. City shall not oppose recovery of relocation costs when Grantee is required by City to perform relocation. City shall not require that Grantee document request for reimbursement as a pre-condition to recovery of such relocation costs. Upon receipt of reimbursement from an agency or program as outlined above, the City shall remit to the Grantee, within thirty (30) days of receipt, its portion related to the relocation or removal of its facilities only if the reimbursement received delineates separately Grantee's eligible relocation costs or the City's costs have been paid in full. Notwithstanding the foregoing, City shall not be responsible for reimbursement of any relocation costs if Grantee secures or is eligible to secure reimbursement of eligible costs from any other source other than through a statutory rate mechanism or other rate mechanism adopted by the City. This paragraph applies exclusively to the Company's recovery of its relocation costs and, except as provided in Section 7(D), nothing herein shall prohibit the City from denying or opposing a request by Company to increase or modify its other rates, charges, fees or tariffs

(F) City may request Grantee to relocate any part of its System facilities installed or maintained in the Public Right-of-Way to accommodate construction or improvement of a highway, road, street, public way or other public work procured by City which is not undertaken primarily for beautification or solely to accommodate a private developer. Grantee shall be responsible for bearing the costs of such relocation to the extent that proposed City facilities are determined to be in conflict with Grantee's existing facilities and as permitted by local, state or federal law. Such relocation shall be made by the Grantee within a reasonable period of time not to exceed sixty (60) days after notice of request from City unless otherwise specifically agreed to by the City or unless Grantee certifies to the City in writing that no conflict exists between its facilities and the proposed City facilities. Should Grantee submit evidence that it is unable to complete the relocation within said time due to no fault of Grantee, the City Manager or designee may agree with Grantee to extend such time. Should Grantee have concerns regarding whether the requested placement of facilities is unsafe or inconsistent with the gas distribution industry standard safe operating practices, Grantee shall provide the City with information detailing and substantiating such concerns and work with City on a solution acceptable to both parties. Should Grantee certify that no conflict exists and it is later determined that Grantee's facilities conflict with proposed City facilities resulting in a delay in the construction of City facilities, Grantee shall reimburse City for all expenses incurred as a result of the delay. Should Grantee agree to relocate any part of its System facilities and fail to perform the relocation causing a delay in the construction of City facilities, Grantee shall reimburse City for all expenses incurred as a result of the delay.

(G) Following relocation, Grantee shall repair, according to City specifications, clean up, and restore to the condition it was in before being disturbed, all Public Rights-of-Way disturbed during the construction and repair of its System at its expense.

(H) The installation and replacement of any System facilities in Public Right-of-Way

by the Grantee shall be subject to inspection and approval by the City. The repair and maintenance of any System Facilities in Public Right-of-way by the Grantee shall be subject to inspection by the City. The Grantee agrees to cooperate fully with the City in conducting the inspection. Such inspections shall be conducted within a reasonable time after completion of the project. The Grantee shall promptly perform reasonable remedial action required by the City pursuant to such an inspection. Notwithstanding anything in this section to the contrary, the authority to regulate and inspect the Grantee's system for compliance with the provisions of Part 192 of Title 49 of the Code of Federal Regulations is hereby reserved to those federal and state authorities having jurisdiction thereunder and nothing herein is intended to confer any such authority to City unless expressly provided under applicable law.

(I) The City reserves the right to lay and permit to be laid, power, sewer, Gas, water, and other pipe lines or cables and conduits, and to do and permit to be done, any underground and overhead work that may be deemed necessary or proper by the City in, across, along, over and under any Public Right-of-Way occupied by Grantee, and to change any curb or sidewalk or the grade of any street.

(J) If City abandons any Public Rights-of-Way in which Grantee has facilities, such abandonment shall be conditioned on Grantee's right to maintain its use of the former Public Right-of-Way and on the obligation of the party to whom the Public Right-of-Way is abandoned to reimburse Atmos Energy for all removal or relocation expenses if Grantee agrees to the removal or relocation of its facilities following abandonment of the Public Right-of-Way. If the party to whom the Public Right-of-Way is abandoned requests Atmos Energy to remove or relocate its facilities and Atmos Energy agrees to such removal or relocation, such removal or relocation shall be done within a reasonable time at the expense of the party requesting the removal or relocation. If relocation cannot practically be made to another Public Right-of-Way, the expense of any right-of-way acquisition shall be considered a relocation expense to be reimbursed by the party requesting the relocation.

SECTION 4.
INDEMNIFICATION AND INSURANCE

(A) **IN CONSIDERATION OF THE GRANTING OF THIS FRANCHISE, GRANTEE AGREES TO INDEMNIFY AND KEEP HARMLESS THE CITY, ITS OFFICERS, AGENTS AND EMPLOYEES (THE "INDEMNITEES") FROM AND AGAINST ALL SUITS, ACTIONS, LIABILITY, OR CLAIMS OF INJURY TO ANY PERSON OR PERSONS, OR DAMAGES TO ANY PROPERTY BROUGHT OR MADE FOR OR ON ACCOUNT OF ANY DEATH, INJURIES TO, OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR FOR DAMAGE TO OR LOSS OF PROPERTY ARISING OUT OF, OR OCCASIONED BY GRANTEE'S INTENTIONAL AND/OR NEGLIGENT ACTS OR OMISSIONS IN CONNECTION WITH GRANTEE'S OPERATIONS; THIS INDEMNIFICATION SHALL APPLY WHETHER OR NOT THE CITY, ITS AGENTS, OFFICERS OR EMPLOYEES WERE NEGLIGENT.**

(B) **IT IS THE INTENT OF THE PARTIES BY AGREEMENT TO THIS**

SECTION 4 THAT IF A CLAIM IS MADE IN ANY FORUM AGAINST INDEMNITEES FOR ANY OF THE REASONS REFERRED TO IN SECTION 4(A), AND UPON RESOLUTION OF THE CLAIM:

(1) **THERE IS NO FINDING BY A COURT OF COMPETENT JURISDICTION THAT INDEMNITEES WERE NEGLIGENT IN CONNECTION WITH ANY OF THE REASONS REFERRED TO IN SECTION 4(A), GRANTEE SHALL HOLD INDEMNITEES HARMLESS AND INDEMNIFY THEM FOR ANY DAMAGE, LOSS, EXPENSE, OR LIABILITY RESULTING FROM THE CLAIM, INCLUDING ALL REASONABLE ATTORNEY'S FEES, COSTS, AND PENALTIES INCURRED; OR**

(2) **THERE IS A FINDING BY A COURT OF COMPETENT JURISDICTION THAT GRANTEE AND INDEMNITEE WERE BOTH NEGLIGENT IN CONNECTION WITH ANY OF THE REASONS REFERRED TO IN SECTION 4, INDEMNITY, IF ANY, SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS.**

(C) This section does not waive any governmental immunity available to the City under Texas law. This section is not intended to create a cause of action or liability for the benefit of third parties but is solely for the benefit of the Grantee and the City. This section is not intended to limit the ability of City or Grantee to settle claims through alternative dispute resolution.

(D) If any action, suit or proceeding is brought against the City, its agents and employees, upon any claim arising out of Grantee's operations, City shall give notice in writing to Grantee by registered or certified mail. The City agrees to reasonably cooperate with Grantee in connection with such defense.

(E) Promptly after receipt by an Indemnitee of any claim or notice of the commencement of any action, administrative or legal proceeding, or investigation as to which the indemnity provided for in Section 4(A) hereof may apply, the Indemnitee shall notify the Grantee in writing of such fact. Grantee shall assume the defense thereof with counsel designated by Grantee and reasonably satisfactory to the Indemnitee.

(F) Should an Indemnitee be entitled to indemnification under this Section (4) hereof as a result of a claim by a third party, and Grantee fails to assume the defense of such claim, the Indemnitee will, at the expense of Grantee, contest (or, with the prior written consent of Grantee, settle) such third party claim.

(G) Grantee shall insure its obligations and risks undertaken pursuant to this franchise in the form of a formal plan of self-insurance maintained in accordance with sound accounting and risk-management practices, or, at its option, maintain the following insurance coverages throughout the term of this Franchise:

(1) Commercial general or excess liability with minimum limits of five million dollars ($5,000,000.00). To the extent that coverage is maintained on a claims made

form, the minimum limits are ten million dollars ($10,000,000) per occurrence and twenty million dollars ($20,000,000) aggregate. This coverage shall include the following:

(a) Completed operations to be maintained for one (1) year.
(b) Personal and advertising injury.
(c) Contractual liability
(d) Explosion, collapse, or underground (XCU) hazards.

(2) Automobile liability coverage with a minimum policy limit of one million dollars ($1,000,000.00) combined single limit. This coverage shall include all owned, hired and non-owned automobiles. Pollution liability insurance, with a minimum coverage of $10,000,000 per occurrence shall be provided for bodily injury and property damage resulting from pollutants which are discharged suddenly and accidentally. Such insurance shall provide coverage for clean-up costs.

(H) Prior to commencement of operations pursuant to this Agreement, the Grantee shall furnish the City with proof of insurance.

(I) The Grantee will require its self-insurance to respond to the same extent as if the City as an additional insured and waive subrogation rights against the City.

SECTION 5.
GAS SERVICE

(A) Grantee shall be required to extend distribution mains in any Public Rights-of-Way up to seventy-five feet (75') for any one residential customer only if such customer, at a minimum, uses gas for unsupplemented space heating and water heating. Grantee shall not be required to extend transmission mains in any Public Right-of-Way within City or to make a tap on any transmission main within City unless Grantee agrees to such extension by a written agreement between Grantee and a customer.

(B) Grantee shall keep and maintain its books, records, contracts, accounts, documents and papers in any way related to this franchise ordinance and shall make them available for inspection by City officials and employees upon reasonable notice.

(C) The Grantee shall install, repair, maintain and replace its Facilities in a good and workmanlike manner.

(D) Grantee shall take such measures which will result in its Facilities meeting the standards required by applicable federal, state and environmental laws.

SECTION 6.
NON-EXCLUSIVE FRANCHISE

The rights, privileges, and franchises granted by this Ordinance are not to be considered exclusive, and City hereby expressly reserves the right to grant, at any time, like privileges, rights, and franchises as it may see fit to any other person or corporation for the purpose of transporting, delivering, distributing, or selling gas to and for City and the inhabitants thereof.

SECTION 7.
CONSIDERATION AND METHOD OF PAYMENT

(A) Grantee shall pay City on or before the 15th day of November, 2013 and on or before the 15th day of February, May and August, 2014, and on or before the same days of each succeeding year during the term of this franchise, five percent (5%) of the Gross Revenues received by Grantee during the preceding calendar quarter.

(B) On November 15, 2013, Grantee shall make the initial payment of the Franchise Fee pursuant to this Ordinance for the privilege period from October 1, 2013 – December 31, 2013, based on the Gross Revenues during the preceding calendar quarter (July 1 to September 30, 2013). Each subsequent payment shall be made as follows:

Payment Due	Basis Period	Privilege Period
February 15	Oct. 1 – Dec. 31	Jan. 1 – March 31
May 15	Jan. 1 – March 31	April 1 – June 30
August 15	April 1 – June 30	July 1 – Sept. 30
November 15	July 1 – Sept. 30	Oct. 1 – Dec. 31

The final payment under the initial term of this Franchise shall due on August 15, 2023 based on the gross revenues received April 1 to June 30, 2023 for the privilege period from July 1 to September 30, 2023.

(C) Grantee agrees that at the time of each payment, Grantee shall also submit to the City a statement showing its Gross Revenues for the calendar quarter in which payment is made from the sale of gas to its customers, including but not limited to residential, commercial, and industrial customers, within said corporate limits, including the amount of revenues received by Grantee for the transportation of gas.

(D) Grantee may file with the City a tariff or tariff amendment(s) to provide for the recovery of the franchise fees under this agreement. City agrees that (i) as regulatory authority, it will adopt and approve the ordinance, rates or tariff which provide for 100% recovery of such franchise fees as part of Grantee's rates; (ii) if the City intervenes in any regulatory proceeding before a federal or state agency in which the recovery of Grantee's franchise fees is an issue, the City will take an affirmative position supporting 100% recovery of such franchise fees by Grantee and; (iii) in the event of an appeal of any such regulatory proceeding in which the City has intervened, the City will take an affirmative position in any such appeals in support of the

100% recovery of such franchise fees by Atmos Energy. City agrees that it will take no action, nor cause any other person or entity to take any action, to prohibit the recovery of such franchise fees by Grantee. This paragraph applies exclusively to the City's franchise fees and nothing herein shall prohibit the City from denying or opposing a request by Company to increase of modify its other rates, charges, fees or tariffs

SECTION 8.
OTHER TAXES

(A) It is expressly agreed that the aforesaid payments shall be in lieu of any and all other and additional occupation taxes, easement, franchise taxes or charges, municipal license, permit and inspection fees, bonds, street taxes, and street or alley rentals or charges except as provided in this section. Payment of the fees and other consideration due hereunder by the Grantee is not accepted by the City in lieu of any reimbursement of regulatory costs, payment of taxes that are uniform and generally applicable to other persons conducting business within the City, such as property, sales and use taxes or the costs to repair damages to the Public Right-of-way or to indemnify the City as required herein. If the City does not have the legal power to agree that the payment of the foregoing sums of money shall be in lieu of taxes, licenses, fees, street or alley rentals or charges, easement or franchise taxes or charges as aforesaid, then City agrees that it will apply so much of said sums of money paid as may be necessary to satisfy Grantee's obligations, if any, to pay any such taxes, licenses, charges, fees, rentals, easement or franchise taxes or charges as aforesaid.

(B) Payment of the fees and other consideration due hereunder shall not in any way limit or inhibit any of the privileges of the City whether under this Franchise ordinance or otherwise.

SECTION 9.
TERM

The initial term of this franchise shall expire at midnight on September 30, 2023. With the approval of both City and Grantee, the franchise may be extended for two (2) additional terms of five (5) years on the same terms and conditions as set forth herein or as negotiated by the parties hereto.

SECTION 10.
OTHER FRANCHISES

If Grantee should at any time after the effective date of this Ordinance agree to a new municipal franchise ordinance, or renew an existing municipal franchise ordinance, with another municipality in the Mid-Tex Division, as it exists on the effective date of this Agreement, which municipal franchise ordinance determines the franchise fee owed to that municipality for the use of its Public Right-of-way in a manner that, if applied to the City, would result in a franchise fee greater than the amount otherwise due City under this Ordinance, then the franchise fee to be paid by Grantee to City pursuant to this Ordinance may, at the election of the City, be increased so that the amount due and to be paid is equal to the amount that would be due and payable to

City were the franchise fee provisions of that other franchise ordinance applied to City. The City acknowledges that the exercise of this right is conditioned upon the City's acceptance of all terms and conditions of the other municipal franchise *in toto*. The City may request waiver of certain terms and Grantee may grant, in its sole reasonable discretion, such waiver.

SECTION 11.
CITY RULES AND REGULATION, DOCUMENTS AND REPORTS

(A) The City expressly reserves, and the Grantee expressly recognizes, the City's right and duty to adopt, from time to time, in addition to the provisions herein contained, such cost of service, cost of Gas, charter provisions, ordinances, rules and regulations as the City deems necessary.

(B) Grantee shall file with the City, those documents required by law to be filed with the City, and otherwise, upon City's request, all tariffs, rules, regulations and policies under consideration with the Railroad Commission relating to the facilities and operations, any matters relating to the System facilities and operations, any matters affecting the use of Public Right-of-Way or this Franchise. Upon request, the Grantee shall provide the City with a copy of filings it makes with the Railroad Commission affecting the same. In addition, upon request, the Grantee will provide the City copies of the Grantee's most recent annual report, all petitions, communication reports, advice letters, audits, complaints and applications together with supporting pre-filed testimony and exhibits filed by the Grantee or third parties with the Railroad Commission.

SECTION 12.
DEFAULT, REMEDIES, TERMINATION

(A) In addition to all other rights and powers retained by the City under this Franchise or otherwise, the City reserves the right to forfeit and terminate the Franchise and all rights and privileges of the Grantee hereunder in the event of a breach of its terms and conditions. A breach by Grantee shall include, but shall not be limited to, the following:

(1) Violation of any provision of the Franchise or any rule, order, regulation or determination of the City made pursuant to the Franchise;

(2) Attempt to evade any provision of the Franchise or to practice any fraud or deceit upon the City or its Residents;

(3) Failure to begin or complete Gas facility construction and/or extension as agreed to with the City;

(4) Failure to provide the services set forth in the Franchise; or

(5) Material misrepresentation of fact in the application for or negotiation of the Franchise.

(B) The foregoing shall not constitute a breach if the violation occurs without fault of the Grantee or occurs as a result of circumstances beyond its control which could not have been avoided as a result of the exercise of reasonable care. Grantee shall not be excused by mere economic hardship or by misfeasance or malfeasance of its directors, officers or employees.

(C) The City may make a written demand that the Grantee comply with any such provision, rule, order, or determination under or pursuant to this Franchise. If the violation by the Grantee continues for a period of thirty (30) days following such written demand without written proof that the corrective action has been taken or is being actively and expeditiously pursued, the City may take under consideration the issue of termination of the Franchise.

(D) If Grantee does not cure the default within such time frame, City shall notify Grantee in writing of its right to have a hearing before the City Council to present any objections or defenses Grantee may have that are relevant to the proposed termination. The notice shall specify a hearing date which shall be at least thirty (30) days from the date of the notice. After such hearing, the City may determine whether to continue or to terminate the franchise. The final decision of the City Council may be appealed to any court or regulatory authority having jurisdiction. Upon timely appeal by Grantee of the City Council's decision terminating the franchise, the effective date of such termination shall be either when such appeal is withdrawn or a court order upholding the termination becomes final and unappealable, and until the termination becomes effective, the provisions of this franchise shall remain in effect for all purposes.

(E) Notwithstanding the foregoing, the rights and remedies of City set forth in this section shall be in addition to, and not in limitation of, any other rights and remedies provided by law or in equity. City and Grantee understand and intend that such remedies shall be cumulative to the maximum extent permitted by law and the exercise by City of any one or more of such remedies shall not preclude the exercise by City, at the same or different times, of any other such remedies for the same breach of this agreement.

SECTION 13.
MISCELLANEOUS PROVISIONS

(A) This Franchise is made for the exclusive benefit of the City and the Grantee, and nothing herein is intended to, or shall confer any right, claim, or benefit in favor of any third party.

(B) No assignment or transfer of this franchise shall be made, in whole or in part, without approval of the City Council of the City; provided however that Grantee may assign this Agreement to an Affiliate without the City's consent, upon thirty (30) days' notice to the City. The City will grant such approval unless withheld for good cause. Upon approval, the rights, privileges, and franchise herein granted to the Grantee shall extend to and include its successors and assigns. The assignment shall not become effective until assignee agrees in writing to be bound by the terms, conditions, provisions, requirements and agreements contained in this franchise.

(C) Any notices required or desired to be given from one party to the other party to this Ordinance shall be in writing and shall be given and shall be deemed to have been served and received (whether actually received or not) if (i) delivered in person to the address set forth below; (ii) deposited in an official depository under the regular care and custody of the United States Postal Service located within the confines of the United States of America and sent by certified mail, return receipt requested, and addressed to such party at the address hereinafter specified; or (iii) delivered to such party by courier receipted delivery. Either party may designate another address within the confines of the continental United States of America for notice, but until written notice of such change is actually received by the other party, the last address of such party designated for notice shall remain such party's address for notice.

CITY	COMPANY
City Manager City of Euless 201 N. Ector Drive Euless, Texas 76040	Manager of Public Affairs Atmos Energy 1550 Tech Centre Parkway Arlington, Texas 76014

With a copy to:

Mr. Wayne K. Olson
Taylor Olson Adkins Sralla Elam
6000 Western Place Suite 200
Fort Worth, Texas 76107

(D) Nothing herein contained shall limit or restrict any legal rights that the City may possess arising from any alleged violation of this Franchise.

(E) Neither the City nor the Grantee shall be excused from complying with any of the terms and conditions of this Franchise by any failure of the other, or any of its officers, employers, or agents, upon any one or more occasions to insist upon or seek compliance with any such terms and conditions.

(F) The paragraph headings contained in this Ordinance are for convenience only and shall in no way enlarge or limit the scope or meaning of the various paragraphs hereof. Both parties have participated in the preparation of this Ordinance and this Ordinance shall not be construed either more or less strongly against or for either party.

SECTION 14.
PUBLICATION

The City Council directs that only the caption of this ordinance be published in accordance with Article XI, Section 3 of the City Charter at the expense of Grantee.

SECTION 15.
ACCEPTANCE AND EFFECTIVE DATE

To accept this Franchise, Grantee must file with the City Secretary its written acceptance of this franchise ordinance within thirty (30) days after its final passage and approval by City. If such written acceptance of this franchise ordinance is not filed by Grantee, the franchise ordinance shall be rendered null and void.

If Grantee files such written acceptance with the City Secretary, this ordinance shall be in full force and effect thirty (30) days from and after its passage and publication as provided by the Euless City Charter and the laws of the State of Texas.

PRESENTED AND GIVEN FIRST READING at a regular meeting of the Euless City Council on the 27th day of August 2013, by vote of ____ ayes, _____ nay and _____ abstentions.

PRESENTED AND GIVEN SECOND AND FINAL READING and approved at a regular meeting of the Euless City Council on the 8th day of October 2013, by a vote of ___ ayes, ___ nays, and ___ abstentions.

ATTEST:

_____ _____

City Secretary MAYOR

STATE OF TEXAS §
COUNTY OF TARRANT §
CITY OF EULESS §

I, _____, City Secretary of the City of Euless, Tarrant County, Texas, do hereby certify that the above and foregoing is a true and correct copy of an ordinance passed by the City Council of the City of Euless, Texas, at a regular session, held on the _____ day of _____, 2013, as it appears of record in the Minutes in Book _____, page _____.

WITNESS MY HAND AND SEAL OF SAID CITY, this the ___ day of _____, 2013.

_____

City Secretary
City of Euless, Texas