

RESOLUTION NO. 47-2005

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, ORDERING ATMOS ENERGY CORPORATION, MID-TEX DIVISION (“ATMOS MID-TEX”), TO SHOW CAUSE REGARDING THE REASONABLENESS OF ITS EXISTING NATURAL GAS DISTRIBUTION RATES WITHIN THE CITY OF MESQUITE; REQUIRING ATMOS MID-TEX TO SUBMIT A RATE PACKAGE BASED ON A RATE YEAR ENDING JUNE 30, 2005; DIRECTING THAT SUCH FILING SHALL BE MADE BY DECEMBER 31, 2005; REQUIRING REIMBURSEMENT OF REASONABLE LEGAL AND CONSULTANT EXPENSES; AND REQUIRING DELIVERY OF THIS RESOLUTION TO ATMOS MID-TEX AND LEGAL COUNSEL.

WHEREAS, the City of Mesquite (the “City”) is a regulatory authority under the Gas Utility Regulatory Act (“GURA”) and has original jurisdiction over the gas utility rates of Atmos Energy Corporation, Mid-Tex Division (“Atmos Mid-Tex”); and

WHEREAS, the City has the authority under §103.001 and §104.151, GURA, to initiate a proceeding to determine whether the existing rates of a gas utility are unreasonable or in any way in violation of any provision of law; and

WHEREAS, upon making a finding of unreasonableness, the City may determine the just and reasonable rates to be charged by Atmos Mid-Tex; and

WHEREAS, Atmos Energy Corporation, the parent company of Atmos Mid-Tex, has recently experienced system-wide cost reductions due to the doubling of its nationwide customer base with the acquisition of the assets of TXU Gas, and has reported to its investors that it has experienced a significant increase in profits related to its Texas divisions; and

WHEREAS, Atmos Mid-Tex is charging rates approved based on the higher expenses and equity-to-debt ratio of TXU Gas, rather than rates that would be justified based on Atmos Mid-Tex’s lower expenses and equity-to-debt ratio; and

WHEREAS, ratepayers of Atmos Mid-Tex, including the City and its residents, will suffer further unreasonable adverse impact from the Gas Reliability Infrastructure Program (“GRIP”) rate increases approved by the Texas Railroad Commission (the “Commission”) and the second GRIP filing recently made by Atmos Mid-Tex; and

WHEREAS, the Commission’s failure to consider testimony and argument offered by cities during its consideration of the Atmos Mid-Tex’s piecemeal GRIP rate applications leaves cities no functional choice but to exercise its statutory right to exercise original jurisdiction over Atmos Mid-Tex’s base rates and compel a comprehensive rate review; and

WHEREAS, the City has reason to believe that Atmos Mid-Tex is over-earning and that its rates are excessive; and

WHEREAS, cities and their residents are about to experience unprecedented increases in the cost of natural gas during the heating season and protection of the public interest requires a comprehensive review of Atmos Mid-Tex's cost of service to determine whether rates and services are just and reasonable; and

WHEREAS, Atmos Mid-Tex should be required to justify its rates on a system-wide basis; and

WHEREAS, the coalition of cities formed to review Atmos Mid-Tex's GRIP filings (the Atmos Cities Steering Committee or "ACSC") can most efficiently review the Atmos Mid-Tex filing on behalf of the City; and

WHEREAS, the reasonable costs associated with the City's review of Atmos Mid-Tex's rates are reimbursable from Atmos Mid-Tex.

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

SECTION 1. That Atmos Energy Corporation, Mid-Tex Division ("Atmos Mid-Tex"), is hereby directed to show cause regarding the reasonableness of its existing natural gas distribution rates within the City of Mesquite (the "City"). Atmos Mid-Tex shall file with the City information sufficient to determine Atmos Mid-Tex's rate base, expenses, investment and rate of return. Such filing shall be on a system-wide basis and shall be based upon a rate year ending June 30, 2005. Atmos Mid-Tex is directed to file its rate-filing package to comply, at a minimum, with the regulations and requirements of the Railroad Commission. The filing shall be made with the City on or before December 31, 2005. An electronic copy of the filing shall be made with the City simultaneously with the written filing on December 31, 2005. This filing shall be the same filing as made with the first coalition city to pass the same or similar Show Cause Resolution.

SECTION 2. That the City's designated representatives shall have the right to obtain additional information from Atmos Mid-Tex through the filing of written requests for information, to each of which Atmos Mid-Tex shall respond in writing within 14 calendar days from the receipt of each such request for information.

SECTION 3. That a public hearing shall be conducted by the City. Based upon such hearing, the briefing of staff and the consultants' findings, a determination of the reasonableness of the existing rates of Atmos Mid-Tex shall be made by the City and, if necessary, just and reasonable rates shall be determined to be thereafter observed and enforced for all services of Atmos Mid-Tex within the City.

SECTION 4. That the City may, from time to time, amend this procedural schedule and the filing requirements, and enter additional orders as may be necessary in the public interest and to enforce the provisions hereof.

SECTION 5. That Atmos Mid-Tex shall promptly reimburse the City's reasonable monthly costs associated with the City's activities related to the rate review.


SECTION 6. That a copy of this resolution shall be sent to Atmos Mid-Tex, to the attention of Richard T. Reis, Atmos Energy Corporation, 5420 LBJ Freeway, Suite 1800, Dallas, Texas 75240, and to Geoffrey Gay, legal counsel to the coalition of cities, Lloyd Gosselink, P.O. Box 1725, Austin, Texas 78767-1725.

DULY RESOLVED by the City Council of the City of Mesquite, Texas, on the 7th day of November, 2005.



Mike Anderson
Mayor

ATTEST:


Judy Womack
City Secretary

APPROVED:


B. J. Smith
City Attorney