

RESOLUTION NO. 585

A RESOLUTION OF THE CITY OF TERRELL, TEXAS, DENYING THE REQUEST OF ATMOS ENERGY CORP., MID-TEX DIVISION, FOR AN ANNUAL GAS RELIABILITY INFRASTRUCTURE PROGRAM (GRIP) RATE INCREASE IN THIS MUNICIPALITY, AS A PART OF THE COMPANY'S STATEWIDE GAS UTILITY DISTRIBUTION SYSTEM; SUPPORTING STATUTORY REFORM OF THE TEXAS GRIP STATUTE, FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC; AND PROVIDING FOR NOTICE OF THIS RESOLUTION TO ATMOS ENERGY CORP., MID-TEX DIVISION AND THE CITY'S LEGISLATIVE DELEGATION.

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

WHEREAS, Atmos Mid-Tex made filings with the City and the Railroad Commission of Texas ("Railroad Commission") on or about May 31, 2007, proposing to implement interim rate adjustments ("GRIP rate increases"), pursuant to Texas Utilities Code § 104.301, on all customers served by Atmos Mid-Tex, effective July 30, 2007; and

WHEREAS, the Gas Reliability Infrastructure Program (GRIP) statute approved in the 2003 Regular Session of the 78th Legislature changes 100 years of Texas law and allows a natural gas utility to implement annual surcharges for increases in investment without having to account for the offsetting decreases in costs or increases in revenue experienced by the utility; and

WHEREAS, Texas is the only state out of the twelve states served by Atmos that has a GRIP statute that allows for piecemeal recovery for any change to invested capital; and

WHEREAS, Atmos has implemented four GRIP surcharges and collected more than \$20 million in GRIP surcharges from customers since the utility acquired the TXU Gas system in 2004;

WHEREAS, the City supports the statutory reform of the GRIP statute to ensure fairness to ratepayers and to eliminate piecemeal recovery for any change to invested capital; and

WHEREAS, Atmos Mid-Tex was recently granted a rate increase as a result of its filing in GUD No. 9670, in which the Final Order was only signed on March 29, 2007; and

WHEREAS, in GUD No. 9670, it was determined that Atmos Mid-Tex had inappropriately included certain expenditures in its prior GRIP rate increases for rate years 2003, 2004, and 2005; and

WHEREAS, the City, as a regulatory authority, suspended the July 30, 2007, effective date to examine this latest GRIP filing to determine its compliance with the Texas Utilities Code and Railroad Commission final order in the most recent Atmos Mid-Tex rate case; and

WHEREAS, the City has joined with other cities to review the Company's filing, said coalition being known as Atmos Cities Steering Committee ("ACSC");

WHEREAS, the consultant hired by Steering Committee has reviewed the GRIP surcharge application and has issued a final report finding that the Company has included millions of dollars of expenses in the current GRIP surcharge that are inconsistent with the Texas Utilities Code and Railroad Commission final order in the most recent Atmos Mid-Tex rate case and not related to ensuring the safety and reliability of the system;

WHEREAS, counsel for the Steering Committee, upon review of the Company's filing and the consultant's report, recommends finding that the Company's proposal is unjustified and unreasonable; and

WHEREAS, ratepayers of Atmos Mid-Tex, including the City and its residents, will be adversely impacted by the proposed GRIP rate increases.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS:

SECTION 1. That the Company's GRIP rate increase request is found to be unreasonable and inconsistent with the Texas Utilities Code and Railroad Commission final order in GUD 9670, Atmos Mid-Tex most recent rate case, and is therefore denied in all respects.

SECTION 2. This Resolution shall become effective immediately from and after its passage, as the law and charter in such cases provide.

SECTION 3. That the City hereby advocates statutory reform of the Texas GRIP statute to ensure fairness to ratepayers and to eliminate piecemeal recovery for any change to invested recovery.

SECTION 4. That the City calls upon its state representatives and senator to support legislation in the 81st Regular Session of the Texas Legislature that would reform the Texas GRIP statute to ensure fairness for ratepayers and eliminate piecemeal recovery for any changes to invested capital.

SECTION 5. 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 that public notice of the time, place and purpose of said meeting was given as required.

SECTION 6. A copy of this Resolution, constituting final action on the Company's application, be forwarded to the following:

Charles R. Yarbrough, II
Atmos Energy Corporation
5420 LBJ Freeway, Suite 1800
Dallas, Texas 75240

Lloyd Gosselink Blevins Rochelle & Townsend
c/o Geoffrey Gay
P.O. Box 1725
Austin, Texas 78767-1725.

SECTION 7. A copy of the resolution shall be sent to the elected lawmakers representing the City's interests in the Texas House and Senate.

DULY PASSED and approved by the City Council of the City of Terrell, Texas, on this the 21st day of August, 2007.

APPROVED:

HAL RICHARDS, MAYOR

ATTEST:

JOHN ROUNSAVALL, CITY SECRETARY

APPROVED AS TO FORM:

MARY GAYLE RAMSEY, CITY ATTORNEY