



**CITY OF TYLER  
CITY COUNCIL COMMUNICATION**

**Agenda Number:** H-1

**Date:** June 14, 2006

**Subject:** Request that the City Council hold a public hearing to consider approving an ordinance denying Atmos Energy Corporation, Mid-Tex Division's statement of intent to increase the gas utility rates.

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**Item Reference:** Under Texas law, the City Council has original jurisdiction or authority to set gas rates for customers inside the City limits. If the company is not satisfied with the City's decision they can appeal to the Texas Railroad Commission.

Atmos Gas on May 31, 2006, filed a Statement of Intent with Texas cities to increase their rates effective July 5, 2006. Normally when a gas company has filed a request to raise rates in the past, the City would suspend the effective date to allow combined cities to take 90 days to study a rate filing and exercise original jurisdiction. However, this filing by Atmos is different in that it is in direct response to the City Council's recent exercise of its original jurisdiction to set lower rates as a result of the study authorized last year by the City Council in connection with other cities. By an agreement between the Atmos Cities Steering Committee and the Company, all 88 cities that passed show cause resolutions last fall are deemed to have reduced rates and eliminated GRIP surcharges effective May 31, 2006. Based upon this recent review of the rates and decision that they should be lower, it is not necessary for the City Council to simply suspend this proposed increase in order to study it further. Atmos' rate filing is primarily a defensive effort to support their appeal of rate reduction ordinances passed by several cities and a necessary step in the company's plan to appeal any denial of this increase to the Railroad Commission while also asking that system-wide rates be implemented in any final Railroad Commission order.

According to information provided by the Company, this filing will increase the Company's revenues by \$61 million annually, or 3.6 percent. The average residential bill will increase 5.36 percent, or by approximately \$4.02 per month. Commercial customers will see their average bill increase by 5.25 percent, or by approximately \$17.16 per month.

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**RECOMMENDATION:**

It is recommended that the City Council hold a public hearing to allow input from the public and Atmos and following that hearing unless new and different information is presented, that the attached ordinance denying the requested increased be approved.

*Gary C. Landers*

**Drafted/Recommended By:**  
**Department Leader** Gary C. Landers, City Attorney

*[Signature]*

**Edited/Submitted By:**  
**City Manager**

**ORDINANCE NO. 0-2006-53**

**AN ORDINANCE OF THE CITY OF TYLER, TEXAS DENYING ATMOS ENERGY CORP., MID-TEX DIVISION'S STATEMENT OF INTENT TO INCREASE THE GAS UTILITY RATES IN THIS MUNICIPALITY; SUPPORTING THE REDUCTION OF EXISTING NATURAL GAS DISTRIBUTION RATES CURRENTLY CHARGED BY ATMOS MID-TEX WITHIN THE CITY; ORDERING ATMOS MID-TEX TO REIMBURSE THE CITY FOR ITS REASONABLE COSTS INCURRED IN RATEMAKING PROCEEDINGS OR APPEALS OF SAID PROCEEDINGS; AUTHORIZING THE ATMOS CITIES STEERING COMMITTEE TO ACT ON BEHALF OF CITY AND INTERVENE IN ANY PROCEEDINGS BEFORE ADMINISTRATIVE OR JUDICIAL BODIES; REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND LEGAL COUNSEL; AND FINDING THAT THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.**

**WHEREAS**, the City of Tyler, Texas ("City") is a regulatory authority under the Gas Utility Regulatory Act ("GURA") and has original jurisdiction over the gas utility rates of Atmos Energy Corp., Mid-Tex Division (the "Company"); and

**WHEREAS**, the City, along with 87 other Atmos Cities Steering Committee ("ACSC") cities, exercised its authority under §§ 103.001 and 104.151, GURA, to initiate a proceeding to determine whether the existing rates of the Company were unreasonable or in any way in violation of any provision of law and ordered the Company to show cause regarding the reasonableness of its existing natural gas distribution rates within the City; and

**WHEREAS**, the Company filed its rate filing package with the City in response to the City's order on or about December 31, 2005, and the City's representatives obtained additional information from the Company through written requests for information; and

**WHEREAS**, the City's consultants and representatives, through cooperative efforts and under the direction of the ACSC, reviewed the information and recommended that the City reduce the rates charged by the Company within the City; and

**WHEREAS**, by its own action pursuant to GURA § 104.151(a) or by procedural agreement with the Company, the City reduced the current natural gas rates charged by the Company within the City effective May 31, 2006; and

**WHEREAS**, the Company has bonded in its existing rates with the Railroad Commission as part of its appeal of rates set by ACSC cities; and

**WHEREAS**, as part of its appeal of city rate actions taken by ACSC members, the Company filed a Statement of Intent to Increase the Gas Utility Rates within the City effective July 5, 2006; and

**WHEREAS**, the Company's request is unreasonable based upon the information already reviewed by the City in response to its action initiating the show cause action;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS:**

**PART 1.** That the Statement of Intent to Increase Gas Utility Rates filed by the Company on or about May 31, 2006, and effective July 5, 2006, is hereby denied.

**PART 2.** That the reduction to current rates previously adopted by the City pursuant to ordinance or agreement with the Company is just and reasonable.

**PART 3.** That the City is authorized to intervene in any appeal of the City's action filed at the Railroad Commission of Texas and to otherwise participate in any litigation associated with the Company's rates charged in the City, in conjunction with the ACSC.

**PART 4.** That the Company shall promptly reimburse ACSC for ratemaking costs associated with the City's activities related to the show cause proceeding and/or the denial of the Statement of Intent including appeals to the Railroad Commission or Courts, in accordance with GURA § 103.022.

**PART 5.** That a copy of this Ordinance shall be sent to the Company, care of Richard T. Reis, at Atmos Energy Corporation, 5420 LBJ Freeway, Suite 1800, Dallas, Texas 75240, and to Geoffrey Gay, legal counsel to ACSC, at Lloyd Gosselink, P.O. Box 1725, Austin, Texas 78767-1725.

**PART 6.** That it is hereby officially found and determined that the meeting at which this Ordinance is adopted 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.

Approved by the City Council of the City of Tyler, Texas, on this the 14th day of June, 2006.

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JOSEPH O. SEEBER, MAYOR OF  
THE CITY OF TYLER, TEXAS

ATTEST:

APPROVED:

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CASSANDRA BRAGER, CITY CLERK

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CITY ATTORNEY