

ORDINANCE NO. 20140522-038

AN ORDINANCE DENYING A RATE INCREASE PROPOSED BY ATMOS ENERGY CORPORATION, MIDTEX DIVISION, REQUIRING REIMBURSEMENT OF THE CITY'S RATE CASE EXPENSES, AUTHORIZING THE CITY'S PARTICIPATION IN APPEALS ATMOS MAY TAKE DENYING ITS REQUESTED INCREASE, AND PROVIDING NOTICE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. FINDINGS.

(A) On February 28, 2014, Atmos Energy Corporation, Mid-Tex Division, ("Atmos") filed a request with the City, thereby initiating a ratemaking proceeding to increase its revenue and change its rates within the corporate limits of the City, and specifically to increase its system-wide, annual revenue requirement by approximately \$45.7 million, which is an increase in base rates exclusive of the cost of gas of approximately 9.2%.

(B) Based on information provided in Atmos' requested rate increase, the proposed increase would result in an average monthly increase per customer for approximately 8,602 customers within the City as follows:

Residential increase of \$2.02 per month or 9.96%,

Commercial increase of \$2.16 per month or 10.16%, and

Industrial increase of \$53.65 per month or 10.29%.

(C) The City has exclusive original jurisdiction under § 103.001 et seq. of the Texas Utilities Code (more commonly referred to as the Gas Utility Regulatory Act ("GURA")) over Atmos' rates within the City.

(D) As one of several Texas municipalities within which Atmos provides service, the City is a part of a coalition of municipalities, including most of the municipalities served by Atmos in the Austin Metropolitan Region, known as Atmos Texas Municipalities ("ATM").

(E) ATM has hired rate experts to evaluate Atmos' rate filings and make recommendations to the coalition of ATM municipalities.

(F) Section 103.021 of GURA authorizes the City to obtain information from Atmos as necessary to make a determination of the basis for Atmos' proposed increase in rates in the City.

(G) Section 103.022 of GURA provides that Atmos shall reimburse the City its reasonable cost of engaging personnel to assist it in reviewing Atmos' application.

(H) Special Counsel and experts representing ATM have analyzed the data furnished by Atmos, sought and obtained additional data, and have interviewed Atmos' management regarding Atmos' request to increase rates and concluded that Atmos' request to increase rates by \$45.7 million is unreasonably high and based on numerous elements that are inconsistent with sound rate-setting and regulatory principles.

(I) ATM, through its Special Counsel and rate experts, was unsuccessful in its attempt to negotiate an agreed resolution on Atmos' proposed rates and increase in revenue.

(J) It is anticipated that Atmos will appeal the City's denial of its request to increase rates to the Railroad Commission of Texas and possibly to the courts.

PART 2. Atmos' request to change its rates and to increase its revenue by approximately \$45.7 million is hereby denied.

PART 3. Pursuant to Texas Utilities Code § 103.022 and under the terms of the Rate Review Mechanism, Atmos is hereby directed to reimburse the City's rate case expenses, as participants in the coalition of cities known as the Atmos Texas Municipalities, for engaging counsel, rate consultants, and other personnel in assisting the City in its investigation of Atmos' proposed increase in rates, and is further directed to reimburse the City's rate case expenses on a monthly basis for the City's participation in any appeal Atmos seeks of the City's denial of its request to increase rates.

PART 4. This Ordinance supersedes any Resolution or Ordinance previously adopted by the City to the extent such previously adopted Resolution or Ordinance is inconsistent with this Ordinance.

PART 5. A copy of this ordinance shall be sent to Atmos Energy-Mid-Tex Division, care of Christopher Felan, Vice President of Rates and Regulatory Affairs, Atmos Energy Corporation, 5420 LBJ Freeway, Suite 1600, Dallas, Texas 75240, and to Special Counsel, Mr. Alfred R. Herrera, Herrera & Boyle, PLLC, 816 Congress Avenue, Suite 1250, Austin, Texas 78701.

PART 6. This ordinance takes effect on June 2, 2014.

PASSED AND APPROVED

_____	§ § §	_____
May 22		Lee Leffingwell
, 2014		Mayor

APPROVED: _____
Karen M. Kennard
City Attorney

ATTEST: _____
Jannette S. Goodall
City Clerk