



# City of Pflugerville

## Legislation Details (With Text)

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|----------------------|--|----------------------|---|---------------------|--|
| <b>File #:</b>       | RES-0853   | <b>Version:</b>      | 1 | <b>Name:</b>        |  |
| <b>Type:</b>         | Resolution   | <b>Status:</b>       |   | Consent Agenda      |  |
| <b>File created:</b> | 4/1/2021   | <b>In control:</b>   |   | City Manager Office |  |
| <b>On agenda:</b>    | 4/13/2021  | <b>Final action:</b> |   | 4/13/2021           |  |
| <b>Title:</b>        | Approving a resolution by the City of Pflugerville, Texas, regarding the application of Atmos Energy Corporation - Midtex Division, to increase rates under the gas reliability infrastructure program; suspending the effective date of this rate application for forty-five days; authorizing the city to continue to participate in a coalition of cities known as the "Atmos Texas Municipalities;" determining that the meeting at which the resolution was adopted complied with the Texas open meetings act; making such other findings and provisions related to the subject; and declaring an effective date. |                      |   |                     |  |

### Sponsors:

### Indexes:

### Code sections:

**Attachments:** 1. Atmos-GRIP-2021-MidTex-ATM-SUSPENSION-RESOLUTION-031121\_PF, 2. Atmos-GRIP-2021-MidTex-ATM-SUSPENSION-RESOLUTION-AIS-031121

| Date      | Ver. | Action By    | Action   | Result |
|-----------|------|--------------|----------|--------|
| 4/13/2021 | 1    | City Council | Approved | Pass   |

Approving a resolution by the City of Pflugerville, Texas, regarding the application of Atmos Energy Corporation - Midtex Division, to increase rates under the gas reliability infrastructure program; suspending the effective date of this rate application for forty-five days; authorizing the city to continue to participate in a coalition of cities known as the "Atmos Texas Municipalities;" determining that the meeting at which the resolution was adopted complied with the Texas open meetings act; making such other findings and provisions related to the subject; and declaring an effective date.

The City is a member of the Atmos Texas Municipalities ("ATM"). The ATM group was organized by a number of municipalities served by Atmos Energy Corporation - MidTex Division ("Atmos Energy") 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.

An agenda information sheet has been provided by Herrera Law which is also attached. The summary provides that 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 general rate cases. This section of GURA is commonly referred to as the "GRIP" statute, that is, the "Gas Reliability Infrastructure Program."

Under a decision by the Supreme Court of Texas, the Court concluded that a filing made under the GRIP statute permitted gas utilities the opportunity to recover return on capital expenditures made during the interim period between general rate cases by applying for an 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 Court concluded, 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.

On or about February 26, 2021 Atmos Energy filed for an increase in gas utility rates under the Gas Reliability Infrastructure Program ('GRIP'). Atmos Energy's application if approved by the Commission will result in an increase in the monthly customer charges as shown below:

Atmos Energy's application, if approved by the Railroad Commission, will result in a system wide increase in Atmos Energy's revenue of about \$111.50 million, of which ATM's portion is about \$11.11 million. Atmos Energy's proposed an effective date of April 27, 2021.

Of note, on March 5, staff provided an update to the Council, as follows:

The City received documentation from Atmos Energy on March 1, which is the Atmos Energy-MidTex's "GRIP" filing related to investments it made in calendar year 2020.

- o In February, staff was notified that recently Atmos Pipeline-Texas (APT) filed a request with the Railroad Commission of Texas (RCT) to reduce its city-gate rates by about \$35.5 million. APT's filing is required to make this decrease pursuant to settlement we reached in prior rate cases and approved by and directed to do so by the Railroad Commission. Note that ultimately, this reduction flows through to end-use customers.
- o The reduction in rates is a product of the reduction in the corporate federal income tax rate from 35% to 21%. That tax rate reduction reduced the value of the deferred taxes used to reduce rate base (also known as APT's net plant in service) in GUD No. 10580. Internal Revenue Service regulations require APT to reduce its rates on a normalized basis in order to provide cost-of-service customers with the benefit of the reduction in the value of the deferred taxes. The reduction in the value of the deferred taxes is commonly referred to as "Excess Deferred Taxes."
- o To accomplish the reduction, APT was required to obtain the consent of all parties (which staff provided via email) to its last major rate case before the Railroad Commission. ATM was a party to that rate case.

### **Prior City Council Action**

April 14, 2020 Council adopted Resolution No. 1758-20-04-14-0711 to increase rates under the Gas Reliability Infrastructure Program; suspending the effective date of this rate application for forty-five days; authorizing the City to continue to participate in a coalition of cities known as the "Atmos Texas Municipalities;

### **Deadline for City Council Action**

April 27, 2021

**Funding Expected:** Revenue \_\_\_ Expenditure ☒ N/A \_\_\_

**Budgeted Item:** Yes \_\_\_ No \_\_\_ N/A ☒

**Amount:** \_\_\_\_\_

**1295 Form Required?** Yes \_\_\_ No ☒

**Legal Review Required:** N/A \_\_\_ Required ☒ Date Completed: 4/1/2021

### **Supporting documents attached:**

Resolution

Agenda Information Sheet

**Recommended Action**

Adopt the Resolution suspending Atmos Energy's proposed effective date for 45 days. Assuming a proposed effective date of April 27, 2021 Atmos Energy's proposed effective date is suspended until June 11, 2021.