

## Legislation Text

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**CC MEETING:** September 10, 2019

**DATE:** August 27, 2019

**TO:** Erin Rinehart, City Manager

**FROM:** Laurie Garber, City Secretary/Admin. Services Director

Consider An **Ordinance Approving A Negotiated Settlement Between The Atmos Cities Steering Committee (“ACSC”) And Atmos Energy Corp., Midtex Division Regarding The Company’s 2019 Rate Review Mechanism Filings; Declaring Existing Rates To Be Unreasonable; Adopting Tariffs That Reflect Rate Adjustments Consistent With The Negotiated Settlement; Finding The Rates To Be Set By The Settlement Tariffs To Be Just And Reasonable And In The Public Interest; And Requiring The Company To Reimburse ACSC’s Reasonable Ratemaking Expenses.**

### **BACKGROUND:**

The City, along with 171 other Mid-Texas cities served by Atmos Energy Corporation, Mid-Tex Division (“Atmos Mid-Tex” or “Company”), is a member of the Atmos Cities Steering Committee (“ACSC”). In 2007, ACSC and Atmos Mid-Tex settled a rate application filed by the Company pursuant to Section 104.301 of the Texas Utilities Code for an interim rate adjustment commonly referred to as a GRIP filing (arising out of the Gas Reliability Infrastructure Program legislation). That settlement created a substitute rate review process, referred to as Rate Review Mechanism (“RRM”), as a substitute for future filings under the GRIP statute.

Since 2007, there have been several modifications to the original RRM Tariff. The most recent iteration of an RRM Tariff was reflected in an ordinance adopted by ACSC members in 2018. On or about April 1, 2019, the Company filed a rate request pursuant to the RRM Tariff adopted by ACSC members. The Company claimed that its cost-of-service in a test year ending December 31, 2018, entitled it to additional system-wide revenues of \$70 million. Application of the standards set forth in ACSC’s RRM Tariff required Atmos to reduce its request to \$54 million, \$39.3 million of which would be applicable to ACSC members. (ACSC is one of four groups allocated portions of system costs and ACSC constitutes roughly 72.8% of the system) ACSC’s consultants concluded that the system-wide deficiency under the RRM regime should be \$38.7 million instead of the claimed \$54 million. The amount of the \$38.7 million deficiency applicable to ACSC members would be \$28.2 million.

After the Company reviewed ACSC’s consultants’ report, ACSC’s Executive Committee and the Company negotiated a settlement whereby the Company would receive an increase of \$35.4 million from ACSC Cities.

The Executive Committee recommends a settlement at this amount. The Effective Date for new rates is October 1, 2019. ACSC members should take action approving the Ordinance before the end of September.

### **PROOF OF REVENUES**

Atmos generated proof that the rate tariffs attached to the Ordinance will generate \$35.4 million in additional revenues from ACSC Cities. That proof is attached as Attachment 1 to this Staff Report. ACSC consultants have agreed that Atmos' Proof of Revenues is accurate.

### **BILL IMPACT**

The impact of the settlement on average residential rates is an increase of \$2.05 on a monthly basis, or 3.7 percent. The increase for average commercial usage will be \$6.18 or 2.31 percent. A bill impact comparison is attached as Attachment 2.

### **SUMMARY OF OBJECTION TO UTILITIES CODE SECTION 104.301**

ACSC strongly opposed the GRIP process because it constitutes piecemeal ratemaking by ignoring declining expenses and increasing revenues while rewarding the Company for increasing capital investment on an annual basis. The GRIP process does not allow any review of the reasonableness of capital investment and does not allow cities to participate in the Railroad Commission's review of annual GRIP filings or allow recovery of Cities' rate case expenses. The Railroad Commission undertakes a mere administrative review of GRIP filings (instead of a full hearing) and rate increases go into effect without any material adjustments. In ACSC's view, the GRIP process unfairly raises customers' rates without any regulatory oversight. In contrast, the RRM process has allowed for a more comprehensive rate review and annual evaluation of expenses and revenues, as well as capital investment.

### **RRM SAVINGS OVER GRIP**

While residents outside municipal limits must pay rates governed by GRIP, there are some cities served by Atmos Mid-Tex that chose to remain under GRIP rather than adopt RRM. Additionally, the City of Dallas adopted a variation of RRM, which is referred to as DARR. When new rates become effective on October 1, 2019, ACSC residents will have a slight economic monthly advantage over comparable GRIP and comparable DARR rates (see Attachment 3).

### **EXPLANATION OF "BE IT ORDAINED" PARAGRAPHS:**

1. This section approves all findings in the Ordinance.
2. This section adopts the RRM rate tariffs and finds the adoption of the new rates to be just, reasonable, and in the public interest.
3. This section finds that existing rates are unreasonable. Such finding is a necessary predicate to establishment of new rates. The new tariffs will permit Atmos Mid-Tex to recover an additional \$35.4 million from ACSC Cities.
4. This section approves an exhibit that establishes a benchmark for pensions and retiree medical benefits to be used in future rate cases or RRM filings.
5. This section approves an exhibit to be used in future rate cases or RRM filings regarding recovery of regulatory liabilities, such as excess deferred income taxes.
6. This section requires the Company to reimburse the City for expenses associated with review of the RRM filing, settlement discussions, and adoption of the Ordinance approving new rate tariffs.

7. This section repeals any resolution or ordinance that is inconsistent with the Ordinance.
8. This section finds that the meeting was conducted in compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.
9. This section is a savings clause, which provides that if any section is later found to be unconstitutional or invalid, that finding shall not affect, impair, or invalidate the remaining provisions of this Ordinance. This section further directs that the remaining provisions of the Ordinance are to be interpreted as if the offending section or clause never existed.
10. This section provides for an effective date upon passage.
11. This section directs that a copy of the signed Ordinance be sent to a representative of the Company and legal counsel for ACSC.

## **CONCLUSION**

The Legislature's GRIP process allowed gas utilities to receive annual rate increases associated with capital investments. The RRM process has proven to result in a more efficient and less costly (both from a consumer rate impact perspective and from a ratemaking perspective) than the GRIP process. Given Atmos Mid-Tex's claim that its historic cost of service should entitle it to recover \$70 million in additional system-wide revenues, or \$54 million from ACSC Cities, the RRM settlement at \$35.4 million for ACSC Cities reflects substantial savings to ACSC Cities in the amount of \$18.6 million. ACSC's consultants produced a report indicating that Atmos had justified increased revenues for ACSC Cities of at least \$32.7 million. Settlement at \$35.4 million is fair and reasonable. The ACSC Executive Committee consisting of city employees of 18 ACSC members urges all ACSC members to pass the Ordinance before September 30, 2019. New rates become effective October 1, 2019.