

STAFF REPORT SUPPORTING RESOLUTION DENYING ATMOS MID-TEX'S PROPOSED RATE INCREASE

The City, along with over 150 other cities served by Atmos Energy Corp., Mid-Tex Division ("Atmos Mid-Tex" or "Company"), is a member of the Atmos Cities Steering Committee ("ACSC" or "Steering Committee"). On or about January 31, 2012, Atmos Mid-Tex filed with the City a Statement of Intent to increase rates within the City.

Background

In 2003, TXU Gas filed a statewide rate case which became known at the Railroad Commission of Texas ("RRC") as Gas Utilities Docket ("GUD") No. 9400. That same year the Texas Legislature passed legislation referred to as the Gas Reliability Infrastructure Program ("GRIP") which authorized annual piecemeal rate reviews that Texas courts have concluded significantly restrict city jurisdiction, participation, and input. Shortly after GUD No. 9400 was decided in 2004, Atmos Energy purchased TXU Gas and created what is known as Atmos Energy Corp., Mid-Tex Division. The City is within the Atmos Mid-Tex Division.

Atmos Mid-Tex filed four GRIP cases before filing a traditional rate case in September, 2007. As part of ACSC's Settlement Agreement with Atmos of the 2007 rate case, ACSC and Atmos created a substitute process for annual piecemeal GRIP cases. That substitute process was called a Rate Review Mechanism ("RRM") and was intended as an expedited but comprehensive rate review that included a number of fixed values and constraints. The RRM was intended as a three-year experiment. Last year, it was extended for a fourth year with some slight modifications to the original formulas. ACSC negotiated with Atmos in the final quarter of last year to further extend the RRM process, but no agreement was reached. Atmos has expressed a desire to reach a settlement of the January 31, 2012 filing that includes a revised RRM process.

Discussion and Purpose

Atmos Mid-Tex filed a Statement of Intent on January 31, 2012, seeking to increase system-wide base rates (which exclude the cost of gas) by approximately \$49 million or 11.94%. However, the Company is requesting an increase of 13.6%, excluding gas costs, for its residential customers. Additionally, the application would change the way that rates are collected, by increasing the residential fixed-monthly (or customer) charge from \$7.50 to \$18.00 and decreasing the consumption charge from \$0.25 per 100 cubic feet ("ccf") to \$0.07 per ccf.

ACSC engaged attorneys and consultants to review Atmos Mid-Tex's proposed rate increase. Additionally, the ACSC cities passed suspension resolutions earlier this year, extending the effective date of Atmos Mid-Tex's proposed rate increase to June 4, 2012, in order to permit the cities time to review Atmos Mid-Tex's Statement of Intent. During their review, ACSC's consultants found justification that Mid-Tex's rates should be decreased. On April 25, 2012, the Company extended the effective date of its proposed rate change, which similarly extended cities' jurisdictional deadline to June 11, 2012.

ACSC and the Company have engaged in some settlement discussions but have not yet reached agreement. ACSC is hoping to achieve settlement with the Company in order to perpetuate the RRM process. The ACSC Settlement Committee therefore recommends denial of the Company's proposed rate increase rather than a rate decrease to facilitate further settlement discussions. The resolution prevents the Company's proposed rates from automatically going into effect on June 11. The Company has expressed a desire for settlement while an appeal from the cities' denial of the rate increase is pending at the RRC. Should a settlement be reached, the City may be required to pass an ordinance setting new rates pursuant to the settlement.

The purpose of the resolution is to deny Atmos Mid-Tex's proposed rate increase pending further settlement discussions and to prevent Atmos' proposed rate increase from automatically taking effect on June 11, 2012.

Explanation of "Be It Resolved Paragraphs"

Section 1. The paragraph denies the Company's proposed rate increase.

Section 2. This provision provides that the Company shall continue to charge its existing rates to its customers within the City.

Section 3. By law, the Company must reimburse the cities for their reasonable rate case expenses. Legal counsel and consultants approved by ACSC will present their invoices to the City of Arlington which will then seek reimbursement from Atmos Mid-Tex. The City will not incur liability for payment of rate case expenses by adopting a denial resolution.

Section 4. This section merely recites that the resolution was passed at a meeting that was open to the public and that the consideration of the resolution was properly noticed.

Section 5. This section provides that both Atmos Mid-Tex's designated representative and counsel for ACSC will be notified of the City's action by sending a copy of the approved and signed resolution to certain designated individuals.

Recommendation

The City Staff recommends adoption of the resolution denying Atmos Mid-Tex's proposed rate increase.