

ORD 07-15

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COMMERCE, TEXAS, DENYING THE RATE INCREASE PROPOSED BY THE ATMOS ENERGY CORPORATION, MID-TEX DIVISION; AUTHORIZING PARTICIPATION IN A COALITION OF CITIES KNOWN AS ATMOS TEXAS MUNICIPALITIES ("ATM"); AUTHORIZING THE HIRING OF LAWYERS AND RATE EXPERTS; REQUIRING THE REIMBURSEMENT OF MUNICIPAL RATE CASE EXPENSES; FINDING THAT THE MEETING COMPLIED WITH THE OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE

WHEREAS, Atmos Energy Corporation – Mid-Tex Division ("Atmos") filed a Statement of Intent with the City of Commerce, Texas ("City") on September 20, 2007, to increase its system-wide, annual revenue requirement, by approximately \$51.9 million; and,

WHEREAS, the City is a regulatory authority under the Gas Utility Regulatory Act ("GURA") and under § 103.001 of GURA has exclusive original jurisdiction over Atmos' rates, operations, and services of a gas utility within the municipality; and,

WHEREAS, Atmos has provided very limited explanation for its increase in rates; and,

WHEREAS, Atmos is seeking to significantly increase rates for low-use residential customers by raising the customer charge and by lowering the charge for the consumption of gas; and,

WHEREAS, Atmos has had five rate increases in the last three years and Atmos just finished its last general rate case on August 14, 2007, at the Railroad Commission of Texas; and,

WHEREAS, Atmos is seeking to increase rates for many of the cost items which were recently rejected by the Commission; and,

WHEREAS, in order to maximize the efficient use of resources and expertise in reviewing, analyzing and investigating Atmos Energy's request for a \$51.9 million increase in rates it makes sense to coordinate the City's efforts with a coalition of similarly situated municipalities; and,

WHEREAS, a coalition of municipalities, known as the Atmos Texas Municipalities ("ATM") has been active in gas utility ratemaking proceedings; and,

WHEREAS, the City will join with other cities participating in ATM and, through a steering committee, coordinate the hiring and direction of legal counsel and consultants working on behalf of ATM and the City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COMMERCE, TEXAS:

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

Section 2. That the City hereby denies Atmos' request to increase rates and in support thereof finds that:

- a) Atmos is requesting an increase in rates, in part, based upon adjustments to its cost of service which were recently rejected by the Railroad Commission of Texas;
- b) the Statement of Intent fails to provide sufficient information to justify the requested increase in rates;
- c) the requested increase in rates puts more of the cost for the base rate increase on low-use residential customers who often are in the worst position to absorb such cost increases; and,
- d) the request asks that a rate mechanism to be implemented which provides a disincentive to reducing costs and becoming more productive or efficient.

Section 3. That the City is authorized to join with other cities in a coalition of cities known as the Atmos Texas Municipalities ("ATM") with the understanding that the steering committee of ATM provide direction and guidance to the lawyers and consultants who are representing said cities.

Section 4. That the City employs Jim Boyle and Alfred Herrera as special counsel to represent the City with regard to the requested increase in rates by Atmos before local and state regulatory authorities and any court of law, and authorizes special counsel to employ such rate experts as are recommended by the ATM Steering Committee.

Section 5. That the City hereby authorizes that Special Counsel take such actions as are appropriate, whether in court or before any regulatory authority, to prohibit Atmos from charging for expenses which are not reasonable and necessary, or capital expenditures which have not been prudently incurred, or rates which are not just and reasonable.

Section 6. That the City, in coordination with the Steering Committee, shall review the invoices of the lawyers and rate experts for reasonableness before submitting the invoices to Atmos Energy for reimbursement.

Section 7. That Atmos Energy shall reimburse the City, through the designated city representative for the Steering Committee, for the reasonable costs of attorneys and consultants and expenses related thereto, upon the presentation of invoices reviewed by the Steering Committee.

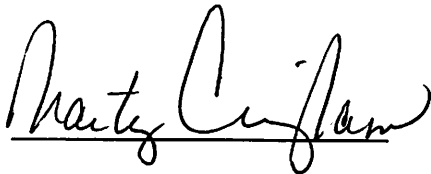
Section 8. That the City Secretary shall notify Atmos Energy of this resolution by sending a copy of same to Ms. Barbara Myers, Atmos Energy Corporation, 5420 LBJ Freeway, Suite 1824, Dallas, Texas 75240 and ATM shall be notified by sending a copy of this resolution to Mr. Jim Finley, City Attorney for the City of Longview by fax to 903.239.5539.

Section 9. That the meeting at which this ordinance was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section 10. That this ordinance shall become effective from and after its passage.

PASSED AND APPROVED this 2nd day of October 2007.

ATTEST:


Marty C. Ingram


Mayor