

**AGENDA INFORMATION SHEET**  
**ITEM NO. RES-1301**

**DENIAL OF ATMOS ENERGY CORPORATION'S APPLICATION FILED ON ABOUT DECEMBER 16, 2024, PROPOSING TO INCREASE IN-CITY RATES FOR ITS MID-TEX DIVISION; AUTHORIZING PARTICIPATION IN THE ATMOS TEXAS MUNICIPALITIES (ATM) COALITION OF CITIES; AUTHORIZING INTERVENTION IN PROCEEDINGS RELATED TO ATMOS ENERGY'S STATEMENT OF INTENT; REQUIRING THE REIMBURSEMENT OF MUNICIPAL RATE CASE EXPENSES; AUTHORIZING REPRESENTATION OF THE CITY BY SPECIAL COUNSEL**

**BACKGROUND**

On about December 16, 2024, Atmos Energy Corporation (Atmos or Atmos Energy) filed a Statement of Intent to increase its base rate revenues for its Mid-Tex Division within certain cities, by approximately **\$16.73 million**; this equates to an **increase in annual revenue of about 7.08% including gas costs, and 11.51% excluding gas costs**. This is Atmos's first request to increase its base rates since 2018. Following the conclusion of its 2018 rate gas (Gas Utilities Docket No. 10742), Atmos has raised its rates by means of six Interim Rates Adjustment ("IRA") filings, also known as "GRIP" filings.

Atmos proposes an effective date of January 20, 2025, for its change in rates. As is explained below, the proposed Resolution related to Atmos's application to increase its base rate revenues, if adopted, denies the proposed increase in rates.

Crucially, on November 18, 2024, Atmos filed with the Railroad Commission of Texas (RRC or Commission) substantially the same proposal to increase rates. Because Atmos filed its application to increase rates with the RRC several weeks before it filed the same application with the city, and other similarly situated cities, the time line for the RRC to issue a decision regarding Atmos's application with the RRC is such that by the time the City's statutory deadline to make its decision regarding the application Atmos filed with the City, the RRC proceedings will be close to, if not at, their end. Thus, it is highly likely the RRC will make a decision on the merits of Atmos's application before the City completes its review and makes its decision.

**BILL IMPACT:**

On average, Atmos' proposed increase if approved as filed would result in an increase of about 14.05% in a residential customer's bill excluding the cost of gas, and about 9.41% including the cost of gas. The effect of Atmos' proposed increase in rates for a residential customer using average consumption of gas is shown in the table below:

ATMOS ENERGY CORP., MID-TEX DIVISION								
ATMOS TEXAS MUNICIPALITIES ("ATM") STATEMENT OF INTENT								
AVERAGE BILL COMPARISON - BASE RATES								
TEST YEAR ENDING JUNE 30, 2024								
Line No.	Description	Average Volumes	Current Rates	Proposed Rates	Current Average Bill	Proposed Average Bill	Amount Change	Percent Change
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
1	<b>Rate R at 32.6 Ccf</b>							
2	Base Rates:							
3	Customer Charge		\$ 47.91	\$ 47.91	\$ 47.91	\$ 47.91	\$ -	
4	Consumption Charge (Ccf)	32.6	\$ 0.14846	\$ 0.37584	4.84	12.25	7.41	
5	Total Base Rates				\$ 52.75	\$ 60.16	\$ 7.41	14.05%
6								
7	Gas Cost:							
8	Rider GCR Part A (Ccf)	32.6	\$ 0.25792	\$ 0.25792	\$ 8.41	\$ 8.41	\$ -	
9	Rider GCR Part B (Ccf)	32.6	\$ 0.53771	\$ 0.53771	17.53	17.53	-	
10	Total Gas Cost				\$ 25.94	\$ 25.94	\$ -	0.00%
11								
12	Total Base with Gas Cost				\$ 78.69	\$ 86.10	\$ 7.41	
13	Rider FF and Rider TAX		0.06788	0.06788	5.34	5.84	0.50	9.36%
14								
15	<b>Total Residential Average Bill</b>				<b>\$ 84.03</b>	<b>\$ 91.94</b>	<b>\$ 7.91</b>	<b>9.41%</b>

Atmos proposes to leave rates for Commercial, Industrial, and Transportation customers unchanged.

**REVENUE IMPACT:**

Because of the substantial increase in rates to the Residential class of customers the City should closely scrutinize Atmos’s proposed increase as well as its proposed allocation of costs to the customer classes.

**ACTION REQUIRED BY JANUARY 20, 2025**

**The City must take action on Atmos’s Statement of Intent by no later than January 20, 2025.** Absent such action, Atmos’s proposed rates are deemed approved by operation of law.

**ATMOS TEXAS MUNICIPALITIES**

The coalition of cities known as the Atmos Texas Municipalities (“ATM”) was organized by a number of municipalities served by Atmos. Alfred R. Herrera, with the law firm of Herrera Law & Associates, PLLC, has previously represented ATM in rate cases involving Atmos.

**CITY JURISDICTION TO SET ATMOS’S RATES**

Unless a city ceded its original jurisdiction to the Railroad Commission of Texas, the Gas Utility Regulatory Act § 103.001 grants a city exclusive original jurisdiction over a gas utility’s rates, services, and operations within the city limits. But even if a city has ceded its jurisdiction to the Railroad Commission, the Gas Utility Regulatory Act § 103.023 (“GURA”), grants a city the statutory right to participate in rate proceedings before the Railroad Commission.

## **RATE CASE EXPENSES**

Cities by statute are entitled to recover their reasonable rate case expenses from the utility. See GURA § 103.022. Legal counsel and consultants approved by ATM will submit monthly invoices to the coalition-designated city that will be forwarded to ATM for reimbursement. No individual city's budget is negatively affected.

## **OPTIONS FOR CITY ACTION:**

The City has three options with respect to the action it takes regarding Atmos's application to increase rates:

1. The City could take no action, and under state law, Atmos's proposed increase in revenue and change in rates would be deemed approved by operation of law and go into effect on Atmos's proposed effective date, January 20, 2025;
2. The City may suspend Atmos's proposed effective date of January 20, 2025, for its increase, for the statutorily allowed period of 90 days, which means the suspension would expire on April 20, 2025. If the City suspends Atmos's proposed effective date, the City will need to take final action on the merits of Atmos's proposed increase in revenue and rates by no later than April 20, 2025;
3. The City may deny Atmos's proposed increase in revenue and rates; if the City denies Atmos's proposed increase, Atmos will have the right to appeal the City's action to the Railroad Commission of Texas, which it would do.

## **RECOMMENDATION**

ATM's Special Counsel recommends that the City join or continue its participation in ATM and retain the law firm of Herrera Law & Associates, PLLC to represent the City's interest in matters related to Atmos's rate case and to advise the City with regard to Atmos's application, and that, intervene in the proceedings before the Railroad Commission of Texas related to Atmos's rates for its Mid-Tex Division, and related court appeals, if any.

As noted above, because Atmos filed its application to increase rates with the RRC several weeks before it filed the same application with the City, it is highly likely the RRC will make a decision on the merits of Atmos's application pending before the RRC, well ahead of the time the City completes its review and makes its final decision on Atmos's application it filed with the City.

Thus, while the City could adopt a resolution suspending Atmos's proposed effective date for the statutorily allowed period, and not make a final decision until close to the end

of the suspension period – April 20, 2025 – ATM’s Special Counsel recommends the City adopt a resolution denying Atmos’s proposed increase in rates, and that the City do so as expeditiously as possible.

Otherwise, if the City adopts a “suspension” resolution, it is highly likely the RRC would have reached its decision on the merits of the application Atmos filed with the RRC, before Atmos even files its appeal of the City’s decision. This means that the City will have had no opportunity to influence the RRC’s decision and it is highly unlikely the RRC would change its decisions on any appeal Atmos files from the City’s actions on the merits of Atmos’s proposed increase in rates.

Crucially, though the City, as part of ATM, has filed a motion to intervene in Atmos’s pending rate case at the RRC, Atmos has informed ATM’s Special Counsel that Atmos will object to ATM’s intervention and there is the risk that the RRC’s administrative law judge will sustain Atmos’ objection keeping ATM out of the case Atmos filed with the RRC. The ALJ is not expected to make a decision on ATM’s motion to intervene until sometime after December 16, 2024, at the earliest.

**So, ATM’s Special Counsel strongly advises the City to adopt a resolution denying Atmos’s proposed increase in rates, and that it do so as expeditiously as possible. Doing so ensures that Atmos will appeal the City’s decision to the RRC on a more expedited time frame, thus assuring ATM’s right to intervene in the proceedings at the RRC.**

If adopted, the accompanying resolution:

1. Denies Atmos’s proposed increase in rates;
2. Authorizes Herrera Law & Associates, PLLC to represent the City through ATM in proceedings related to Atmos’s proposal to increase rates;
3. Directs Atmos to reimburse ATM’s rate-case expenses.

**The City must take action no later than January 20, 2025. If the City does not take action by January 20, 2025, Atmos’s proposed rates will be deemed approved by operation of law. Though the City has until January 20, 2025, to take action, to maximize ATM’s participation in proceedings pending at the RRC, Special Counsel advises the City to adopt the denial resolution as expeditiously as possible.**