



Legislation Details (With Text)

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**File created:** 8/19/2020      **In control:** City Council

**On agenda:** 9/1/2020      **Final action:** 9/1/2020

**Title:** Consider a resolution approving a negotiated settlement between the Atmos Cities Steering Committee (“ACSC”) and Atmos Energy Corp., Mid-Tex Division regarding the company’s 2020 Rate Review Mechanism filing; declaring existing rates to be unreasonable; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement; finding the rates to be set by the attached settlement tariffs to be just and reasonable and in the public interest; approving an attached exhibit establishing a benchmark for pensions and retiree medical benefits; approving an attached exhibit regarding amortization of regulatory liability; requiring the company to reimburse ACSC’s reasonable ratemaking expenses; determining that this resolution was passed in accordance with the requirements of the Texas Open Meetings Act; adopting a savings clause; declaring an effective date; and requiring delivery of this resolution to the company and the ACSC’s legal counsel.

**Attachments:** 1. 090120\_RRM Settlement\_Resolution4286, 2. 090120\_RRM Settlement\_Exhibits A-B-C, 3. 090120\_RRM Settlement\_Staff Attachment

Date	Ver.	Action By	Action	Result
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**To:** Mark R. Hafner, City Manager

**From:** Sarah Hensley, Administrative Services Manager

**Subject:**

Consider a resolution approving a negotiated settlement between the Atmos Cities Steering Committee (“ACSC”) and Atmos Energy Corp., Mid-Tex Division regarding the company’s 2020 Rate Review Mechanism filing; declaring existing rates to be unreasonable; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement; finding the rates to be set by the attached settlement tariffs to be just and reasonable and in the public interest; approving an attached exhibit establishing a benchmark for pensions and retiree medical benefits; approving an attached exhibit regarding amortization of regulatory liability; requiring the company to reimburse ACSC’s reasonable ratemaking expenses; determining that this resolution was passed in accordance with the requirements of the Texas Open Meetings Act; adopting a savings clause; declaring an effective date; and requiring delivery of this resolution to the company and the ACSC’s legal counsel.

**Action Requested:**

Consider a resolution approving a negotiated settlement between the Atmos Cities Steering Committee (“ACSC”) and Atmos Energy Corp., Mid-Tex Division, regarding the company’s 2020 rate review mechanism filings; declaring existing rates to be unreasonable; finding the rates to be set by the settlement tariffs to be just and reasonable and in the public interest; and declaring an effective date.

**Background:**

The City of Keller, along with 171 other Mid-Texas cities served by Atmos Energy Corp., Mid-Tex Division (“Atmos Mid-Tex” or “Company”), is a member of the Atmos Cities Steering Committee

("ACSC"). In 2007, ACSC and Atmos Mid-Tex settled a rate application filed by the Company pursuant to Section 104.301 of the Texas Utilities Code for an interim rate adjustment commonly referred to as a GRIP filing (arising out of the Gas Reliability Infrastructure Program legislation), the statutory provision that allows Atmos to bypass the City's rate regulatory authority to increase its rates annually to recover capital investments. That settlement created a new rate review process, referred to as Rate Review Mechanism ("RRM"), as a substitute for future filings under the GRIP statute. The RRM Tariff has been modified several times, most recently in 2018.

ACSC strongly opposed the GRIP process because it constitutes piecemeal ratemaking by ignoring declining expenses and increasing revenues while rewarding the Company for increasing capital investment on an annual basis. The GRIP process does not allow any review of the reasonableness of capital investment and does not allow cities to participate in the Railroad Commission's review of annual GRIP filings or allow recovery of Cities' rate case expenses. The Railroad Commission undertakes a mere administrative review of GRIP filings (instead of a full hearing) and rate increases go into effect without any material adjustments. In ACSC's view, the GRIP process unfairly raises customers' rates without any regulatory oversight. In contrast, the RRM process has allowed for a more comprehensive rate review and annual evaluation of expenses and revenues, as well as capital investment.

While residents outside municipal limits must pay rates governed by GRIP, there are some cities served by Atmos Mid-Tex that chose to remain under GRIP rather than adopt RRM. Additionally, the City of Dallas adopted a variation of RRM which is referred to as DARR. When new rates become effective on December 1, 2020, ACSC residents will maintain a slight economic monthly advantage over GRIP and DARR rates.

On or about March 31, 2020, the Company filed a rate request pursuant to the RRM Tariff adopted by ACSC members. The Company claimed that its cost-of-service in a test year ending December 31, 2019, entitled it to additional system-wide revenues of \$141.2 million. Application of the standards set forth in ACSC's RRM Tariff required Atmos to reduce its request to \$136.3 million, \$98.7 million of which would be applicable to ACSC members. ACSC's consultants concluded that the system-wide deficiency under the RRM regime should be \$111.5 million instead of the claimed \$136.3 million. The amount of the \$111.5 million deficiency applicable to ACSC members would be \$80.8 million.

After the Company reviewed ACSC's consultants' report, ACSC's Executive Committee and the Company negotiated a settlement whereby the Company would receive an increase of \$90 million from ACSC Cities, but with a two-month delay in the Effective Date until December 1, 2020. This should save ratepayers approximately \$9 million such that the case is functionally equivalent to ACSC's consultants' recommendation of \$80.8 million.

The Executive Committee recommends a settlement at \$90 million. The Effective Date for new rates is December 1, 2020. ACSC members should take action approving the Resolution before November 1, 2020.

Atmos generated proof that the rate tariffs attached to the Resolution will generate \$90 million in additional revenues from ACSC Cities (included in the staff attachment for this item). ACSC consultants have agreed that Atmos' Proof of Revenues is accurate.

**Financial Impact:**

Reasonable rate case expenses are reimbursed to the Steering Committee by the Company. No

individual municipality incurs liability for payment of rate case expenses by adopting the proposed RRM Ordinance.

The impact of the settlement on average residential rates is an increase of \$5.15 on a monthly basis, or 9.9 percent. The increase for average commercial usage will be \$15.48 or 6.56 percent.

**Citizen Input/Board Review:**

None

**Legal Review:**

The Proposed Resolution has been reviewed and submitted by the Atmos Cities Steering Committee (ACSC) Executive Committee and its general counsel at Lloyd Gosselink, Rochelle & Townsend.

**Alternatives:**

City Council has the following alternatives:

- Approve as submitted
- Table to a specific date
- Denial

**Council Action:**

The ACSC Executive Committee and its designated legal counsel and consultants recommend that all member cities approve the resolution with its attachments by November 1, 2020.