

PUBLIC NOTICE:

RIESEL CITY COUNCIL SPECIAL MEETING on 12.23.2024

NOTICE IS HEREBY GIVEN that the City Council of the City of Riesel, McLennan County, Texas, will hold a **SPECIAL** called meeting on **MONDAY, DECEMBER 23, 2024 at 12:00 PM** (noon) at Riesel City Hall, 104 N Hwy 6, Riesel, TX 76682 to discuss the following matters:

1. Call to Order; (confirm quorum)
2. Consider and Act regarding approval of RESOLUTION #2024-1223 DENIAL OF ATMOS ENERGY CORPORATION'S APPLICATION FILED ON ABOUT DECEMBER 16, 2024, PROPOSING TO INCREASE IN-CITY RATES FOR ITS MID-TEX DIVISION; AUTHORIZING PARTICIPATION IN THE ATMOS TEXAS MUNICIPALITIES (ATM) COALITION OF CITIES; AUTHORIZING INTERVENTION IN PROCEEDINGS RELATED TO ATMOS ENERGY'S STATEMENT OF INTENT; REQUIRING THE REIMBURSEMENT OF MUNICIPAL RATE CASE EXPENSES; AUTHORIZING REPRESENTATION OF THE CITY BY SPECIAL COUNSEL

I hereby certify that this notice was placed at its present location at least 72 hours prior to the above meeting time on Tuesday, 12/17/2024 at 3:45 PM.

Alisha Flanary

Alisha Flanary, City Secretary

AGENDA INFORMATION SHEET
ITEM NO. _____

DENIAL OF ATMOS ENERGY CORPORATION'S APPLICATION FILED ON ABOUT DECEMBER 16, 2024, PROPOSING TO INCREASE IN-CITY RATES FOR ITS MID-TEX DIVISION; AUTHORIZING PARTICIPATION IN THE ATMOS TEXAS MUNICIPALITIES (ATM) COALITION OF CITIES; AUTHORIZING INTERVENTION IN PROCEEDINGS RELATED TO ATMOS ENERGY'S STATEMENT OF INTENT; REQUIRING THE REIMBURSEMENT OF MUNICIPAL RATE CASE EXPENSES; AUTHORIZING REPRESENTATION OF THE CITY BY SPECIAL COUNSEL

BACKGROUND

On about December 16, 2024, Atmos Energy Corporation (Atmos or Atmos Energy) filed a Statement of Intent to increase its base rate revenues for its Mid-Tex Division within certain cities, by approximately **\$16.73 million**; this equates to an **increase in annual revenue of about 7.08% including gas costs, and 11.51% excluding gas costs**. This is Atmos's first request to increase its base rates since 2018. Following the conclusion of its 2018 rate gas (Gas Utilities Docket No. 10742), Atmos has raised its rates by means of six Interim Rates Adjustment ("IRA") filings, also known as "GRIP" filings.

Atmos proposes an effective date of January 20, 2025, for its change in rates. As is explained below, the proposed Resolution related to Atmos's application to increase its base rate revenues, if adopted, denies the proposed increase in rates.

Crucially, on November 18, 2024, Atmos filed with the Railroad Commission of Texas (RRC or Commission) substantially the same proposal to increase rates. Because Atmos filed its application to increase rates with the RRC several weeks before it filed the same application with the city, and other similarly situated cities, the time line for the RRC to issue a decision regarding Atmos's application with the RRC is such that by the time the City's statutory deadline to make its decision regarding the application Atmos filed with the City, the RRC proceedings will be close to, if not at, their end. Thus, it is highly likely the RRC will make a decision on the merits of Atmos's application before the City completes its review and makes its decision.

BILL IMPACT:

On average, Atmos' proposed increase if approved as filed would result in an increase of about 14.05% in a residential customer's bill excluding the cost of gas, and about 9.41% including the cost of gas. The effect of Atmos' proposed increase in rates for a residential customer using average consumption of gas is shown in the table below:

ATMOS ENERGY CORP., MID-TEX DIVISION								
ATMOS TEXAS MUNICIPALITIES ("ATM") STATEMENT OF INTENT								
AVERAGE BILL COMPARISON - BASE RATES								
TEST YEAR ENDING JUNE 30, 2024								
Line No.	Description	Average Volumes	Current Rates	Proposed Rates	Current Average Bill	Proposed Average Bill	Amount Change	Percent Change
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
1	Rate R at 32.6 Ccf							
2	Base Rates:							
3	Customer Charge		\$ 47.91	\$ 47.91	\$ 47.91	\$ 47.91	\$ -	
4	Consumption Charge (Ccf)	32.6	\$ 0.14846	\$ 0.37584	4.84	12.25	7.41	
5	Total Base Rates				\$ 52.75	\$ 60.16	\$ 7.41	14.05%
6								
7	Gas Cost:							
8	Rider GCR Part A (Ccf)	32.6	\$ 0.25792	\$ 0.25792	\$ 8.41	\$ 8.41	\$ -	
9	Rider GCR Part B (Ccf)	32.6	\$ 0.53771	\$ 0.53771	17.53	17.53	-	
10	Total Gas Cost				\$ 25.94	\$ 25.94	\$ -	0.00%
11								
12	Total Base with Gas Cost				\$ 78.69	\$ 86.10	\$ 7.41	
13	Rider FF and Rider TAX		0.06788	0.06788	5.34	5.84	0.50	9.36%
14								
15	Total Residential Average Bill				\$ 84.03	\$ 91.94	\$ 7.91	9.41%

Atmos proposes to leave rates for Commercial, Industrial, and Transportation customers unchanged.

REVENUE IMPACT:

Because of the substantial increase in rates to the Residential class of customers the City should closely scrutinize Atmos’s proposed increase as well as its proposed allocation of costs to the customer classes.

ACTION REQUIRED BY JANUARY 20, 2025

The City must take action on Atmos’s Statement of Intent by no later than January 20, 2025. Absent such action, Atmos’s proposed rates are deemed approved by operation of law.

ATMOS TEXAS MUNICIPALITIES

The coalition of cities known as the Atmos Texas Municipalities (“ATM”) was organized by a number of municipalities served by Atmos. Alfred R. Herrera, with the law firm of Herrera Law & Associates, PLLC, has previously represented ATM in rate cases involving Atmos.

CITY JURISDICTION TO SET ATMOS’S RATES

Unless a city ceded its original jurisdiction to the Railroad Commission of Texas, the Gas Utility Regulatory Act § 103.001 grants a city exclusive original jurisdiction over a gas utility’s rates, services, and operations within the city limits. But even if a city has ceded its jurisdiction to the Railroad Commission, the Gas Utility Regulatory Act § 103.023 (“GURA”), grants a city the statutory right to participate in rate proceedings before the Railroad Commission.

RATE CASE EXPENSES

Cities by statute are entitled to recover their reasonable rate case expenses from the utility. See GURA § 103.022. Legal counsel and consultants approved by ATM will submit monthly invoices to the coalition-designated city that will be forwarded to ATM for reimbursement. No individual city's budget is negatively affected.

OPTIONS FOR CITY ACTION:

The City has three options with respect to the action it takes regarding Atmos's application to increase rates:

1. The City could take no action, and under state law, Atmos's proposed increase in revenue and change in rates would be deemed approved by operation of law and go into effect on Atmos's proposed effective date, January 20, 2025;
2. The City may suspend Atmos's proposed effective date of January 20, 2025, for its increase, for the statutorily allowed period of 90 days, which means the suspension would expire on April 20, 2025. If the City suspends Atmos's proposed effective date, the City will need to take final action on the merits of Atmos's proposed increase in revenue and rates by no later than April 20, 2025;
3. The City may deny Atmos's proposed increase in revenue and rates; if the City denies Atmos's proposed increase, Atmos will have the right to appeal the City's action to the Railroad Commission of Texas, which it would do.

RECOMMENDATION

ATM's Special Counsel recommends that the City join or continue its participation in ATM and retain the law firm of Herrera Law & Associates, PLLC to represent the City's interest in matters related to Atmos's rate case and to advise the City with regard to Atmos's application, and that, intervene in the proceedings before the Railroad Commission of Texas related to Atmos's rates for its Mid-Tex Division, and related court appeals, if any.

As noted above, because Atmos filed its application to increase rates with the RRC several weeks before it filed the same application with the City, it is highly likely the RRC will make a decision on the merits of Atmos's application pending before the RRC, well ahead of the time the City completes its review and makes its final decision on Atmos's application it filed with the City.

Thus, while the City could adopt a resolution suspending Atmos's proposed effective date for the statutorily allowed period, and not make a final decision until close to the end

of the suspension period – April 20, 2025 – ATM’s Special Counsel recommends the City adopt a resolution denying Atmos’s proposed increase in rates, and that the City do so as expeditiously as possible.

Otherwise, if the City adopts a “suspension” resolution, it is highly likely the RRC would have reached its decision on the merits of the application Atmos filed with the RRC, before Atmos even files its appeal of the City’s decision. This means that the City will have had no opportunity to influence the RRC’s decision and it is highly unlikely the RRC would change its decisions on any appeal Atmos files from the City’s actions on the merits of Atmos’s proposed increase in rates.

Crucially, though the City, as part of ATM, has filed a motion to intervene in Atmos’s pending rate case at the RRC, Atmos has informed ATM’s Special Counsel that Atmos will object to ATM’s intervention and there is the risk that the RRC’s administrative law judge will sustain Atmos’ objection keeping ATM out of the case Atmos filed with the RRC. The ALJ is not expected to make a decision on ATM’s motion to intervene until sometime after December 16, 2024, at the earliest.

So, ATM’s Special Counsel strongly advises the City to adopt a resolution denying Atmos’s proposed increase in rates, and that it do so as expeditiously as possible. Doing so ensures that Atmos will appeal the City’s decision to the RRC on a more expedited time frame, thus assuring ATM’s right to intervene in the proceedings at the RRC.

If adopted, the accompanying resolution:

1. Denies Atmos’s proposed increase in rates;
2. Authorizes Herrera Law & Associates, PLLC to represent the City through ATM in proceedings related to Atmos’s proposal to increase rates;
3. Directs Atmos to reimburse ATM’s rate-case expenses.

The City must take action no later than January 20, 2025. If the City does not take action by January 20, 2025, Atmos’s proposed rates will be deemed approved by operation of law. Though the City has until January 20, 2025, to take action, to maximize ATM’s participation in proceedings pending at the RRC, Special Counsel advises the City to adopt the denial resolution as expeditiously as possible.

RESOLUTION NO. _____

RESOLUTION BY THE CITY OF _____, TEXAS (“CITY”) DENYING THE INCREASE IN RATES PROPOSED BY ATMOS ENERGY CORPORATION IN ITS MID-TEX DIVISION FILED ON ABOUT DECEMBER 16, 2024; AUTHORIZING INTERVENTION IN PROCEEDINGS RELATED TO ATMOS ENERGY’S APPLICATION TO INCREASE RATES; AUTHORIZING SPECIAL COUNSEL TO REPRESENT THE CITY IN MATTERS RELATED TO ATMOS ENERGY’S PROPOSED INCREASE IN RATES; DIRECTING ATMOS TO REIMBURSE RATE CASE EXPENSES; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE

WHEREAS, Atmos Energy Corporation (“Atmos” or “Company”) filed a Statement of Intent with the City on about December 16, 2024, to change its rate schedules within the corporate limits of this municipality, specifically to increase its annual revenue requirement by approximately \$16.73 million, which represents an increase in base rates of about 11.51%, excluding the cost of gas, and about 7.08% including the cost of gas; and

WHEREAS, the City is a regulatory authority under the Gas Utility Regulatory Act (“GURA”) and under Chapter 103, §103.001 et seq. of GURA has exclusive original jurisdiction over Atmos’s rates, operations, and services within the municipality; and

WHEREAS, to maximize the efficient use of resources and expertise in reviewing, analyzing and investigating Atmos’s rate request and its changes in tariffs, the City joins with other local regulatory authorities to form an alliance of cities known as the Atmos Texas Municipalities (“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 2018, and follows six consecutive annual increases in rates pursuant to the Interim Rate Adjustment (“IRA”) mechanism, also known as “GRIP” filings; and

WHEREAS, Atmos proposed January 20, 2024, as the effective date for its requested increase in rates; and

WHEREAS, the City will require the assistance of specialized legal counsel and rate experts to review the merits of Atmos’s application to increase rates; and

WHEREAS, Atmos’s application fails to establish that its overall revenue request resulted in no more than an amount that will permit Atmos a reasonable opportunity to earn a reasonable return on the utility’s invested capital used and useful in providing service to the public in excess of its reasonable and necessary operating expenses; and

WHEREAS, Atmos’s application fails to establish that its proposed rates are just and reasonable; and

WHEREAS, Atmos may exercise its statutory right to appeal a City decision regarding Atmos’s request to increase rates to the Railroad Commission of Texas; and

WHEREAS, Atmos filed its Statement of Intent to increase its revenue and change its rate with the City after it filed a substantially similar application with the Railroad Commission of Texas, and the decision of the Railroad Commission of Texas will have a direct impact on the City and its citizens who are customers of Atmos, and in order for the City’s participation to be meaningful, it is important that the City intervene in any such proceedings at the Railroad Commission of Texas related to Atmos’s application to increase rates.

NOW THEREFORE, BE IT RESOLVED 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’s application fails to show that its proposed rates are just and reasonable.

Section 3. The City hereby **DENIES** Atmos’s request to increase its revenue and change its rates and in support of **DENIAL** finds that:

- A.** Atmos failed in its burden of proof to establish that its requested increase in revenue or the changes set forth in its tariffs attached to Atmos’s Statement of Intent to change rates, results in just and reasonable rates;
- B.** Atmos failed in its burden of proof to establish that adoption of its proposed rate base, expenses, investment, return on equity, and other rate issues as presented in Atmos’s Statement of Intent to increase rates, result in just and reasonable rates.

Section 4. The City shall participate in a coalition of cities known as the Atmos Texas Municipalities (“ATM”), and authorizes intervention in proceedings related to Atmos’s Statement of Intent before the Railroad Commission of Texas and related proceedings in courts of law; and

Section 5. The City hereby orders Atmos to reimburse the City’s rate case expenses consistent with the Gas Utility Regulatory Act and that Atmos shall do so on a monthly basis and within 30 days after submission of the City’s invoices for the City’s reasonable costs associated with the City’s activities related to this rate review or related to proceedings involving Atmos before the City, the Railroad Commission of Texas, or any court of law.

Section 6. Subject to the right to terminate employment at any time, the City retains 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 subject to approval by the steering committee of the ATM.

Section 7. The City, in coordination with the Atmos Steering Committee, shall review the invoices of the lawyers and rate experts for reasonableness before submitting the invoices to Atmos for reimbursement.

Section 8. A copy of this resolution shall be sent to Mr. Alfred R. Herrera, Herrera Law & Associates, PLLC, P.O. Box 302799, Austin, Texas 78703, and a courtesy copy to Atmos’s local representative.

Section 9. 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 10. This resolution shall become effective from and after its passage.

PASSED AND APPROVED this _____ day of _____, 202__.

Mayor

ATTEST:

City Secretary