

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, APPROVING A NEGOTIATED SETTLEMENT BETWEEN THE ATMOS CITIES STEERING COMMITTEE ("ACSC") AND ATMOS ENERGY CORP., MID-TEX DIVISION ("COMPANY") REGARDING THE COMPANY'S 2023 RATE REVIEW MECHANISM FILING; 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 ATTACHED SETTLEMENT TARIFFS TO BE JUST AND REASONABLE AND IN THE PUBLIC INTEREST; APPROVING AN ATTACHMENT ESTABLISHING A BENCHMARK FOR PENSIONS AND RETIREE MEDICAL BENEFITS; REQUIRING THE COMPANY TO REIMBURSE ACSC'S REASONABLE RATEMAKING EXPENSES; ADOPTING A SAVINGS CLAUSE; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; ADOPTING A SAVINGS CLAUSE; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND THE ACSC'S LEGAL COUNSEL.**

**WHEREAS**, the Town of Prosper, Texas ("Town"), 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 Town is a member of the Atmos Cities Steering Committee ("ACSC"), a coalition of similarly-situated cities served by Atmos Mid-Tex ("ACSC Cities") 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**, ACSC and the Company worked collaboratively to develop a new Rate Review Mechanism ("RRM") tariff that allows for an expedited rate review process by ACSC Cities as a substitute to the Gas Reliability Infrastructure Program ("GRIP") process instituted by the Legislature, and that will establish rates for the ACSC Cities based on the system-wide cost of serving the Atmos Mid-Tex Division; and

**WHEREAS**, the current RRM tariff was adopted by the Town in a rate ordinance in 2018; and

**WHEREAS**, on about March 31, 2023, Atmos Mid-Tex filed its 2023 RRM rate request with ACSC Cities based on a test year ending December 31, 2022; and

**WHEREAS**, ACSC coordinated its review of the Atmos Mid-Tex 2023 RRM filing through its Executive Committee, assisted by ACSC's attorneys and consultants, to resolve issues identified in the Company's RRM filing; and

**WHEREAS**, the Executive Committee, as well as ACSC's counsel and consultants, recommend that ACSC Cities approve an increase in base rates for Atmos Mid-Tex of \$142 million applicable on a system-wide basis with an effective date of October 1, 2023; and

**WHEREAS**, ACSC agrees that Atmos' plant-in-service is reasonable; and

**WHEREAS**, with the exception of approved plant-in-service, ACSC is not foreclosed from future reasonableness evaluation of costs associated with incidents related to gas leaks; and

**WHEREAS**, the attached tariffs (Attachment 1) implementing new rates are consistent with the recommendation of the ACSC Executive Committee, are agreed to by the Company, and are just, reasonable, and in the public interest; and

**WHEREAS**, the settlement agreement sets a new benchmark for pensions and retiree medical benefits (Attachment 2); and

**WHEREAS**, the RRM Tariff contemplates reimbursement of ACSC's reasonable expenses associated with RRM applications; and

**WHEREAS**, the RRM Tariff includes Securitization Interest Regulatory Asset amount of \$19.5 million.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, THAT:**

### **SECTION 1**

All of the above premises are hereby found to be true and correct legislative and factual findings of the Town of Prosper and they are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

### **SECTION 2**

Without prejudice to future litigation of any issue identified by ACSC, the Town Council finds that the settled amount of an increase in revenues of \$142 million on a system-wide basis represents a comprehensive settlement of gas utility rate issues affecting the rates, operations and services offered by Atmos Mid-Tex within the municipal limits arising from Atmos Mid-Tex's 2023 RRM filing, is in the public interest, and is consistent with the Town's authority under Section 103.001 of the Texas Utilities Code.

### **SECTION 3**

Despite finding Atmos Mid-Tex's plant-in-service to be reasonable, ASCS is not foreclosed in future cases from evaluating the reasonableness of costs associated with incidents involving leaks of natural gas.

### **SECTION 4**

The existing rates for natural gas service provided by Atmos Mid-Tex are unreasonable. The new tariffs, attached hereto and incorporated herein as Attachment 1, are just and reasonable, and are designed to allow Atmos Mid-Tex to recover annually an additional \$142 million on a system-wide basis, over the amount allowed under currently approved rates. Such tariffs are hereby adopted.

## **SECTION 5**

The ratemaking treatment for pensions and retiree medical benefits in Atmos Mid-Tex's next RRM filing shall be as set forth on Attachment 2, attached hereto and incorporated herein.

## **SECTION 6**

Atmos Mid-Tex shall reimburse the reasonable ratemaking expenses of the ACSC in processing the Company's 2023 RRM filing.

## **SECTION 7**

To the extent any resolution or ordinance previously adopted by the Town is inconsistent with this Ordinance, it is hereby repealed.

## **SECTION 8**

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

## **SECTION 9**

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

## **SECTION 10**

Consistent with the Town ordinance that established the RRM process, this Ordinance shall become effective from and after its passage with rates authorized by attached tariffs to be effective for bills rendered on or after October 1, 2023.

## **SECTION 11**

A copy of this Ordinance shall be sent to Atmos Mid-Tex, care of Chris Felan, Vice President of Rates and Regulatory Affairs, Atmos Energy Corporation, Mid-Tex Division, 5420 LBJ Freeway, Suite 1862, Dallas, Texas 75240, and to Thomas Brocato, General Counsel to ACSC, at Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701.

**PASSED AND APPROVED** by the Town Council of the Town of Prosper, Texas, on this the 22nd day of August, 2023.

**APPROVED:**

---

**David F. Bristol, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Michelle Lewis Sirianni, Town Secretary**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**Terrence S. Welch, Town Attorney**

**ATTACHMENT 1**

## **ATTACHMENT 2**