

ORDINANCE NO. 3808

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, DENYING THE REQUEST OF ATMOS ENERGY CORPORATION, MID-TEX DIVISION, FOR AN ANNUAL GAS RELIABILITY INFRASTRUCTURE PROGRAM (“GRIP”) RATE INCREASE IN THIS MUNICIPALITY, AS A PART OF THE COMPANY’S STATEWIDE GAS UTILITY DISTRIBUTION SYSTEM; APPROVING COOPERATION WITH OTHER CITIES WITHIN THE ATMOS ENERGY CORPORATION, MID-TEX DIVISION DISTRIBUTION SYSTEM AS PART OF THE ATMOS CITIES STEERING COMMITTEE (“ACSC”); AUTHORIZING ACSC TO HIRE LEGAL AND CONSULTING SERVICES AND TO NEGOTIATE WITH THE COMPANY AND DIRECT ANY NECESSARY LITIGATION; AUTHORIZING INTERVENTION AS PART OF ACSC IN ANY APPEAL OF THE CITY’S ACTION TO THE RAILROAD COMMISSION; PROVIDING A REQUIREMENT FOR A PROMPT REIMBURSEMENT OF COSTS INCURRED BY THE CITY; FINDING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND PROVIDING FOR NOTICE OF THIS ORDINANCE TO ATMOS ENERGY CORPORATION, MID-TEX DIVISION.

WHEREAS, on or about March 30, 2006, Atmos Energy Corporation, Mid-Tex Division (the “Company”) filed with the City a request for an annual Gas Reliability Infrastructure Program (“GRIP”) rate increase for customers on the Company’s statewide gas utility system to be effective May 30, 2006; and

WHEREAS, the City has exclusive original jurisdiction to evaluate the Company’s request as it pertains to the distribution facilities located within the City, pursuant to Texas Utilities Code, §§102.001(b) and 103.001; and

WHEREAS, it is reasonable for the City to cooperate with other cities in a coalition of cities in opposition to the Company’s filing at the Railroad Commission (“Commission”), said coalition being known as Atmos Cities Steering Committee (“ACSC”), in any appeal of the cities’ actions to the Commission; and

WHEREAS, the Gas Utility Regulatory Act (“GURA”) grants local regulatory authorities the right to intervene in rate proceedings filed at the Railroad Commission; and

WHEREAS, the Texas Utilities Code, §103.022, provides that costs incurred by the City in rate-making activities are to be reimbursed by the regulated utility; and

WHEREAS, counsel for ACSC, upon review of the Company’s filing and upon consultation with various consultants, recommends finding that the Company’s proposal is unjustified and unreasonable; and

WHEREAS, the Company has publicly stated that it will receive substantial profit in 2005 and that its expenses are substantially below those on which the GUD No. 9400 rates it is charging were based; and

WHEREAS, the Company's GRIP request fails to account for growth in numbers of customers, thereby undercounting the revenues it will receive from its proposed GRIP rate increase; and

WHEREAS, the Company's GRIP request fails to recognize that GUD No. 9400 rates included profit based on TXU Corporation's capital structure rather than Atmos Energy Corporation's current capital structure, which justifies a lower rate of return; and

WHEREAS, under the provisions of GURA, §104.301, the interim rate adjustment is subject to true-up in a general rate case filed within five years of the effective date of the interim rate surcharge; and

WHEREAS, the Company on May 31, 2006, filed a Statement of Intent to increase its distribution rates on a system-wide basis, using calendar year ending December 31, 2005, as its test year; and

WHEREAS, the capital investment made by Atmos during 2005 will be reviewed in the Statement of Intent filing, making the 2005 GRIP filing superfluous, duplicative and unnecessary.

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

SECTION 1. That Atmos Energy Corporation, Mid-Tex Division's (the "Company") Gas Reliability Infrastructure Program ("GRIP") rate increase request is found to be unreasonable, superfluous, duplicative and unnecessary, and is therefore denied in all respects.

SECTION 2. That the City is authorized to cooperate with other cities within the Company's Distribution System that have formed the Atmos Cities Steering Committee ("ACSC") to hire and direct legal counsel and consultants, negotiate with the Company, make recommendations to the City regarding reasonable rates and to direct any necessary litigation associated with an appeal of a rate ordinance and the rate case filed at the Railroad Commission ("Commission").

SECTION 3. That the costs incurred by the City in reviewing the Company's GRIP request shall be promptly reimbursed by the Company.

SECTION 4. That the City is authorized to intervene in any appeal of the City's action filed at the Commission and any related litigation, and to participate in any such appeal or litigation as a member of ACSC.

SECTION 5. That this ordinance shall become effective immediately from and after its passage, as the law and charter in such cases provide.

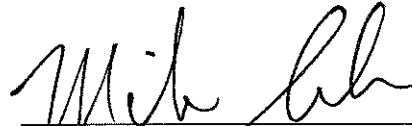
SECTION 6. That it is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public as required by law and that public notice of the time, place and purpose of said meeting was given as required.

SECTION 7. That a copy of this ordinance, constituting final action on the Company's application, be forwarded to the following:

Richard T. Reis  
Atmos Energy Corporation  
5420 LBJ Freeway, Suite 1800  
Dallas, Texas 75240

Lloyd Gosselink Blevins Rochelle & Townsend  
c/o Geoffrey Gay  
P.O. Box 1725  
Austin, Texas 78767-1725.

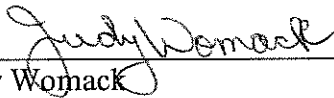
DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 19th day of June, 2006.



Mike Anderson  
Mayor

ATTEST:

APPROVED:



Judy Womack  
City Secretary



B. J. Smith  
City Attorney