

AGENDA INFORMATION SHEET

AGENDA ITEM NO. _____

ACTION TO SUSPEND THE EFFECTIVE DATE PROPOSED BY ATMOS – MID-TEX DIVISION (ATMOS-MIDTEX) TO INCREASE RATES UNDER THE GAS RELIABILITY INFRASTRUCTURE PROGRAM FOR 45 DAYS, AND AUTHORIZE THE CITY’S CONTINUED PARTICIPATION IN A COALITION OF CITIES KNOWN AS THE ATMOS TEXAS MUNICIPALITIES

ATMOS TEXAS MUNICIPALITIES (ATM)

The City is a member of the coalition of cities known as the Atmos Texas Municipalities (ATM). ATM was organized by a number of municipalities served by Atmos Energy Corporation’s Mid-Tex Division (Atmos Energy-MidTex) and has been represented by the law firm of Herrera Law & Associates, PLLC to assist in reviewing applications to change rates submitted by Atmos Energy-MidTex.

“GRIP” RATE APPLICATIONS

Under section 104.301 of the Gas Utility Regulatory Act (GURA), a gas utility is allowed to request increases in its rates to recover a return on investments it makes between rate cases. This section of GURA is commonly referred to as the “GRIP” statute (the “Gas Reliability Infrastructure Program”). The statutory term for “GRIP” filings is an interim rate adjustment (“IRA”).

The Supreme Court of Texas concluded that a filing made under the GRIP statute permitted gas utilities the opportunity to recover a return on capital expenditures made during the interim period between rate cases by applying for interim rate adjustment and that proceedings under the GRIP statute did not contemplate either adjudicative hearings or substantive review of utilities' filings for interim rate adjustments. Instead, the GRIP statute provides for a *ministerial* review of the utility’s filings to ensure compliance with the GRIP statute and the Railroad Commission’s rules, and that it is within the Railroad Commission’s authority to preclude cities from intervening and obtaining a hearing before the Railroad Commission. In turn, under the GRIP statute, the Railroad Commission conducts only a ministerial review of a utility’s application to increase rates. Consequently, any meaningful review of the expenditures related to a utility’s GRIP application are not undertaken until the utility’s next general rate case. A utility may file five GRIP applications between rate cases.

ATMOS-MIDTEX’ “GRIP” APPLICATION

On or about February 23, 2024, Atmos-MidTex filed for an increase in gas utility rates under the Gas Reliability Infrastructure Program (“GRIP”) statute. Atmos-MidTex’ application when

approved by the Railroad Commission will result in an increase in the monthly customer charges as shown below:

Rate Schedule	Current Customer Charge	Proposed 2023 Interim Rate Adjustment	Adjusted Charge	Increase Per Bill
Rate R – Residential Sales	\$41.23 per customer per month	\$6.73 per customer per month	\$47.96 per customer per month	\$6.73
Rate C – Commercial Sales	\$114.34 per customer per month	\$22.32 per customer per month	\$136.66 per customer per month	\$22.32
Rate I – Industrial Sales	\$2,079.40 per meter per month	\$412.61 per meter per month	\$2,492.01 per meter per month	\$412.61
Rate T – Transportation	\$2,079.40 per meter per month	\$412.61 per meter per month	\$2,492.01 per meter per month	\$412.61

Note that Atmos-MidTex refers to its application as its “2023” interim adjustment because the increase in rates Atmos-MidTex presents in its application is based on capital expenditures it made from January 1, 2023 through December 31, 2023.

REVIEW AND ACTION RECOMMENDED

Although the City’s ability to review and effectuate a change in Atmos-MidTex requested increase is limited, the City should exercise due diligence with regard to rate increases by monopoly utilities who operate within its boundaries, including increases requested under the GRIP statute to ensure compliance with the requirements of that law.

To exercise its due diligence, it is necessary to suspend Atmos-MidTex proposed effective date of April 23, 2024, for forty-five days, so that the City can evaluate whether the data and calculations in Atmos-MidTex’ rate application are correctly done, and whether Atmos-MidTex’ application otherwise conforms to the requirements of the GRIP statute.

Therefore, the City’s Special Counsel, the law firm of Herrera Law & Associates, PLLC (through Alfred R. Herrera) recommends that the City adopt a resolution suspending Atmos-MidTex’ proposed effective date for 45 days. Assuming a proposed effective date of April 23, 2024, Atmos-MidTex’ proposed effective date is suspended until June 7, 2024.

The City must take action to suspend Atmos-MidTex’ proposed effective date by no later than April 23, 2024.