

**RESOLUTION NO. R-2015-18**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AUTHORIZING THE CITY OF TYLER'S CONTINUED PARTICIPATION WITH THE ATMOS CITIES STEERING COMMITTEE; AUTHORIZING THE PAYMENT OF FIVE CENTS PER CAPITA (\$5,450.00) TO FUND REGULATORY AND ASSOCIATED ACTIVITIES RELATED TO ATMOS ENERGY CORPORATION, AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Tyler is a regulatory authority over the Gas Utility Regulatory Act (GURA) and has exclusive original jurisdiction over the rates and services of Atmos Energy Corporation, Mid-Tex Division (Atmos) with the municipal boundaries of the city; and

**WHEREAS**, the Atmos Cities Steering Committee (ACSC) has historically intervened in Atmos rate proceedings and gas utility related rulemakings to protect the interests of municipalities and gas customers residing within municipal boundaries; and

**WHEREAS**, ACSC is participating in Railroad Commission dockets and projects, as well as court proceedings and legislative activities, affecting gas utility rates; and

**WHEREAS**, the City of Tyler is a member of ACSC; and

**WHEREAS**, in order for ACSC to continue its participation in these activities which affects the provision of gas utility service and the rates to be charged, it must assess its members for such costs; and

**WHEREAS**, it is important for the City of Tyler to pay its 2015 Assessment to ACSC;

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

**PART 1:** That the City of Tyler is authorized to continue its membership with the Atmos Cities Steering Committee to protect the interests of the City of Tyler and to protect the interests of the customers of Atmos Energy Corporation, Mid-Tex Division residing and conducting business within the City limits.

**PART 2:** That the City of Tyler is further authorized to pay its 2015 assessment to the ACSC in the amount of five cents (\$0.05) per capita (\$5,450.00).

**PART 3:** That a copy of this Resolution and approved assessment fee payable to "*Atmos Cities Steering Committee*" shall be sent to:

David Barber  
Atmos Cities Steering Committee  
c/o Arlington City Attorney's Office, Mail Stop 63-0300  
Post Office Box 90231  
Arlington, Texas 76004-3231

**PART 4:** That this Resolution shall become effective immediately upon its adoption.

PRESENTED, PASSED, AND APPROVED on this the 10<sup>th</sup> day of June, 2015.

~~MARTIN HEINES, MAYOR OF  
THE CITY OF TYLER, TEXAS~~

ATTEST:

Cassandra Brager

CASSANDRA BRAGER, CITY CLERK

APPROVED:

Deborah G. Pullum

DEBORAH G. PULLUM, CITY ATTORNEY



City of Arlington, c/o Atmos Cities Steering Committee  
Attn: David Barber, Asst City Attorney  
101 S. Mesquite, 3rd Floor  
Arlington, TX 76010

## Invoice

Date	Invoice #
4/24/2015	15-157

**Bill To**

Please make check payable to: Attn: Cities Steering Committee. Mail to ACSC, c/o David Barber, Aust City Attorney, 101 S. Mesquite, 3rd Floor, Arlington, TX 76010

## MEMORANDUM

**TO:** Atmos Cities Steering Committee  
**FROM:** Jennifer Richie and Odis Dolton, Co-Chairs, Atmos Cities Steering Committee  
**DATE:** March 4, 2015  
**RE:** **Action Needed - 2015 Atmos Cities Steering Committee Membership Assessment Invoice**

In December 2014, the Atmos Cities Steering Committee (“ACSC”) held a quarterly meeting with representatives from Atmos Energy. During the meeting, the group held a discussion of upcoming natural gas issues and approved the assessment for ACSC membership. Using the population-based assessment protocol previously adopted by ACSC, the assessment for 2015 is a per capita fee of \$0.05.

ACSC protects the authority of municipalities over the monopoly natural gas provider and defends the interests of the residential and small commercial customers within the cities. Cities are the only consumer advocates that work to keep natural gas rates reasonable. The work undertaken by ACSC has saved ratepayers millions of dollars in unreasonable charges. In order to continue to be an effective voice at the Railroad Commission, at the Legislature, and in the courts, ACSC must have your support. Please take action to pay the membership assessment as soon as possible. Payment of the membership assessment fee shall be deemed to be in agreement with the terms of the ACSC participation agreement.

Although ACSC does not require that your city take action by resolution to approve the assessment, some members have requested a model resolution authorizing payment of the 2015 membership assessment. To assist you in the assessment process, we have provided the following documents for your use:

- ACSC 2014 Year in Review
- Model resolution approving the 2015 assessment (optional, provided for those cities that have requested a resolution to authorize payment)
- Model staff report supporting the resolution
- List of Atmos Cities Steering Committee members
- 2015 Assessment invoice
- 2014 Assessment invoice and statement (only included if not yet paid)
- Blank member contact form to update the distribution lists

Please forward the membership assessment fee and, if applicable, the signed resolution to David Barber, Atmos Cities Steering Committee, c/o City Attorney’s Office, Mail Stop 63-0300, Post Office Box 90231, Arlington, Texas 76004-3231. Checks should be made payable to: *Atmos Cities Steering Committee*.

If you have any questions, please contact ACSC Co-Chairmen Jennifer Richie (254/750-5688), or Odis Dolton (325/676-6496). ACSC’s counsel, Geoffrey Gay ([ggay@lglawfirm.com](mailto:ggay@lglawfirm.com)) and Thomas Brocato ([tbrocato@lglawfirm.com](mailto:tbrocato@lglawfirm.com)) at 512/322-5857 are also available to assist you.

# 2014 Year In Review

## *Atmos Cities Steering Committee Membership:*

This past year was a busy one for the Atmos Cities Steering Committee ("ACSC"), and with the Texas Legislature soon to be in session, things are only going to ramp up in 2015. This annual review highlights the significant events of 2014 that impacted ACSC and what's on the horizon this year.

On a more personal note, we would like to offer a sincere thank you to the recently retired Jay Doegey, who served as ACSC chair since the Committee's founding. Jay has been an immensely effective leader and much of the Committee's success is owed to his tireless efforts, for which we are truly grateful. ACSC will miss Jay and wishes him the best for a happy retirement.

Sincerely,

Odis Dolton & Jennifer Richie, ACSC Co-Chairs

## 2015 Officers

At the December meeting, ACSC members approved the budget and elected the following officers for 2015:

**Co-Chairs** — Odis Dolton (Abilene) & Jennifer Richie (Waco)

**Vice-Chair & Secretary** — Joel Welch (Ennis)

**Treasurer** — David Barber (Arlington)

Congratulations to the 2015 ACSC officers!



## Significant Events of 2014

### ATMOS MID-TEX 2014 RRM

On February 28, 2014, Atmos Energy Corp.—Mid-Tex Division, filed a Rate Review Mechanism ("RRM") application with each of the ACSC members alleging a test year revenue deficiency of \$49 million for the Mid-Tex system. This would raise the average residential bill by roughly \$2 per month and the average business bill by about \$6 per month.

However, ACSC consultants reviewed and conducted discovery on Atmos' application and concluded that Atmos qualified for a significantly lower level of rate increase—only \$19 million. The sizeable discrepancy is due in part to competing conclusions on the allowable rate of return Atmos can earn on

infrastructure upgrades and the necessity of increased executive bonuses and employee benefits.

Unfortunately, negotiations to reduce the gap between the two sides were unsuccessful, causing over 130 city councils to deny the RRM tariff request. Atmos appealed the denials to the Railroad Commission ("RRC" or "Commission") on May 30, 2014 in GUD No. 10359. The RRC conducted a hearing on September 3, 2014 but has yet to issue a Proposal for Decision ("PFD"). The PFD is expected to be issued on January 7, 2015, following which parties will file exceptions in late January and replies in early February.

## EARTHQUAKES

In 2014, state regulators finally got serious about earthquakes. In January, to respond to public concern that fracking is to blame for earthquake occurrences in North Texas, the Texas Legislature announced the formation of the House Energy Resources Subcommittee on Seismic Activity. The Subcommittee, chaired by Myra Crownover (R-Denton), is charged with investigating increased seismic activity occurring in areas close to oil and gas production and oil and gas disposal wells, including the possibility that increased exploration and disposal well activity could impact seismic activity.

Likewise, in March, the RRC announced that it hired its own staff seismologist, Dr. David Craig Pearson, a Ph.D. geophysicist from Southern Methodist University ("SMU"). According to the Commission, Dr. Pearson was hired specifically to help investigate claims that oil and gas extraction activities are linked to earthquakes occurring in North Texas, where the majority of seismic activity in Texas has occurred.

The Subcommittee held its first public hearing in May and heard invited testimony from the mayors of

both Azle and Reno, the two communities most impacted by the earthquakes, as well as researchers from SMU and the RRC. Researchers from



SMU testified that North Texas had only one reported earthquake of magnitude 2.0 or greater before 2008. There have been 70 since. According to the researchers, it is generally accepted that disposal wells and earthquakes are connected. Indeed, the region experienced 26 earthquakes in 2014, including eight in the month of December alone. Thankfully, none have caused serious damage.

Dr. Pearson reportedly hopes to know what's causing the earthquakes within the year.

## MUNICIPAL PARTICIPATION RULES ADOPTED AT RAILROAD COMMISSION

At the December 9, 2014 Open Meeting, the RRC unanimously adopted rules that will severely impact cities' ability to participate in gas utility rate proceedings before the agency.

The Commission adopted new Texas Administrative Code §§ 1.86 and 1.87 requiring consolidation of all municipal intervenors and limiting discovery and amendments to § 7.5530 regarding cities' rate case expenses. Among other things, the rate case expense rule requires cities to pay their own rate case expense reimbursement prior to seeking reimbursement or to expressly obligate themselves by ordinance to pay irrespective of reimbursement.

ACSC maintains that the rules are designed to discourage municipal participation in gas utility rate cases by unfairly impairing cities' ability to participate while doing nothing to constrain utilities. Ratepayers

will ultimately suffer because without cities' involvement, utility applications will receive less scrutiny, which over time, could

lead to higher gas utility rates.

ACSC has vocally opposed the rules since their proposal, and has not been alone. In August, cities and legislators filed comments opposing the proposed rules. ACSC commented that the rules would establish punitive and unnecessary obstacles to cities performing their functions as local regulatory authorities. In September, the RRC held a hearing where officials representing more than 200 cities across the state testified that the rule changes could deter challenges and lead to inflated gas rates.

Again at the December 9<sup>th</sup> Open Meeting, the Commission took comments from legislators and city officials opposing the rules, including Representative Jim Keffler, chairman of the House Energy Resources Committee, who warned the Commission that adopting the rules would guarantee legislation. However, despite the widespread opposition, the Commission adopted the rules with little discussion. This may be because the Commission adopted the rules with a September 1, 2015 effective date, giving the legislature the opportunity to outlaw the rules in the upcoming session. ACSC is actively pursuing such legislative remedies and will continue these efforts into the session.





## AMARILLO AND LUBBOCK APPEAL RRC DECISION TO MOVE TOWARDS SYSTEM-WIDE RATES

In April, a Travis County District Court heard oral argument in the appeal of GUD No. 10174, the 2012 Atmos West Texas Division rate case. On May 6, the District Court judge affirmed the RRC's Final Order approving the implementation of system-wide rates that, for the first time, eliminated the rate differentials between the cities in the Atmos West Texas Division



service area including Lubbock, Amarillo, Channing and Dalhart. The cities appealed the district court's decision and filed their Initial Brief with the Eighth Court of Appeals on October 20, 2014. The Steering Committee of Cities Served by Atmos West Texas, filed a brief in support of the RRC Final Order in November. The appellate court has yet to set a hearing date.

## What to Expect in 2015?

### LEGISLATIVE AGENDA

By far the hottest topic of 2015 is the 84<sup>th</sup> Texas Legislative Session, which begins January 13, 2015 and runs through June 1, 2015. ACSC representatives have spent the past year actively preparing a full agenda and are hopeful the session will prove successful. As in the past, this session's agenda is primarily focused on defensive issues, however, the Steering Committee will also be advocating for city protective legislation, particularly in light of the newly adopted RRC rules.

As mentioned above, the new RRC rules effectively inhibit municipal participation in gas utility rate cases by limiting discovery and litigation expense recovery, which ACSC strongly opposes. In addition to advocating for legislation to block these rules, ACSC will pursue action to change the standard of review at the RRC from de novo to substantial evidence, to reduce litigation and costs and give greater deference to municipal decisions. ACSC will also push for transferring gas utility distribution ratemaking authority from the RRC to the Public Utility Commission, or transferring gas utility distribution ratemaking hearings to the State Office of

Administrative Hearings, so consumers can benefit from greater evaluation of gas utility issues. Additionally, cities support revising the Gas Reliability Infrastructure Program to allow for municipal contest and review in a manner similar to rate cases, as well as changing the name of the RRC to more accurately represent the Commission's current responsibilities.

Defensively, ACSC will oppose audit based rate-making proposals or other piecemeal ratemaking efforts to the extent that they reduce the ability of cities and the Commission to effectively fulfill their regulatory functions, any effort to reduce or eliminate cities' original jurisdiction in rate cases, legislation that would erode franchise fee payments, and legislation that would be detrimental to cities' position on utility relocations.

Please keep in mind that this is a working agenda and is subject to additional research and evaluation as the session progresses. If there are any other issues that you would like to see added to the agenda, please feel free to contact us at any point.



#### Questions?

For questions or concerns regarding any ACSC matter or communication, please contact the following representatives, who will be happy to provide assistance:

Geoffrey Gay  
512-322-5875  
ggay@glawfirm.com

Thomas Brocato  
512-322-5857  
tbrocato@glawfirm.com

### 2015 ACSC MEETINGS SCHEDULE

Thursday, April 9	Thursday, September 10
Thursday, July 2	Thursday, December 10



Lloyd Gosselink Rochelle and Townsend, P.C.  
816 Congress Avenue Suite 1900  
Austin, Texas 78701

## ACSC Cities (165 Total)

Abilene	Fairview	Oak Leaf
Addison	Farmers Branch	Ovilla
Allen	Farmersville	Palestine
Alvarado	Fate	Panhandle
Angus	Flower Mound	Paris
Anna	Forest Hill	Parker
Argyle	Fort Worth	Pecan Hill
Arlington	Frisco	Petrolia
Aubrey	Frisco	Piano
Bedford	Gainesville	Ponder
Bellmead	Garland	Pottetoro
Benbrook	Garrison	Prosper
Beverly Hills	Grand Prairie	Quitman
Blossom	Grapevine	Red Oak
Blue Ridge	Haltom City	Reno (Parker County)
Bowie	Harker Heights	Richardson
Boyd	Haskell	Rickland
Bridgeport	Hawthorne	Rickland Hills
Brownwood	Hewitt	River Oaks
Buffalo	Highland Park	Roanoke
Burdett	Highland Village	Robinson
Burleson	Honey Grove	Rockwall
Caddo Mills	Hurst	Roscoe
Caron	Hutto	Rowlett
Carrollton	Iow Park	Royse City
Cedar Hill	Irving	Sachse
Celeste	Justin	Saginaw
Calina	Kaufman	Sandom Park
Centerville	Keene	Seagoville
Cisco	Keller	Sherman
Clarksville	Kemp	Snyder
Cleburne	Kennedale	Southlake
Clyde	Kerrville	Springtown
College Station	Killeen	Stamford
Colleyville	Krum	Stephenville
Colorado City	Lakeside	Sulphur Springs
Comanche	Lake Worth	Sweetwater
Commerce	Lancaster	Temple
Coolidge	Lewisville	Terrell
Coppell	Lincoln Park	The Colony
Copperas Cove	Little Elm	Trophy Club
Connath	Lovina	Tyler
Corral City	Madisoville	University Park
Crandall	Malakoff	Venus
Crowley	Mansfield	Vernon
Dalworthington Gardens	McKinney	Waco
Denton	Melissa	Watauga
DeSoto	Mesquite	Waxahachie
Duncanville	Midlothian	Westlake
Eastland	Murphy	Westover Hills
Edgecliff Village	Newark	Whitesboro
Emory	Necoma	White Settlement
Ennis	North Richland Hills	Wichita Falls
Euless	Northlake	Woodway
Everman		Wylie