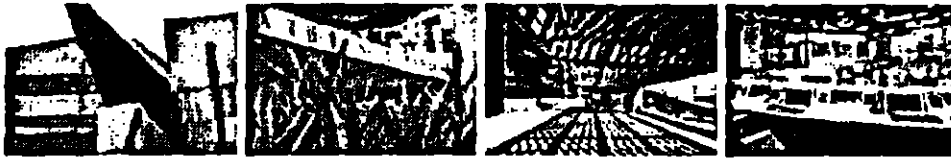


A U S T I N C I T Y C O U N C I L  
**AGENDA**

Thursday, May 25, 2006

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**Telecommunications & Regulatory Affairs**  
**RECOMMENDATION FOR COUNCIL ACTION**

**Subject:** Approve a resolution ordering Atmos Energy Corporation, Mid-Tex Division ("Atmos") to show cause regarding the reasonableness of its existing natural gas distribution rates within the City; requiring Atmos to submit a rate filing package based on a test year ending December 31, 2005; authorize the City to join with other cities known as the Atmos Texas Municipalities (ATM) to direct activities of lawyers and consultants; authorize the hiring of attorneys and consultants; direct that such filing be made prior to May 31, 2006; require reimbursement of reasonable municipal rate case expenses; and require delivery of this resolution to the Company and legal counsel. (Related to item #47)

**Additional Backup Material**

(click to open)

No Attachments Available

**For More Information:** Rondella Hawkins, Manager (512)  
974-2422

This RCA is related to the proposed ordinance before the Council denying Atmos Energy's most recent request for an interim GRIP surcharge increase.

The City Council denied the 2003 and 2004 Atmos GRIP increase requests which resulted in an appeal by Atmos to the Railroad Commission of Texas (RRC). The RRC approved both GRIP Increase requests as originally filed by Atmos despite Texas cities' objections and evidence that Atmos was using the GRIP filing to include other costs unrelated to infrastructure improvements and that the company's rate of return was excessive. The purpose of GRIP filings is to allow the utility the potential to earn a regulated rate of return on invested capital without the regulatory burden of a full rate case.

In both cases, the RRC did not allow cities to Intervene or participate in the proceedings at the RRC dealing with the piecemeal GRIP rate adjustments. It therefore appears that the Commission is inclined to approve Atmos' Interim rate filings and permit Atmos to over-earn and over-recover. Since we are not optimistic that the Commission will treat the 2005 GRIP filing any differently, staff recommends that the City exercise its original jurisdiction over Atmos' base rates to compel a comprehensive rate review based on a test year ending December 31, 2005. The purpose of the review is to determine whether Atmos' proposed rates and its overall rate of return are reasonable.

Pursuant to the Texas Gas Regulatory Act ("GURA"), the City Council has original jurisdiction over the gas utility rates of the Atmos Energy Corporation, Mid-Texas Division, to the extent that it provides gas service within the Austin city limits. Accordingly, Council has the authority to initiate a proceeding to determine whether Atmos's rates are unreasonable or violate any law.

Staff believes that Atmos currently receives excessive earnings in relation to its cost of service

and capital structure. The last rate case before the RRC concerning Atmos' system occurred before Atmos' acquisition of the system from TXU Gas Company. Atmos' approved rates therefore do not reflect its current cost of service or capital structure. Further, Atmos has since engaged in piecemeal ratemaking by means of imposing interim surcharges through the GRIP that would be illegal under traditional ratemaking in the public interest. The third GRIP filing recently made by Atmos is unnecessary and unreasonable and will adversely impact City customers.

Staff therefore recommends that Council approve a resolution initiating a rate proceeding and requiring Atmos Energy to show cause regarding the reasonableness of its existing natural gas distribution rates within the City. The proposed resolution will require Atmos to file a rate package by May 31, 2006, based upon a test year ending December 31, 2005.

Staff further recommends that Council authorize the City Manager to join the Atmos Texas Municipalities group to investigate and pursue rate relief, and to intervene in rate proceedings before the Texas Railroad Commission, with respect to Atmos Energy service within Austin.