

AGENDA INFORMATION SHEET
AGENDA ITEM NO. _____

APPROVAL OF RATE SCHEDULE “RRM – RATE REVIEW MECHANISM” FOR ATMOS ENERGY CORPORATION, MID-TEX DIVISION

BACKGROUND

In 2008 the Atmos Texas Municipalities (ATM) approved the initial Rate Review Mechanism (RRM) for the Mid-Tex Division of Atmos Energy (“Atmos”). That RRM was in effect from 2008 and expired at the end of 2011. The RRM provides the ATM cities a process for reviewing Atmos’ cost of service on an annual basis and is a substitute to the legislatively approved interim rate process at the Commission known as the Gas Reliability Infrastructure Program (“GRIP”).

During 2011, ATM, through the law firm of Herrera & Boyle, PLLC and rate consultants retained on behalf of ATM, participated in a series of negotiations with representatives from Atmos Energy with the goal of arriving at a revised RRM. Those discussions had a deadline of December 31, 2011, but the ATM and Atmos Energy were not able to reach a new agreement on a revised RRM. Under the terms of the RRM then in place, Atmos was to file a traditional rate case with the ATM cities and the Railroad Commission of Texas (RCT) early in 2012. But the parties nonetheless agreed that once the general rate case was concluded, that they would again attempt to reach agreement on a revised RRM.

Atmos filed its general rate case in January 2012 that was processed at the Railroad Commission as GUD No. 10170. Following the conclusion of that rate proceeding, Atmos approached the cities to continue negotiations of a new RRM. Over the course of several months in 2013 the firm of Herrera & Boyle, with the assistance of expert consultants, engaged in negotiations with Atmos regarding the implementation and design of a new RRM. The negotiations resulted in a revised RRM that captures many of the decisions made by the Railroad Commission in GUD No. 10170.

The RRM replaces and all GRIP filings that Atmos would otherwise submit annually. The RRM minimizes the cost of review and avoids expenses associated with full rate proceedings. The RRM provides a city:

1. The opportunity to review all of Atmos’ Operation & Maintenance (O&M) expenses for reasonableness; if a city believes an expense is unreasonable it may exclude it from recovery in rates;
2. The opportunity to review all of Atmos’ capital investments for reasonableness; if a city believes a capital investment is imprudent, it may exclude it from recovery in rates;

3. A review of all of Atmos' revenues so that any increases in revenue can offset a proposed increase in rates;
4. A opportunity to seek information from the Company (that is, to conduct discovery) to help the City assess the validity of Atmos' proposed increase in rates;
5. A cap on the amount by which the customer charge can increase; rate increases cannot increase the customer charge by more than the lesser of 40% of the customer charge, or \$0.50; further there will be no customer charge increase in the first RRM filing;
6. Reimbursement of the City's cost to undertake its review; and
7. In the end, a fixed reduction of \$3 million to what the RRM mechanism would otherwise show to be Atmos' revenue requirement, adjusted by a percentage equal to the total percentage increase in revenue that the RRM would otherwise authorize.

By contrast, the GRIP process provides cities no meaningful opportunity to participate in setting rates or to undertake a meaningful review of the basis for the increase Atmos may seek in a GRIP filing. GRIP filings constitute single-issue ratemaking based on limited facts favoring rate increases and provide:

1. No meaningful participation by cities;
2. No review of increases in revenue that could offset the level of increase that may be needed under the GRIP filing;
3. No review of Atmos' O&M expenses that may serve to offset increases under a GRIP filing;
4. No consideration of very favorable depreciation treatment under the federal tax code that can affect the utility's accumulated deferred federal income taxes (ADFIT);
5. No reimbursement for a city's review of Atmos' filing; and
6. All increases are recovered through an increase in the customer charge.

The RRM provides the City a meaningful opportunity to annually review Atmos' expenses *and* investments, whereas a GRIP filing focuses only on the incremental change in investments.

Note by approving the RRM this resolution, it would not impact rates at this time, but would instead establish the parameters of future RRM filings that Atmos would make beginning in July, 2013. Going forward, new rates would result from collaboration between Atmos and the cities it serves. Any changes in actual charges that Atmos and its cities agree to would be approved in future resolutions.

In the first year of the RRM (2013), Atmos would file its request under the RRM on July 15, 2013 with new rates going into effect on October 15. In subsequent years, the filing would take place by March 1 with new rates going into effect on June 1 of that year. All customers would be notified of each new RRM filing by bill insert. The RRM would be in effect for a four-year period (2013-2017).

The City should take action no later than June 2013.

ATMOS TEXAS MUNICIPALITIES

The Atmos Texas Municipalities (“ATM”) group was organized by a number of municipalities served by Atmos; the City is a member of the ATM coalition of cities. The law firm of Herrera & Boyle, PLLC (through Mr. Alfred R. Herrera) has previously represented the ATM in rate cases involving Atmos.

RECOMMENDATION: APPROVAL OF MID-TEX RRM – RATE REVIEW MECHANISM

ATM’s Special Counsel and the consultants engaged by ATM recommend that the City approve Atmos’ RRM. ATM’s counsel and consulting experts have engaged in settlement negotiations and secured better terms than those initially offered by Atmos. The RRM’s design is substantially more preferable than the GRIP filings.

ATM’s Special Counsel and its consultants believe that the results of the negotiated RRM would provide the City a better opportunity to control the outcome of interim rate reviews over the next several years. Absent this agreement, the City will be exposed to annual GRIP filings that it will have almost no ability to review or influence. Furthermore, Atmos could also initiate another full rate proceeding and/or request that the Railroad Commission approve an RRM that Atmos has designed without the City’s input. Nothing in the proposed RRM would limit the legal rights and duties of the City. A City may initiate a rate proceeding at any time to review whether the rates charges are just and reasonable. The Company also retains its right to initiate a rate proceeding in accordance with Texas Utilities Code. The City should approve the RRM.

The City should take action no later than June 2013.