

**RESOLUTION NO. 2012-05-\_\_\_ (R)**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, DENYING ATMOS ENERGY CORP., MID-TEX DIVISION'S ("ATMOS MID-TEX") REQUESTED RATE CHANGE; REQUIRING THE COMPANY TO REIMBURSE THE CITY'S REASONABLE RATEMAKING EXPENSES; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY AND ACSC'S LEGAL COUNSEL**

- WHEREAS**, the City of McKinney, Texas ("City") is a gas utility customer of Atmos Energy Corporation Mid-Tex Division ("Atmos Mid-Tex" or "Company"), and is a regulatory authority under the Gas Utility Regulatory Act ("GURA") and under Chapter 104, §104.001 et seq. of GURA, has exclusive original jurisdiction over Atmos Mid-Tex's rates, operations, and services within the City; and
- WHEREAS**, the City is a member of the Atmos Cities Steering Committee ("ACSC"), a coalition of over 150 similarly situated cities served by the Company that have joined together to facilitate the review and response to natural gas issues affecting rates charged in the Atmos Mid-Tex Division; and
- WHEREAS**, pursuant to the terms of the agreement settling the Company's 2007 Statement of Intent to increase rates, ACSC and the Company worked collectively to develop a Rate Review Mechanism ("RRM") tariff that allows for an expedited rate review process controlled in a three-year experiment by ACSC as a substitute to the current GRIP process instituted by the Legislature; and
- WHEREAS**, ACSC and the Company agreed to extend the RRM process in reaching a settlement in 2010 on the third RRM filing; and
- WHEREAS**, in 2011, ACSC and the Company engaged in good faith negotiations regarding the continuation of the RRM process, but were unable to come to ultimate agreement; and
- WHEREAS**, on or about January 31, 2012, the Company filed a Statement of Intent with the cities retaining original jurisdiction within its Mid-Tex service division to increase rates by approximately \$49 million; and
- WHEREAS**, Atmos Mid-Tex proposed March 6, 2012, as the effective date for its requested increase in rates; and
- WHEREAS**, the City suspended the effective date of Atmos Mid-Tex's proposed rate increase for the maximum period allowed by law and thus extended the City's jurisdiction until June 4, 2012; and
- WHEREAS**, on April 25, 2012, the Company extended the effective date for its proposed rates by one week, which similarly extended the City's jurisdiction until June 11, 2012; and
- WHEREAS**, the ACSC Executive Committee hired and directed legal counsel and consultants to prepare a common response to the Company's requested rate increase and to negotiate with the Company and direct any necessary litigation; and
- WHEREAS**, ACSC's consultants conducted a review of the Company's requested rate increase and found justification that the Company's rates should be decreased; and
- WHEREAS**, ACSC and the Company have engaged in settlement discussions but will be

unable according to Company representations to reach settlement in sufficient time for cities to act before June 11, 2012; and

**WHEREAS**, failure by ACSC members to take action before June 11, 2012 would allow the Company the right to impose its full request on residents of said ACSC members; and

**WHEREAS**, the ACSC Settlement Committee recommends denial of the Company's proposed rate increase in order to continue settlement discussions pending the Company's appeal of cities' denials to the Railroad Commission of Texas; and

**WHEREAS**, the GURA § 103.022 provides that costs incurred by cities in ratemaking activities are to be reimbursed by the regulated utility.

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

Section 1. That the rates proposed by Atmos Mid-Tex to be recovered through its gas rates charged to customers located within the City limits, are hereby found to be unreasonable and shall be denied.

Section 2. That the Company shall continue to charge its existing rates to customers within the City and that said existing rates are reasonable.

Section 3. That the City's reasonable rate case expenses shall be reimbursed by the Company.

Section 4. That it is hereby officially found and determined that the meeting at which this Resolution is passed is open to the public as required by law and the public notice of the time, place, and purpose of said meeting was given as required.

Section 5. A copy of this Resolution shall be sent to Atmos Mid-Tex, care of David Park, Vice President Rates & Regulatory Affairs, at Atmos Energy Corporation, Mid-Tex Division, 5420 LBJ Freeway, Suite 1862, Dallas, Texas 75240, and to Geoffrey Gay, General Counsel to ACSC, at Lloyd Gosselink Rochelle & Townsend, P.C., P.O. Box 1725, Austin, Texas 78767-1725.

Section 6. This Resolution shall take effect immediately from and after the date of passage and is so resolved.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS ON THE 15<sup>TH</sup> DAY OF MAY, 2012.**

CITY OF MCKINNEY, TEXAS

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BRIAN LOUGHMILLER  
Mayor

ATTEST:

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SANDY HART, TRMC, MMC  
City Secretary  
BLANCA I. GARCIA  
Assistant City Secretary

APPROVED AS TO FORM:

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MARK S. HOUSER  
City Attorney