

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PFLUGERVILLE, TEXAS AUTHORIZING THE CITY'S PARTICIPATION IN A COALITION OF SIMILARLY SITUATED CITIES IN PROCEEDINGS BEFORE THE RAILROAD COMMISSION OF TEXAS AND THE TEXAS LEGISLATURE RELATED TO THE CITY'S AUTHORITY TO EFFECTIVELY REVIEW AND REGULATE UTILITY RATES; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION WAS PASSED WAS IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City of Pflugerville, Texas, hereinafter referred to as "City," is a member of Atmos Texas Municipalities ("ATM"); and,

WHEREAS, ATM has participated in utility ratemaking proceedings before the Railroad Commission of Texas; and,

WHEREAS, ATM has participated in legislative proceedings before the Texas Legislature; and,

WHEREAS, as recently as in the 83rd Regular Session of the Texas Legislature the Legislature considered and rejected legislation that if enacted, would have negatively affected municipalities' original jurisdiction to regulate a utility's rates, services, and operations in the City; and,

WHEREAS, as recently as the 83rd Regular Session of the Texas Legislature in 2013, the Legislature considered and rejected legislation that if enacted, would have negatively affected municipalities' ability to undertake a meaningful evaluation of a utility's request to increase gas rates and effectively challenge unreasonable rate increases; and,

WHEREAS, the Railroad Commission of Texas has initiated proceedings to adopt new rules whose effect would be similar to the restrictions that the Legislature rejected in its 83rd Regular Session; and,

WHEREAS, the rules the Railroad Commission of Texas proposed would diminish, if not altogether eliminate, Texas cities' original ratemaking jurisdiction over gas utilities and cities' ability to meaningfully review a gas utility's request to increase its rates; and,

WHEREAS, the City supports ATM's and other similarly situated coalitions of cities' opposition to proposed rules or laws that would diminish and/or eliminate municipalities' ability to effectively regulate gas utility rates or to meaningfully participate in contested proceedings before the Railroad Commission of Texas; and,

WHEREAS, as the Legislature noted in Section 101.002 of the Gas Utility Regulatory Act, utilities are by definition monopolies in the areas they serve and as a result, the normal forces of competition that regulate prices in a free enterprise society do not operate and therefore, public agencies, including the City, regulate utility rates, operations, and services as a substitute for competition; and,

WHEREAS, gas utilities continue to be monopolies whose rates are not governed by the normal forces of competition; and,

WHEREAS, to provide fair, just, and reasonable rates and adequate and efficient services, Section 103.001 of the Gas Utility Regulatory Act grants the City exclusive original jurisdiction over the rates, operations, and services of a gas utility within the municipality; and,

WHEREAS, under Section 103.001 of the Gas Utility Regulatory Act passed by the Texas Legislature into law, a municipality regulating a gas utility has the right to require gas utilities to submit information as necessary for the municipality to make a reasonable determination of the utility's actual rate base, expenses, investment, and rate of return for providing its services and to retain personnel necessary to make the determination of reasonable rates; and,

WHEREAS, under Section 103.022 of the Gas Utility Regulatory Act, a municipality participating in or conducting a ratemaking proceeding may engage rate consultants, accountants, auditors, attorneys, and engineers to fully evaluate a utility's request to change rates and the gas utility in the ratemaking proceeding shall reimburse the municipality its reasonable rate case expenses; and,

WHEREAS, in order to ensure the reasonableness of gas utility rates and ensure the adequacy of gas utility service by preserving cities' right to effectively investigate and challenge utility-proposed rate increases both before the City and before any state agency that is authorized to regulate gas utilities' rates;

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

Section 1. That the findings set out in the preamble to this resolution are hereby in all things approved and adopted.

Section 2. The City directs ATM to oppose rules or legislation that would:

- Eliminate or reduce the ability of incorporated municipalities to exercise their statutorily guaranteed original jurisdiction over gas utility rates.
- Allow the approval of increases in rates without a complete and thorough review of a utility's capital expenditures or operating expenses by cities representing their ratepayers' interests.
- Eliminate, delay, or diminish the reimbursement of municipalities' reasonable costs incurred while investigating and challenging utility rate proposals or that would otherwise reduce municipalities' ability to participate in the rate-setting process.

Section 3. The City directs ATM to support processes that:

- Uphold and enforce municipalities' original jurisdiction over gas utility ratemaking.
- Preserve municipalities' ability to fully investigate and challenge gas utilities' proposed changes to their rates and tariffs.
- Preserve municipalities' historical right to prompt reimbursement of reasonable costs that the municipalities' incur while investigating and challenging gas utilities' proposals to change their rates in all related proceedings, without any onerous predicate requirements .

Section 4. The City authorizes the ATM Steering Committee to hire and direct its advocates in these efforts before the Railroad Commission of Texas and the Texas Legislature.

Section 5. That a copy of this resolution shall be sent to Mr. Alfred R. Herrera, Herrera & Boyle, PLLC, 816 Congress Avenue, Suite 1250, Austin, Texas 78701, in his role as Special Counsel to ATM.

Section 6. That the meeting at which this resolution was adopted was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code Chapter 551.

Section 7. That this resolution shall become effective from and after its passage.

PASSED AND APPROVED this _____ day of _____, 2014.

Jeff Coleman, Mayor

ATTEST:

Karen Thompson, City Secretary