

RESOLUTION NO. 18- 24

RESOLUTION BY THE CITY OF COMMERCE, TEXAS (“CITY”) DENYING A PROPOSED INCREASE SOUGHT BY ATMOS ENERGY-MIDTEX DIVISION IN CONNECTION WITH THE RATE INCREASE FILING IT MADE ON ABOUT JUNE 1, 2018; APPROVING AN ALTERNATIVE INCREASE IN RATES; DIRECTING ATMOS TO FILE CONFORMING TARIFFS AND TO REIMBURSE THE CITY’S RATE CASE EXPENSES; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; AND DECLARING AN EFFECTIVE DATE

WHEREAS, Atmos Energy (“Atmos Energy,” “Atmos,” or “Company”) filed a Statement of Intent with the City on or about June 1, 2018, to increase its annual revenue by approximately \$4.5 million in the cities known as Atmos Texas Municipalities (“ATM”), which equates to an increase in annual revenue of approximately 8.0 percent, and is the equivalent of an increase of about \$46.0 million on a system-wide basis; and

WHEREAS, the City is a regulatory authority under the Gas Utility Regulatory Act (“GURA”) and under Chapter 104, §103.001 et seq. of GURA has exclusive original jurisdiction over Atmos’s rates, operations, and services within the municipality; and

WHEREAS, in order to maximize the efficient use of resources and expertise in reviewing, analyzing and investigating Atmos’s rate request and its changes in tariffs it is prudent to coordinate the City’s efforts with a coalition of similarly situated municipalities; and

WHEREAS, the City, in matters regarding applications by Atmos to change rates, has in the past joined with other local regulatory authorities to form an alliance of cities known as Atmos Texas Municipalities (“ATM”), and hereby continues its participation in ATM; and

WHEREAS, Atmos’s rate request consists of a voluminous amount of information including Atmos’s rate-filing package, exhibits, schedules, and workpapers; and

WHEREAS, Atmos’s rate application is the Company’s first general rate case since about 2012, and follows annual increases approved under the now-expired tariff known as the “Rate Review Mechanism” (“RRM”); and

WHEREAS, Atmos proposed July 6, 2018, as the effective date for its requested increase in rates; and

WHEREAS, the City previously suspended Atmos’ proposed effective from July 6, 2018, to October 4, 2018; and

WHEREAS, the City, exercising its duties as a local regulatory authority with regard to Atmos’ rates, services, and operations, through ATM engaged the law firm of Herrera Law & Associates as Special Counsel and rate experts from the consulting firms of the Garrett Group, LLC, GDS and Associates, Inc., and J. Randall Woolridge, Ph.D, to review Atmos’ rate filing package; and

WHEREAS, Atmos failed to establish the need for an increase of about \$46 million and the specific rates Atmos proposed; and

WHEREAS, merits at most an increase of about \$12.81 million, which is approximately an increase of \$1.25 million in the ATM cities, and the specific rates set forth in **Exhibit A** to this Resolution, and made a part of this Resolution as if fully set out in its body; and

WHEREAS, Atmos failed to establish the reasonableness of its proposed rate design; and

WHEREAS, a reasonable rate design is as set forth in **Exhibit A**;

WHEREAS, Atmos failed to establish the reasonableness of its proposed cost of capital, including Atmos' proposed capital structure; and

WHEREAS, a reasonable cost of capital and capital structure is as set forth in **Exhibit A** to this Resolution; and

WHEREAS, pursuant to Gas Utility Regulatory Act § 103.022, cities have a statutory right to recover their reasonable rate case expenses.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF _____, TEXAS THAT:

Section 1. The findings set out in the preamble are in all things approved and incorporated herein as if fully set forth.

Section 2. Atmos failed to establish that its requested increase in revenue of about \$46 million, and its proposed changes in rates as set forth in its Statement of Intent submitted to the City on about June 1, 2018, result in just and reasonable rates, and are therefore, hereby **DENIED**.

Section 3. An increase of about \$12.81 million as shown in **Exhibit A**, and as detailed in **Exhibit B** to this Resolution, each of which is hereby incorporated by reference, and the rates shown below, are hereby **APPROVED**, to wit:

Approved Increase in Annual Revenue (System Wide – MidTex Division)	
\$12,807,858	

Customer Class/Rate	APPROVED RATE
Rate R - Residential	
Customer Charge per month	\$17.89
Consumption Charge (per CCF)	\$0.16052
Rate C - Commercial	

Customer Charge per month	\$37.85
Consumption Charge (per CCF)	\$0.10081
Rate I & T – Indus. & Transp.	
Customer Charge per month	\$619.85
Consumption Chrg - First 1,500 MMBTU	\$0.3655
Consumption Chrg - Next 3,500 MMBTU	\$0.2908
Consumption Chrg - Over 5,000 MMBTU	\$0.0761

Section 4. A rate-case-expense surcharge (“RCE Surcharge”) as shown below to allow Atmos to recover the City’s rate case expenses is hereby **APPROVED**, said surcharge per class to be in effect for a period of five (5) years:

Rate Class	RCE Surcharge
Residential	\$0.00030 per ccf
Commercial	\$0.00011 per ccf
Industrial & Transportation	\$0.0001 per MMbtu

Section 5. Atmos is hereby ordered to submit to the City a report detailing the rate-case expenses recovered through the RCE Surcharges, said report to be filed by October 1 of each year until full recovery of the rate case expenses and in no event is Atmos permitted to recover in excess of the rate case expenses approved by this Resolution.

Section 6. Atmos’ requested return on equity of 10.50% and its proposed capital structure of 60.18% equity and 39.82% long-term debt, are hereby **DENIED**.

Section 7. A return on equity of 9.80%; a cost of long-term debt of 5.45%; and a cost of short-term debt of 1.68%, are hereby **APPROVED**.

Section 8. A capital structure of 53.81% equity; 38.98% long-term debt; and 7.21% short-term debt, yielding a weighted cost of capital of 7.5189%, are hereby **APPROVED**.

Section 9. Atmos is hereby ordered to reimburse the City's rate case expenses incurred as a member of the Atmos Texas Municipalities ("ATM") through August 31, 2018, as set forth in **Exhibit B**, by no later than thirty (30) days from the effective date of this Resolution.

Section 10. Atmos is hereby ordered to reimburse the City's rate case expenses incurred after August 31, 2018, for the City's reasonable costs associated with the City's continued activities related to this rate review or related to proceedings involving Atmos in proceedings before the City or any ATM city, the Railroad Commission of Texas, or any court of law, and that Atmos shall do so on a monthly basis and within 30 days after submission of the City's invoices to Atmos.

Section 11. Atmos is directed to submit to the City a set of tariffs modified to correspond to the rates approved by this Resolution and that it do so by no later than fifteen (15) calendar days after the effective date of this Resolution, said submittal to be accompanied by an affidavit from an officer of Atmos Energy attesting that the rates presented in the modified tariffs are in accordance with the rates approved by this Resolution.

Section 12. The City shall continue its participation in a coalition of cities known as the Atmos Texas Municipalities ("ATM"), and authorizes intervention in proceedings related to Atmos' Statement of Intent before the Railroad Commission of Texas and related proceedings in courts of law that may have an impact on rates within the City; and

Section 13. Subject to the right to terminate employment at any time, the City continues its engagement of and authorizes the law firm of Herrera Law & Associates, PLLC to act as Special Counsel with regard to rate proceedings involving Atmos before the City, the Railroad Commission of Texas, or any court of law, and to retain such experts as may be reasonably necessary for review of Atmos's rate application in such proceedings and subject to approval by the steering committee of the ATM.

Section 14. Any relief not expressly granted or approved by this Resolution is expressly denied.

Section 15. A copy of this Resolution shall be sent to Mr. Alfred R. Herrera, Herrera Law & Associates, PLLC, 816 Congress Ave., Suite 950, Austin, Texas 78701, and a courtesy copy to Atmos's local representative.

Section 16. Atmos shall implement the rates approved by this Resolution beginning October 4, 2018, for service rendered on and after that date.

Section 17. To the extent of an inconsistency between this Resolution and a prior ordinance or resolution related to Atmos' rates, this Resolution governs and supersedes all prior ordinances or resolutions related to Atmos' rates.

Section 18. The meeting at which this Resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section 19. This Resolution shall become effective from and after its passage.

PASSED AND APPROVED this _____ day of _____, 2018.

ATTEST:

CITY OF COMMERCE, TEXAS

Molly Jacobsen
City Secretary

Wyman Williams
Mayor

(seal)

APPROVED AS TO FORM:

Patricia Adams
City Attorney

I, Molly Jacobsen, City Secretary of the City of Commerce, Texas, do hereby certify that the above is a true and correct copy of a Resolution, and is in full force and effect.

(seal)

Molly Jacobsen, City Secretary
City of Commerce, Texas

Sworn to and subscribed before me, on this the _____ day of 2018, to certify which witness my hand and seal of office.

(seal)

Notary Public
State of Texas