

**ORDINANCE NO. 050210-02**

**AN ORDINANCE INDEFINITELY SUSPENDING AN INTERIM RATE INCREASE PROPOSED BY ATMOS ENERGY CORPORATION, MID-TEX DIVISION (FORMERLY TXU GAS COMPANY), AND ORDERING THE CITY'S REASONABLE EXPENSES BE REIMBURSED.**

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

**PART 1. FINDINGS:**

- (A) ATMOS Energy Corporation, Mid-Tex Division ("Atmos" or "the Company"), formerly known as TXU Gas Company ("TXU Gas"), has filed with the City and the Texas Railroad Commission ("the Commission") a request to assess a gas reliability infrastructure program (GRIP) interim rate increase against all gas distribution customers served by ATMOS Mid-Tex as provided under Texas Utilities Code §104.301.
- (B) The effective date of the proposed GRIP increase is February 15, 2005, resulting in an estimated annual system-wide increase of \$8.5 million. The increase will affect approximately 4,800 city residents, and remain in effect until Atmos recovers its underlying costs in full.
- (C) Prior to its merger with Atmos, TXU Gas applied for a \$70 million annual system-wide rate increase in 2003, increasing rates for city residents by 7.2 percent. The Council denied the increase in July, 2003, and the Commission reduced Atmos' requested increase on appeal to \$11.5 million in May, 2004.
- (D) Atmos Energy reported a twenty percent profit increase for its fiscal year ending September 30, 2004. The merger with TXU Gas will save Atmos \$40 million or more in annual costs, but will continue receiving compensation from rates based on those extra costs.
- (E) The Company claims that the GRIP increase is necessary and reasonable due to capital investments it made in calendar year 2003. Preliminary staff calculations indicate that Atmos' increase in profits together with cost savings from the merger will likely exceed any reasonable increase in invested capital, making the GRIP assessment unnecessary and unreasonable while adversely impacting approximately 4,800 city ratepayers.

(F) Suspending the GRIP assessment is necessary to allow staff adequate time to review Atmos' application, gather and analyze all necessary information, and take appropriate action related to the proposed assessment.

**PART 2.** The Council indefinitely suspends the gas reliability infrastructure program (GRIP) rate adjustment sought by Atmos Energy Corporation, Mid-Tex Division under Section 104.301 of the Utilities Code. Atmos Energy is ordered to refund any amount already collected under the adjustment.

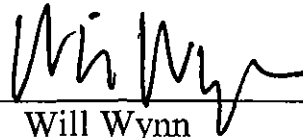
**PART 3.** Atmos Mid-Tex shall promptly reimburse the City's reasonable costs associated with any activity stemming from the proposed GRIP rate adjustment.

**PART 4.** This ordinance takes effect on February 21, 2005.

**PASSED AND APPROVED**


\_\_\_\_\_, February 10, 2005

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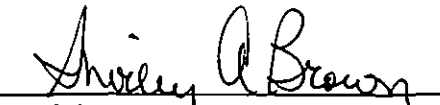
  
\_\_\_\_\_  
Will Wynn

Mayor

**APPROVED:**

  
\_\_\_\_\_  
David Allan Smith  
City Attorney

**ATTEST:**

  
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Shirley A. Brown  
City Clerk