



## **AGENDA MEMO**

### **9/4/2018 Agenda**

**TO:** Honorable Mayor and City Council

**FROM:** Dale Harwell, Director of Information Services

**SUBJECT:** Consider & Act: Approval of Atmos Energy Corporation Negotiated Rate Settlement

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#### **BACKGROUND AND SUMMARY:**

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 earlier this year. On or about April 1, 2018, 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, 2017, entitled it to additional system-wide revenues of \$42.0 million. Application of the standards set forth in ACSC's RRM Tariff required Atmos to reduce its request to \$27.4 million. After review of the consultants' report, the Company offered to settle for a system-wide increase of \$25.9 million. Following further negotiations, ACSC's Executive Committee agreed to recommend a system-wide rate increase of \$24.9 million. That increase when allocated to ACSC members results in an increase of \$17.8 million. The Effective Date for new rates is October 1, 2018. ACSC members should take action approving the Resolution before the end of September.

#### **PROOF OF REVENUES:**

Atmos generated proof that the rate tariffs attached to the Resolution will generate \$24.9 million in additional revenues on a system-wide basis. That proof is attached as Attachment 1 to this Staff Report. ACSC consultants have agreed that Atmos' Proof of Revenues is accurate.

**BILL IMPACT:**

Given the fact that ACSC demanded that Atmos reflect reduced federal income taxes in its cost-of-service, as reflected in the RRM Tariff adopted earlier this year, Atmos reduced its rates in March. The rate increase associated with the Resolution is largely offset by the lowered federal income tax rates, such that out-of-pocket expense to consumers should be roughly the same under new rates as what was experienced by consumers last winter. A bill impact comparison is attached as Attachment 2.

**SUMMARY OF ACSC'S OBJECTION TO THE UTILITIES CODE SECTION 104.301****GRIP PROCESS:**

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.

**EXPLANATION OF "BE IT RESOLVED" PARAGRAPHS:**

1. This section approves all findings in the Resolution.
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 \$24.9 million on a system-wide basis. Settling Cities will be responsible for \$17.8 million of the \$24.9 million.
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 ACSC for expenses associated with review of the RRM filing, settlement discussions, and adoption of the Resolution approving new rate tariffs.
7. This section repeals any resolution or ordinance that is inconsistent with the Resolution.
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 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.
10. This section provides for an effective date upon passage.
11. This section directs that a copy of the signed Resolution 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 \$42 million in additional system-wide revenues, the RRM settlement at \$24.9 million reflects savings of \$17.1 million. ACSC's consultants produced a report indicating that Atmos had justified increased revenues of at least \$21.7 million. Settlement at \$24.9 million is fair and reasonable. The ACSC Executive Committee consisting of city employees of 18 ACSC members urges all ACSC members to pass the Resolution before September 30, 2018. New rates become effective October 1, 2018.

**RECOMMENDATION:**

Staff recommends approval of the Atmos Energy Corporation negotiated rate settlement.