

**AGENDA**



**Recommendation for Council Action**

|                     |         |       |               |     |
|---------------------|---------|-------|---------------|-----|
| Austin City Council | Item ID | 32710 | Agenda Number | 38. |
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|               |           |             |                                    |
|---------------|-----------|-------------|------------------------------------|
| Meeting Date: | 5/22/2014 | Department: | Telecommunications and Reg Affairs |
|---------------|-----------|-------------|------------------------------------|

**Subject**

Approve an ordinance denying a rate increase filing of ATMOS Energy Corporation, Mid-Tex Division; requiring reimbursement of municipal rate case expenses by the regulated utility; and providing notice to ATMOS Energy Corporation, Mid-Tex Division.

**Amount and Source of Funding**

**Fiscal Note**

There is no unanticipated fiscal impact. A fiscal note is not required.

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|-------------------------------|--|
| Purchasing Language:          |  |
| Prior Council Action:         | October 24, 2013, ORDINANCE NO. 20131024-082; June 25, 2012, ORDINANCE NO. 20120614-051  |
| For More Information:         | Rondella M. Hawkins, Office of Telecommunications and Regulatory Affairs. (512) 974-2422 |
| Boards and Commission Action: |  |
| MBE / WBE:                    |  |
| Related Items:                |  |

**Additional Backup Information**

On February 28, 2014, ATMOS initiated a rate making proceeding with Austin and with the other cities it serves the Mid-Tex Division in the coalition known as the ATMOS' Texas Municipalities (ATM) by submitting an application to increase its revenue by about \$45.6 million which represents an increase of about 9.2% in annual base-rate revenue and to change its rates to collect that increase in revenue.

The increase for an average customer is as follows:

- Residential Customer: \$2.02/month (9.96%) in base rates.
- Commercial customer: \$2.16/month (10.16%) in base rates.
- Industrial/Transportation Customer: \$53.65/month (10.29 %) in base rates.

After an extensive review of ATMOS' request to increase its revenue and change its rates, on about April 10, 2014, ATM's Special Counsel and consultants concluded that at most ATMOS merited an increase of no more than about \$26.6 million. Special Counsel's and the consultants' assessment was preliminary and excluded additional downward adjustments to ATMOS' request that are not included in the \$26.6 million amount because of the amount of time to review ATMOS' request and because of then-outstanding responses to requests for information submitted to ATMOS by ATM's Special Counsel.

The basis for ATM's consultants' preliminary assessment that ATMOS warranted at most an increase of \$26.6 million is based on numerous exclusions of costs or rejection of accounting practices for which ATMOS failed to carry its

burden of proof that such costs or practices were reasonable and consistent with sound ratemaking and regulatory principles.

ATM's experts' preliminary report suggests ATMOS does not warrant an increase of \$45.6 million. Given that the ATM cities and ATMOS were not able to reach agreement on an amount by which to increase ATMOS' annual revenue and that ATM's Special Counsel and rate experts believe a much lower increase is in order, ATM's Special Counsel recommends that the City deny ATMOS' proposed increase in revenue and changes in rates.

ATM's Special Counsel recommends that if ATMOS appeals the City's denial of its requested increase, the City participate in ATMOS' appeal to the Railroad Commission and in any appeals to the courts of the Railroad Commission's decision.

Staff recommends that the Council deny ATMOS's rate increase filing made on February 28, 2014. ATMOS is directed to reimburse on a monthly basis, ATM's rate-case expenses for any and all related appeals.