

ORDINANCE NO. 2017-05-___

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS (“CITY”) APPROVING A NEGOTIATED SETTLEMENT BETWEEN THE ATMOS CITIES STEERING COMMITTEE (“ACSC”) AND ATMOS ENERGY CORP., MID-TEX DIVISION REGARDING THE COMPANY’S 2017 RATE REVIEW MECHANISM FILINGS; 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 SETTLEMENT TARIFFS TO BE JUST AND REASONABLE AND IN THE PUBLIC INTEREST; REQUIRING RECONCILIATION AND RATE ADJUSTMENTS IF FEDERAL INCOME TAX RATES CHANGE; TERMINATING THE RRM PROCESS FOR 2018 PENDING RENEGOTIATION OF RRM TERMS AND CONDITIONS; REQUIRING THE COMPANY TO REIMBURSE ACSC’S REASONABLE RATEMAKING EXPENSES; DETERMINING THAT THIS ORDINANCE 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 ORDINANCE TO THE COUNSEL

WHEREAS, the City of McKinney, Texas (“City”) is a gas utility customer of Atmos Energy Corp., Mid-Tex Division (“Atmos Mid-Tex” or “Company”), and a regulatory authority with an interest in the rates and charges of Atmos; and

WHEREAS, the City is a member of the Atmos Cities Steering Committee (“ACSC”), a coalition of similarly-situated cities served by Atmos Mid-Tex (“ACSC Cities”) that have joined together to facilitate the review of and response to natural gas issues affecting rates charged in the Atmos Mid-Tex service area; and

WHEREAS, ACSC and the Company worked collaboratively to develop a new Rate Review Mechanism (“RRM”) tariff that allows for an expedited rate review process by ACSC Cities as a substitute to the Gas Reliability Infrastructure Program (“GRIP”) process instituted by the Legislature, and that will establish rates for the ACSC Cities based on the system-wide cost of serving the Atmos Mid-Tex Division; and

WHEREAS, on March 1, 2017, Atmos Mid-Tex filed its 2017 RRM rate request with ACSC Cities; and

WHEREAS ACSC coordinated its review of the Atmos Mid-Tex 2017 RRM filing through its Executive Committee, assisted by ACSC’s attorneys and consultants, to resolve issues identified in the Company’s RRM filing; and

WHEREAS, the Executive Committee, as well as ACSC’s counsel and consultants, recommend that ACSC Cities approve an increase in base rates for Atmos Mid-Tex of \$48 million on a system-wide basis; and

WHEREAS, the attached tariffs implementing new rates are consistent with the recommendation of the ACSC Executive Committee, are agreed to by the Company, and are just, reasonable, and in the public interest; and

WHEREAS, the RRM Tariff contemplates reimbursement of ACSC’s reasonable expenses associated with RRM applications; and

WHEREAS, the Company and ACSC have agreed that rates should be adjusted if any change in federal income tax rates is implemented during the period that rates approved herein remain in place; and

WHEREAS, because ACSC believes that certain provisions of the current terms and conditions of the RRM tariff are inconsistent with market conditions, the City expects renegotiation of the current RRM tariff in the Summer of 2017.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, THAT:

- Section 1. The findings set forth in this Ordinance are hereby in all things approved.
- Section 2. The City Council finds that the settled amount of an increase in revenues of \$48 million on a system-wide basis represents a comprehensive settlement of gas utility rate issues affecting the rates, operations, and services offered by Atmos Mid-Tex within the municipal limits arising from Atmos Mid-Tex's 2017 RRM filing is in the public interest, and is consistent with the City's authority under Section 103.001 of the Texas Utilities Code.
- Section 3. The existing rates for natural gas service provided by Atmos Mid-Tex are unreasonable. The new tariffs attached hereto and incorporated herein as Attachment A, are just and reasonable, and are designed to allow Atmos Mid-Tex to recover annually an additional \$48 million in revenue over the amount allowed under currently approved rates, as shown in the Proof of Revenues attached hereto and incorporated herein as Attachment B; such tariffs are hereby adopted.
- Section 4. The ratemaking treatment for pensions and other post-employment benefits in Atmos' next RRM filing shall be as set forth on Attachment D, attached hereto and incorporated herein.
- Section 5. Consistent with Texas Utilities Code Section 104.055(c), Atmos Energy's recovery of federal income tax expense through the Rider RRM has been computed using the statutory income tax rate. In the event that a change in the statutory income tax rate is implemented during the Rider RRM Rate Effective Date, Atmos Energy shall reconcile the difference between the amount of federal income tax expense included in the Rider RRM calculation for the Rate Effective Date with the amount of federal income tax expense authorized under the new statutory income tax rate. The reconciliation period shall be from the date on which any new statutory income tax rate is implemented through the Rate Effective Date. An interest component calculated at the customer deposit interest rate then in effect as approved by the Railroad Commission of Texas shall be applied to the federal income tax expense reconciliation. Further, any required reconciliation of federal income tax expense shall be included as part of Atmos Mid-Tex's next annual RRM filing and shall be returned to or recovered from customers as a one-time credit or surcharge to the customer's bill.
- Section 6. The City requires renegotiation of RRM tariff terms and conditions during the Summer of 2017. If an agreed renegotiated RRM tariff cannot be achieved, the City will terminate the RRM process and consider initiation of a traditional rate case to reduce the Company's authorized return on equity.
- Section 7. Atmos Mid-Tex shall reimburse the reasonable ratemaking expenses of the ACSC in processing the Company's 2017 RRM filing.
- Section 8. To the extent any resolution or ordinance previously adopted by the Council is inconsistent with this Ordinance, it is hereby repealed.
- Section 9. The meeting at which this Ordinance was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section 10. If any one or more sections or clauses of this Ordinance is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance and the remaining provisions of the Ordinance shall be interpreted as if the offending section or clause never existed.

Section 11. Consistent with the City Ordinance that established the RRM process, this Ordinance shall become effective from and after its passage with rates authorized by attached tariffs to be effective for bills rendered on or after June 1, 2017.

Section 12. A copy of this Ordinance shall be sent to Atmos Mid-Tex, care of Chris Felan, Vice President of Rates and Regulatory Affairs Mid-Tex Division, Atmos Energy Corporation, 5420 LBJ Freeway, Suite 1862, Dallas, Texas 75240, and to Geoffrey Gay, General Counsel to ACSC, at Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, ON THE 16th DAY OF MAY, 2017.

CITY OF MCKINNEY, TEXAS

BRIAN LOUGHMILLER
Mayor

CORRECTLY ENROLLED:

SANDY HART, TRMC, MMC
City Secretary
DENISE VICE, TRMC
Assistant City Secretary

DATE: _____

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney