



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		May 12, 2014		
Department:		Office of Policy and Government Relations		
Department Head		Mark Israelson		
Agenda Coordinator (include phone #): Nancy Rodriguez X7510				
CAPTION				
<p>A Resolution of the City Council of the City of Plano, Texas, denying the rate increase requested by Atmos Energy Corp., Mid-Tex Division under the Company's 2014 annual Rate Review Mechanism filing in all cities exercising original jurisdiction; requiring the Company to reimburse cities' reasonable ratemaking expenses pertaining to review of the RRM; authorizing the City's participation with Atmos Cities Steering Committee in any appeal filed at the Railroad Commission of Texas by the Company; requiring the Company to reimburse cities' reasonable ratemaking expenses in any such appeal to the Railroad Commission; determining that this resolution was passed in accordance with the requirements of the Texas Open Meetings Act; adopting a savings clause; requiring delivery of this resolution to the Company and the Steering Committee's legal counsel; and providing an effective date.</p>				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR: 2013-14	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(S): N/A				
<p>COMMENTS: This item has no fiscal impact. STRATEGIC PLAN GOAL: Participating in negotiated resolutions to deny utility rate increases relates to the City's Goals of Financially Strong City with Service Excellence and Strong Local Economy.</p>				
SUMMARY OF ITEM				
<p>This Resolution denies the rate increase requested by Atmos Energy under the Second Annual RRM Rate Increase Under the Renewed RRM Tariff.</p>				
List of Supporting Documents: Memorandum and Resolution			Other Departments, Boards, Commissions or Agencies	



Memorandum

Date: May 12, 2014
To: Plano City Council
Thru: Bruce D. Glasscock, City Manager
From: Mark Israelson, Director of Office of Policy and Government Relations
Subject: Denial of Rate

The City, along with approximately 164 other cities served by Atmos Energy Mid-Tex Division ("Atmos Mid-Tex" or "Company"), is a member of the Atmos Cities Steering Committee ("ACSC"). On or about February 28, 2014, Atmos Mid-Tex filed with the City an application to increase natural gas rates pursuant to the Rate Review Mechanism ("RRM").

The Atmos Mid-Tex RRM filing sought a \$45.7 million rate increase system-wide based on an alleged test-year cost of service revenue deficiency of \$49 million. Of the total amount requested, almost \$37 million is attributable to the affected cities. The City worked with ACSC to analyze the schedules and evidence offered by Atmos Mid-Tex to support its request to increase rates. Although a good faith attempt was made by ACSC to reach a compromise with Atmos Mid-Tex, an agreement was not reached.

For this reason, the ACSC Executive Committee and ACSC legal counsel recommend that all ACSC Cities adopt the Resolution denying the requested rate change.

RRM Background:

The RRM tariff and the process implementing that tariff were created collaboratively by ACSC and Atmos Mid-Tex as an alternative to the legislatively-authorized GRIP surcharge process. ACSC has opposed GRIP because it constitutes piecemeal ratemaking, does not allow any review of the reasonableness of Atmos' expenditures, and does not allow participation by cities or recovery of cities' rate case expenses. In contrast, the RRM process has allowed for a more comprehensive rate review and annual adjustment as a substitute for GRIP filings. ACSC's consultants have calculated that had Atmos filed under the GRIP provisions, it would have received additional revenues from ratepayers of approximately \$31.5 million.

Purpose of the Resolution:

Rates cannot change without the adoption of rate ordinances by cities. No related matter is pending at the Railroad Commission. The purpose of the Resolution is to deny the rate increase requested by Atmos. Under the RRM tariff, Atmos may appeal the rate decision of the cities to the Railroad Commission; such appeal must be filed within thirty (30) days of the City action.

The RRM tariff also allows Atmos to implement its requested rates effective June 1 while any appeal at the Commission is pending, subject to refunds based upon the outcome of the appeal. This would represent a monthly increase of approximately \$2.02 for the average residential customer, subject to any refund if the Commission reduces the rates implemented by Atmos. The Resolution also authorizes the City to participate as a party to the appeal in conjunction with the

ACSC, and requires the Company to reimburse the City for its rate case expenses associated with the City’s review of the RRM filing, and with the appeal of the City’s denial of the rate increase.

Rate Impact of Appeal by Atmos Effective June 1:

The RRM tariff constrains the annual increase in the residential customer charge to no more than \$0.50. The current \$17.70 customer charge will be increased to \$18.22 per month with the addition of an energy conservation program surcharge of \$0.02.

A comparison of rates and rate impact of what Atmos initially proposed in its RRM filing is reflected in the following chart:

Customer Class	Current Bill	New Bill	Difference	New Customer Charge	New Commodity Charge	Base Rate Increase
Residential	48.09	50.11	2.02	\$ 18.22	\$0.08998 Ccf	9.41%
Commercial	254.85	260.91	6.06	\$ 38.85	\$0.07678 Ccf	9.59%
Industrial	4,680.30	4,837.10	156.80	\$675.00	declining block	9.70%
Transportation	2,836.84	2,993.64	156.80	\$675.00	declining block	9.70%

Explanation of “Be It Resolved” Paragraphs:

1. This paragraph approves all findings in the Resolution.
2. This section denies the requested rate increase, finds the proposed rates to be unreasonable and not in the public interest, and finds the existing rates to be just and reasonable.
3. This section requires the Company to reimburse ACSC Cities for reasonable ratemaking costs associated with reviewing and processing the RRM application.
4. This section authorizes participation by the City in conjunction with ACSC in any appeal filed by the Company at the Railroad Commission, and authorizes ACSC and its counsel to act on behalf of the City. This section also requires the Company to reimburse ACSC Cities for reasonable ratemaking costs associated with any appeal filed by the Company to the City’s resolution.
5. This section finds that the meeting was conducted in compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.
6. This section is a savings clause, which provides that if any section(s) is later found to be unconstitutional or invalid, that finding shall not affect, impair, or invalidate the remaining provisions of this Resolution. This section further directs that the remaining provisions of the Resolution are to be interpreted as if the offending section or clause never existed.
7. This paragraph directs that a copy of the signed Resolution be sent to a representative of the Company and legal counsel for ACSC.

A Resolution of the City Council of the City of Plano, Texas, denying the rate increase requested by Atmos Energy Corp., Mid-Tex Division under the Company's 2014 annual Rate Review Mechanism filing in all cities exercising original jurisdiction; requiring the Company to reimburse cities' reasonable ratemaking expenses pertaining to review of the RRM; authorizing the City's participation with Atmos Cities Steering Committee in any appeal filed at the Railroad Commission of Texas by the Company; requiring the Company to reimburse cities' reasonable ratemaking expenses in any such appeal to the Railroad Commission; determining that this resolution was passed in accordance with the requirements of the Texas Open Meetings Act; adopting a savings clause; requiring delivery of this resolution to the Company and the Steering Committee's legal counsel; and providing an effective date.

WHEREAS, the City of Plano, Texas ("City") is a gas utility customer of Atmos Energy Corp., Mid-Tex Division ("Atmos Mid-Tex" or "Company"), and a regulatory authority with an interest in the rates and charges of Atmos Mid-Tex; and

WHEREAS, the City is a member of the Atmos Cities Steering Committee ("ACSC"), a coalition of approximately 164 similarly situated cities served by Atmos Mid-Tex that have joined together to facilitate the review of and response to natural gas issues affecting rates charged in the Atmos Mid-Tex service area; and

WHEREAS, pursuant to the terms of the agreement settling the Company's 2007 Statement of Intent to increase rates, ACSC Cities and the Company worked collaboratively to develop a Rate Review Mechanism ("RRM") tariff that allows for an expedited rate review process controlled in a three-year experiment by ACSC Cities as a substitute to the current Gas Reliability Infrastructure Program ("GRIP") process instituted by the Legislature; and

WHEREAS, the City took action in 2008 to approve a Settlement Agreement with Atmos Mid-Tex resolving the Company's 2007 rate case and authorizing the RRM tariff; and

WHEREAS, in 2013, ACSC and the Company negotiated a renewal of the RRM tariff process for an additional five years; and

WHEREAS, the City passed an ordinance renewing the RRM tariff process for the City for an additional five years; and

WHEREAS, the RRM renewal tariff contemplates reimbursement of ACSC Cities' reasonable expenses associated with RRM applications; and

WHEREAS, on or about February 28, 2014, the Company filed with the City its second annual RRM filing under the renewed RRM tariff, requesting to increase natural gas base rates by \$45.7 million; and

WHEREAS, ACSC coordinated its review of Atmos Mid-Tex's RRM filing through its Executive Committee, assisted by ACSC attorneys and consultants, to investigate issues identified by ACSC in the Company's RRM filing; and

WHEREAS, ACSC attorneys and consultants have concluded that the Company is unable to justify a rate increase of the magnitude requested in the RRM filing; and

WHEREAS, ACSC's consultants determined the Company is only entitled to a \$19 million increase, approximately 42% of the Company's request under the 2014 RRM filing; and

WHEREAS, the Company would only be entitled to approximately \$31 million if it had a GRIP case; and

WHEREAS, the Company's levels of operating and maintenance expense have dramatically risen without sufficient justification; and

WHEREAS, the Company has awarded its executives and upper management increasing and unreasonable levels of incentives and bonuses, expenses which should be borne by shareholders who received a 23% total return on investment in 2013; and

WHEREAS, the Company requested a drastically high level of medical expense that is unreasonable and speculatively based upon estimates; and

WHEREAS, ACSC and the Company were unable to reach a compromise on the amount of additional revenues that the Company should recover under the 2014 RRM filing; and

WHEREAS, the ACSC Executive Committee, as well as ACSC's counsel and consultants, recommend that ACSC Cities deny the requested rate increase; and

WHEREAS, the Company's current rates are determined to be just, reasonable, and in the public interest.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS. THAT:

Section I. That the findings set forth in this Resolution are hereby in all things approved.

Section II. That the City Council finds that Atmos Mid-Tex was unable to justify the appropriateness or the need for the increased revenues requested in the 2014 RRM filing, and that existing rates for natural gas service provided by Atmos Mid-Tex are just and reasonable.

Section III. That Atmos Mid-Tex shall reimburse the reasonable ratemaking expenses of the ACSC Cities in processing the Company's RRM application.

Section IV. That in the event the Company files an appeal of this denial of rate increase to the Railroad Commission of Texas, the City is hereby authorized to intervene in such appeal, and shall participate in such appeal in conjunction with the ACSC membership. Further, in such event Atmos Mid-Tex shall reimburse the reasonable expenses of the ACSC Cities in

participating in the appeal of this and other ACSC City rate actions resulting from the 2014 RRM filing.

Section V. That the meeting at which this Resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section VI. That if any one or more sections or clauses of this Resolution is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair, or invalidate the remaining provisions of this Resolution and the remaining provisions of the Resolution shall be interpreted as if the offending section or clause never existed.

Section VII. That a copy of this Resolution shall be sent to Atmos Mid-Tex, care of Chris Felan, Manager of Rates and Regulatory Affairs, at Atmos Energy Corporation, 5420 LBJ Freeway, Suite 1862, Dallas, Texas 75240, and to Geoffrey Gay, General Counsel to ACSC, at Lloyd Gosselink Rochelle & Townsend, P.C., P.O. Box 1725, Austin, Texas 78767-1725.

Section VIII. This Resolution shall become effective immediately.

DULY PASSED AND APPROVED this 12th day of May, 2014.

Harry LaRosiliere, MAYOR

ATTEST:

Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

Paige Mims, CITY ATTORNEY