



TOWN ATTORNEY

To: Mayor and Town Council
From: Terrence S. Welch, Town Attorney
Through: Mario Canizares, Town Manager
Re: Atmos Rate Review

Town Council Meeting – August 22, 2023

Strategic Visioning Priority: 4. Provide Excellent Municipal Services

Agenda Item:

Consider and act upon an ordinance approving a Negotiated Settlement between the Atmos Cities Steering Committee and Atmos Energy Corporation, Mid-Tex Division regarding the Company's 2023 Rate Review Mechanism Filing; declaring the existing rates to be unreasonable; finding the rates to be set by the attached Settlement Tariffs to be reasonable and in the public interest; and approving an attachment establishing a benchmark for pensions and retiree medical benefits.

Description of Agenda Item:

The Town, along with 181 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 March 31, 2023, 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, 2022, entitled it to additional system-wide revenues of \$165.9 million.

Application of the standards set forth in ACSC's RRM Tariff reduces the Company's request to \$156.1 million, \$113.8 million of which would be applicable to ACSC members. After reviewing the filing and conducting discovery, ACSC's consultants concluded that the system-wide deficiency under the RRM regime should be \$130.9 million instead of the claimed \$156.1 million.

After several settlement meetings, the parties have agreed to settle the case for \$142 million. This is a reduction of \$23.9 million to the Company's initial request. This includes payment of ACSC's expenses. The settlement also includes an additional \$19.5 million for the securitization regulatory asset expenses related to Winter Storm Uri. This was previously approved by the Texas Legislature and Railroad Commission. The Effective Date for new rates is October 1, 2023.

Atmos generated rate tariffs attached to the Ordinance will generate \$142 million in additional revenues. Atmos also prepared a Proof of Revenues supporting the settlement figures. ACSC consultants have agreed that Atmos' Proof of Revenues is accurate.

The impact of the settlement on average residential rates is an increase of \$6.47 on a monthly basis, or 7.31%. The increase for average commercial usage will be \$24.72 or 5.19%. Atmos provided bill impact comparisons containing these figures.

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 \$165.9 million in additional system-wide revenues, the RRM settlement at \$142 million for ACSC members reflects substantial savings to ACSC cities. Settlement at \$142 million is fair and reasonable. The ACSC Executive Committee consisting of city employees of 18 ACSC members urges all ACSC members to pass either a resolution or ordinance before September 30, 2023. New rates become effective October 1, 2023.

Budget Impact:

There is no budgetary impact affiliated with this item.

Legal Obligations and Review:

Terrence Welch of Brown & Hofmeister, L.L.P., has approved the attached documents as to form and legality.

Attached Documents:

1. Ordinance & Attachments

Town Staff Recommendation:

Town Attorney recommends approval of an ordinance approving a Negotiated Settlement between the Atmos Cities Steering Committee and Atmos Energy Corporation, Mid-Tex Division regarding the Company's 2023 Rate Review Mechanism Filing; declaring the existing rates to be unreasonable; finding the rates to be set by the attached Settlement Tariffs to be reasonable and in the public interest; and approving an attachment establishing a benchmark for pensions and retiree medical benefits.

Proposed Motion:

I move to approve an ordinance approving a Negotiated Settlement between the Atmos Cities Steering Committee and Atmos Energy Corporation, Mid-Tex Division regarding the Company's 2023 Rate Review Mechanism Filing; declaring the existing rates to be unreasonable; finding the rates to be set by the attached Settlement Tariffs to be reasonable and in the public interest; and approving an attachment establishing a benchmark for pensions and retiree medical benefits.