

Agenda Item Details

Meeting	Aug 22, 2023 - Bryan City Council Special Meeting
Category	5. Statutory (Automatic Approval) Agenda - This agenda consists of items previously approved by Council action such as adoption of items that are part of an approved budget or capital improvement projects, first and only readings of ordinances, interlocal agreements, or action that is required by law or delegated to the City Manager. Items may be removed from the statutory agenda for separate consideration at the request of two Councilmembers.
Subject	C. Adoption of a resolution approving a negotiated settlement agreement for Atmos Energy Corp., Mid-Tex Division's rate filing regarding the Company's 2023 Rate Review Mechanism (RRM)
Type	Action (Statutory)
Preferred Date	Aug 22, 2023
Absolute Date	Sep 12, 2023
Fiscal Impact	No
Budget Source	na
Goals	Service Quality of Life Infrastructure

Summary:

The City, along with 181 other Mid-Texas cities served by Atmos Energy Corporation, Mid-Tex Division (Atmos Mid-Tex or Company), is a member of the Atmos Cities Steering Committee (ACSC). In 2007, ACSC and Atmos Mid-Tex settled a rate application filed by the Company pursuant to Section 104.301 of the Texas Utilities Code for an interim rate adjustment commonly referred to as a GRIP filing (arising out of the Gas Reliability Infrastructure Program legislation). That settlement created a rate review process, referred to as Rate Review Mechanism (RRM), as a substitute for future filings under the GRIP statute.

Since 2007, there have been several modifications to the original RRM Tariff. The most recent iteration of an RRM Tariff was reflected in an ordinance adopted by ACSC members in 2018. On or about March 31, 2023, the Company filed a rate request pursuant to the RRM Tariff adopted by ACSC members. The Company claimed its cost-of-service in a test year ending December 31, 2022, entitled it to additional system-wide revenues of \$165.9 million.

Application of the standards set forth in ACSC's RRM Tariff reduces the Company's request to \$156.1 million, \$113.8 million of which is applicable to ACSC members. ACSC's consultants concluded the system-wide deficiency under the RRM regime should be \$130.9 million instead of the claimed \$156.1 million.

After several settlement meetings, the parties have agreed to settle the case for \$142 million. This amount is a reduction of \$23.9 million to the Company's initial request, and is inclusive of payment of ACSC's expenses. The settlement also includes an additional \$19.5 million for the securitization of regulatory asset expenses related to Winter Storm Uri. This expense was previously approved by the Texas Legislature and Railroad Commission. The Effective Date for new rates is October 1, 2023. ACSC members should take action approving the Resolution/Ordinance before September 30, 2023.

Staff Analysis and Recommendation:
Rate Tariffs and Proof of Revenues

Atmos generated rate tariffs attached to the proposed Resolution will generate \$142 million in additional revenues. Atmos also prepared a Proof of Revenues supporting the settlement figures. ACSC consultants have agreed that Atmos Proof of Revenues is accurate.

Bill Impact

The impact of the settlement on average residential rates is an increase of \$6.47 on a monthly basis, or 7.31 percent. The increase for average commercial usage will be \$24.72 or 5.19 percent. Atmos provided bill impact comparisons containing this figures.

2023 RRM Settlement Agreement Monthly Rate Impact

Customer Class	Current	Proposed	\$ Change	% Change
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Residential	\$ 88.47	\$ 94.94	\$ 6.47	7.31%
Commercial	\$ 476.43	\$ 501.15	\$ 24.72	5.19%
Industrial	\$ 14,651.36	\$ 15,300.40	\$ 649.04	4.43%
Transportation	\$ 6,446.15	\$ 6,940.19	\$ 494.04	7.66%

Summary of ACSC'S Objection to the Utilities Code Section 104.301 GRIP Process

ACSC strongly opposed the GRIP process because it constitutes piecemeal ratemaking by ignoring declining expenses and increasing revenues while rewarding the Company for increasing capital investment on an annual basis. The GRIP process does not allow any review of the reasonableness of capital investment and does not allow cities to participate in the Railroad Commission's review of annual GRIP filings or allow recovery of cities' rate case expenses. The Railroad Commission undertakes a mere administrative review of GRIP filings (instead of a full hearing) and rate increases go into effect without any material adjustments. In ACSC's view, the GRIP process unfairly raises customers' rates without any regulatory oversight. In contrast, the RRM process has allowed for a more comprehensive rate review and annual evaluation of expenses and revenues, as well as capital investment.

RRM Savings Over GRIP

While residents outside municipal limits must pay rates governed by GRIP, there are some cities served by Atmos Mid-Tex that chose to remain under GRIP rather than adopt RRM. For example, the City of Dallas adopted a variation of RRM, which is referred to as the Dallas Annual Rate Review (DARR). When new rates become effective on October 1, 2023, ACSC residents will maintain an economic monthly advantage over GRIP and DARR rates.

Comparison to Other Mid-Tex Rates (Residential/Monthly)

	<u>Average Bill</u>	<u>Compared to RRM Cities</u>
RRM Cities:	\$42.62	-
DARR:	\$42.55	(\$0.07)
ATM Cities:	\$44.39	\$1.77
Environs:	\$44.27	\$1.65

Notes: ATM stands for Atmos Texas Municipalities, another Texas-based coalition for cities served by Atmos Energy. Environs are other cities within the Atmos Energy service area in Texas; somewhat of a regional comparison. ATM Cities and Environs rates are as-filed. Also note DARR uses a test year ending in September rather than December.

Explanation of BE IT RESOLVED Paragraphs within the Proposed Resolution:

1. This section approves all findings in the Resolution/Ordinance.
2. This section adopts the RRM rate tariffs and finds the adoption of the new rates to be just, reasonable, and in the public interest.
3. This section makes it clear that Cities may challenge future costs associated with gas leaks.
4. This section finds that existing rates are unreasonable. Such finding is a necessary predicate to establishment of new rates. The new tariffs will permit Atmos Mid-Tex to recover an additional \$142 million on a system-wide basis.
5. This section approves an exhibit that establishes a benchmark for pensions and retiree medical benefits to be used in future rate cases or RRM filings.
6. This section requires the Company to reimburse the City for expenses associated with review of the RRM filing, settlement discussions, and adoption of the Resolution/Ordinance approving new rate tariffs.
7. This section repeals any resolution or ordinance that is inconsistent with the Resolution/Ordinance.
8. This section finds that the meeting was conducted in compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.
9. This section is a savings clause, which provides that if any section is later found to be unconstitutional or invalid, that finding shall not affect, impair, or invalidate the remaining provisions of this Resolution/Ordinance. This section further directs that the remaining provisions of the Resolution/Ordinance are to be interpreted as if the offending section or clause never existed.
10. This section provides for an effective date upon passage.
11. This section directs that a copy of the signed Resolution/Ordinance be sent to a representative of the Company and legal counsel for ACSC.

Conclusion

The Legislature's GRIP process allowed gas utilities to receive annual rate increases associated with capital investments. The RRM process has proven to result in a more efficient and less costly (both from a consumer rate impact perspective and from a ratemaking perspective) than the GRIP process.

Given Atmos Mid-Tex's claim that its historic cost of service should entitle it to recover \$165.9 million in additional system-wide revenues, the RRM settlement at \$142 million for ACSC Cities reflects substantial savings to ACSC Cities. According to ACSC legal counsel and experts, the settlement at \$142 million is fair and reasonable. The ACSC Executive Committee, consisting of city employees of 18 ACSC members, urges all ACSC members to pass the proposed Resolution (or in some cases, an ordinance) before September 30, 2023.

City staff concurs with the ACSC Executive Committee and recommends approval of the proposed Resolution, which accepts the 2023 RRM settlement agreement. Atmos' new rates become effective October 1, 2023. If the proposed Resolution is not approved, the City of Bryan should anticipate Atmos rates being higher than other ACSC member cities and likely higher than most other Texas cities.

Options:

1. Approve the proposed Resolution
2. Amend and then approve the proposed Resolution. This action may require additional negotiations with Atmos, the City of Bryan being independently responsible for legal and subject matter expert fees, and/or consideration at a future City Council meeting, along with potential other unintended consequences.
3. Do not approve the proposed Resolution, with the result likely being the City of Bryan having rates higher than other ACSC member cities and likely higher than most other Texas cities.
4. Take no action, with the result being similar to Option #3.
5. Other options as the City Council determines in the best interest of the City of Bryan, while realizing Atmos' initial rate filing takes effect on October 1, 2023, and the City of Bryan's individual actions will be at the City's expense.

Note: Atmos' new rates are effective October 1, 2023.

Attachments:

1. Proposed Resolution
2. Atmos Energy Average Bill Comparison
3. ACSC and RRM Frequently Asked Questions (FAQ) Document (dated July 21, 2021)

[Atmos_2023_RRM_Resolution.pdf \(915 KB\)](#)

[AtmosEnergyAverageBillComparison.pdf \(153 KB\)](#)

[2021_ACSC_FAQ_Doc.pdf \(444 KB\)](#)