



**CITY OF TYLER
CITY COUNCIL COMMUNICATION**

Agenda Number: R-1

Date: April 12, 2006

Subject: Request that the City Council consider approving a Resolution suspending the May 30, 2006, effective date of the proposal by Atmos Energy Corporation, Mid-Tex Division to implement interim Grip Rate Adjustments for gas utility investment in 2005; and authorize further administrative action as set in the Resolution.

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Item Reference:

The law mandates that a Gas Reliability Infrastructure Program (GRIP) surcharge request cannot become effective until 60 days following the filing. The effective date may be suspended by a city for 45 days. If the city does not take action to suspend the filing, the Company may begin implementing a monthly surcharge (\$0.51 on all residential customers, \$1.75 for commercial customers, and \$78.47 for industrial customers) on or after May 30, 2006. The resolution suspends the effective date to the maximum extent permitted by law to allow the cities time to evaluate the filing, determine whether the filing complies with law, and if lawful, to determine whether the surcharge is reasonable. This is particularly important given that the Gas Standing Steering Committee initiated an investigation of the current rates charged by Atmos Mid-Tex and concluded that Atmos already collects sufficient revenues to earn its allowed return without the necessity for a surcharge to recover incremental investment.

What is GRIP:

GRIP is piecemeal ratemaking and would be illegal under traditional ratemaking that is in the public interest. Atmos persuaded the legislature in 2003 to make an exception to the prohibition against piecemeal ratemaking to encourage increased investment in transmission and distribution pipe by allowing prompt recovery of investment, despite the possibility that increased revenues and declining expenses could more than offset increased investment. Unfortunately, utilities have used the GRIP filings to include other costs unrelated to infrastructure improvements. GRIP surcharges are only allowed until the next general rate case.

Explanation of “Be It Resolved” Paragraphs:

1. A city is authorized to suspend the effective date for 45 days. However, since the Company controls and can extend its effective date during settlement discussions to increase a city’s jurisdiction and the period of time necessary to reach settlement, the resolution refers to suspension “for the maximum period allowed by law” rather than a specific date.

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Explanation of “Be It Resolved” Paragraphs cont...:

2. This paragraph authorizes participation with the Gas Standing Steering Committee and coordinated control over legal counsel and consultants. Along with paragraph 3, this paragraph avoids the necessity of returning to the City Council with another resolution to authorize efforts related to an appeal of the City Council’s ultimate decision on the Atmos application.


3. This paragraph authorizes the intervention of the city, assuming such is recommended by the Gas Standing Steering Committee, in an environs case or an appeal pending at the Railroad Commission. It further authorizes the handling of appeals from Railroad Commission decisions to the courts in Austin, if the Gas Standing Steering Committee believes that effort is desirable.

4. Texas law requires utility companies to reimburse cities for all costs (legal and consulting) associated with ratemaking, whether the case is initiated by the utility or a regulatory authority. Implementation of a tariff that imposes a surcharge is ratemaking, entitling the participating cities to reimbursement. Legal counsel and consultants approved by the Steering Committee will submit monthly invoices to the City of Arlington which will then forward the invoices to Atmos for reimbursement.

5. This paragraph directs that a copy of the signed resolution be sent to a representative of the Company and legal counsel for the Gas Standing Steering Committee.

RECOMMENDATION:

It is recommended that the City Council adopt a Resolution suspending the May 30, 2006, effective date of the proposal by Atmos Energy Corporation, Mid-Tex Division to implement interim Grip Rate Adjustments for gas utility investment in 2005; and authorize further administrative action as set in the Resolution.

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

Edited/Submitted By:
City Manager

Ms. Doyle's Direct Line: (512) 322-5820
Email: kdoyle@lglawfirm.com

816 Congress Avenue, Suite 1900
Austin, Texas 78701
Telephone: (512) 322-5800
Facsimile: (512) 472-0532
www.lglawfirm.com

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LAWYER-CLIENT COMMUNICATION***

MEMORANDUM

TO: Cities Served by Atmos Energy Corp., Mid-Tex Division

FROM: Geoffrey Gay
Kristen Doyle
Georgia Crump

DATE: March 31, 2006

RE: Atmos 2005 GRIP filing

Atmos began serving its 2005 investment year GRIP filing on the Atmos Energy Mid-Tex cities yesterday. The application states that the residential surcharge will be \$.51 per month. This is significantly higher than the previous two GRIP surcharges for residential customers of \$.29 per month. **If no action is taken on the filing, the surcharge will become effective on May 30, 2006.** The Gas Standing Steering Committee will soon initiate the process of reviewing the filing and analyzing the effect that the pending rate investigation has upon the ability of Atmos to seek a GRIP surcharge. You will be informed of Committee findings, conclusions, and recommendations, and you will be provided with draft resolutions or ordinances reflecting those recommendations.

At this time, we recommend that you adopt a resolution suspending the effective date of the 2005 GRIP filing for an additional 45 days. A model resolution is attached for your use, as well as a model staff report. Although you have until May 30th to take action on the filing, you may schedule the suspension resolution for adoption by your governing body at any time prior to May 30th. By adoption of the resolution, you will have until July 13, 2006, to take final action on the filing.

Please contact Geoffrey, Kristen or Georgia if you have any questions or require additional information.

RESOLUTION NO. R-2006-10

A RESOLUTION BY THE CITY OF TYLER, TEXAS SUSPENDING THE MAY 30, 2006, EFFECTIVE DATE OF THE PROPOSAL BY ATMOS ENERGY CORP., MID-TEX DIVISION TO IMPLEMENT INTERIM GRIP RATE ADJUSTMENTS FOR GAS UTILITY INVESTMENT IN 2005; AUTHORIZING PARTICIPATION WITH THE GAS STANDING STEERING COMMITTEE IN A REVIEW AND INQUIRY INTO THE SUFFICIENCY OF THE FILING AND THE BASIS AND REASONABLENESS OF THE PROPOSED RATE ADJUSTMENTS; AUTHORIZING INTERVENTION IN ADMINISTRATIVE AND COURT PROCEEDINGS INVOLVING THE PROPOSED GRIP RATE ADJUSTMENTS; REQUIRING REIMBURSEMENT OF REASONABLE LEGAL AND CONSULTANT EXPENSES; AND REQUIRING DELIVERY OF THIS RESOLUTION TO THE COMPANY AND LEGAL COUNSEL.

WHEREAS, the City of Tyler, 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 March 30, 2006, 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 May 30, 2006; and

WHEREAS, a recent rate investigation conducted by consultants for the Gas Standing Steering Committee has indicated that Atmos Mid-Tex is already collecting sufficient revenues to earn its allowed return and does not require a GRIP surcharge; and

WHEREAS, the sufficiency of the filing by Atmos Mid-Tex and its compliance with statutory mandates is in question and needs to be determined; and

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

WHEREAS, the City and its residents could benefit from coordination with the Gas Standing Steering Committee in a review of the reasonableness of the proposed GRIP rate increases and joint participation in any proceedings at the Railroad Commission related to the proposed GRIP rate increases; and

WHEREAS, the reasonable costs associated with the participation of Cities in this rate proceeding are reimbursable from Atmos Mid-Tex;

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

PART 1. The May 30, 2006, effective date of the GRIP rate increases proposed by Atmos Mid-Tex is hereby suspended for the maximum period allowed by law to permit adequate time to investigate the sufficiency of the GRIP Rate Increase filing, review the proposed increases, analyze all necessary information, and take appropriate action related to the proposed increases.

PART 2. The City is authorized to cooperate with the Gas Standing Steering Committee to hire and direct legal counsel and consultants, to negotiate with the Company, to make recommendations to the City regarding the proposed GRIP rate increases, and to direct any administrative proceedings or litigation associated with the proposed GRIP rate increases.

PART 3. The City is authorized to intervene in any administrative proceedings or litigation associated with the proposed GRIP rate increases.

PART 4. Atmos Mid-Tex shall promptly reimburse the City's reasonable costs associated with the City's activities related to the proposed GRIP rate increases.

PART 5. A copy of this Resolution shall be sent to Atmos Mid-Tex, care of Richard T. Reis, at Atmos Energy Corporation, 5420 LBJ Freeway, Suite 1800, Dallas, Texas 75240, and to Geoffrey Gay, legal counsel to the Gas Standing Steering Committee, at Lloyd Gosselink, 816 Congress Avenue, Suite 1900, Austin, Texas 78701.

PART 6: That this resolution shall take effect immediately upon adoption.

ADOPTED this 12th day of April, 2006.

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

ATTEST:

APPROVED:

CASSANDRA BRAGER, CITY CLERK

CITY ATTORNEY