

**ORDINANCE NO. O-2021-92**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, APPROVING A NEGOTIATED SETTLEMENT BETWEEN THE ATMOS CITIES STEERING COMMITTEE ("ACSC") AND ATMOS ENERGY CORP., MID-TEX DIVISION REGARDING THE COMPANY'S 2021 RATE REVIEW MECHANISM FILING; DECLARING EXISTING RATES TO BE UNREASONABLE; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT; FINDING THE RATES TO BE SET BY THE ATTACHED SETTLEMENT TARIFFS TO BE JUST AND REASONABLE AND IN THE PUBLIC INTEREST; APPROVING AN ATTACHED EXHIBIT ESTABLISHING A BENCHMARK FOR PENSIONS AND RETIREE MEDICAL BENEFITS; APPROVING AN ATTACHED EXHIBIT REGARDING AMORTIZATION OF REGULATORY LIABILITY; REQUIRING THE COMPANY TO REIMBURSE ACSC'S REASONABLE RATEMAKING EXPENSES; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; ADOPTING A SAVINGS CLAUSE; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND THE ACSC'S LEGAL COUNSEL; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Tyler, Texas ("City") is a gas utility customer of Atmos Energy Corp., Mid-Tex Division ("Atmos Mid-Tex" or "Company"), and a regulatory authority with an interest in the rates, charges, and services of Atmos Mid-Tex; and

**WHEREAS**, the City is a member of the Atmos Cities Steering Committee ("ACSC"), a coalition of similarly-situated cities served by Atmos Mid-Tex ("ACSC Cities") that have joined together to facilitate the review of, and response to, natural gas issues affecting rates charged in the Atmos Mid-Tex service area; and

**WHEREAS**, ACSC and the Company worked collaboratively to develop a Rate Review Mechanism ("RRM") tariff that allows for an expedited rate review process by ACSC Cities as a substitute to the Gas Reliability Infrastructure Program ("GRIP") process instituted by the Legislature, and that will establish rates for the ACSC Cities based on the system-wide cost of serving the Atmos Mid-Tex Division; and

**WHEREAS**, the current RRM tariff was adopted by the City in a rate ordinance in 2018; and

**WHEREAS**, on about April 1, 2021, Atmos Mid-Tex filed its 2021 RRM rate request with ACSC Cities based on a test year ending December 31, 2020; and

**WHEREAS**, ACSC coordinated its review of the Atmos Mid-Tex 2021 RRM filing through its Executive Committee, assisted by ACSC's attorneys and consultants, to resolve issues identified in the Company's RRM filing; and

**WHEREAS**, the Executive Committee, as well as ACSC's counsel and consultants, recommend that ACSC Cities approve an increase in base rates for Atmos Mid-Tex of \$22.78 million applicable to ACSC Cities with an Effective Date of December 1, 2021; and

**WHEREAS**, ACSC agrees that Atmos' plant-in-service is reasonable; and

**WHEREAS**, with the exception of approved plant-in-service, ACSC is not foreclosed from future reasonableness evaluation of costs associated with incidents related to gas leaks; and

**WHEREAS**, the two month delayed Effective Date from October 1 to December 1 will save ACSC ratepayers approximately \$3.8 million off new rates imposed by the attached tariffs (Exhibit A); and

**WHEREAS**, the attached tariffs (Exhibit A) implementing new rates are consistent with the recommendation of the ACSC Executive Committee, are agreed to by the Company, and are just, reasonable, and in the public interest; and

**WHEREAS**, the settlement agreement sets a new benchmark for pensions and retiree medical benefits (Exhibit B); and

**WHEREAS**, the settlement agreement establishes an amortization schedule for regulatory liability prepared by Atmos Mid-Tex (Exhibit C); and

**WHEREAS**, the RRM Tariff contemplates reimbursement of ACSC's reasonable expenses associated with RRM applications;

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

**PART 1.** That the findings set forth in this Ordinance are hereby in all things approved.

**PART 2.** That, without prejudice to future litigation of any issue identified by ACSC, the City Council finds that the settled amount of an increase in revenues of \$22.78 million for ACSC Cities represents a comprehensive settlement of gas utility rate issues affecting the rates, operations, and services offered by Atmos Mid-Tex within the municipal limits arising from Atmos Mid-Tex's 2021 RRM filing, is in the public interest, and is consistent with the City's authority under Section 103.001 of the Texas Utilities Code.

**PART 3.** That despite finding Atmos Mid-Tex's plant-in-service to be reasonable, ACSC is not foreclosed in future cases from evaluating the reasonableness of costs associated with incidents involving leaks of natural gas.

**PART 4.** That the existing rates for natural gas service provided by Atmos Mid-Tex are unreasonable. The new tariffs attached hereto and incorporated herein as Exhibit A, are just and reasonable, and are designed to allow Atmos Mid-Tex to recover annually an additional \$22.78 million from customers in ACSC Cities, over the amount allowed under currently approved rates. Such tariffs are hereby adopted.

**PART 5.** That the ratemaking treatment for pensions and retiree medical benefits in Atmos Mid-Tex's next RRM filing shall be as set forth on Exhibit B, attached hereto and incorporated herein.

**PART 6.** That subject to any future settlement or decision regarding the balance of Excess Deferred Income Tax to be refunded to ratepayers, the amortization of regulatory liability shall be consistent with the schedule found in Exhibit C, attached hereto and incorporated herein.

**PART 7.** That Atmos Mid-Tex shall reimburse the reasonable ratemaking expenses of the ACSC in processing the Company's 2021 RRM filing.

**PART 8.** That to the extent any ordinance or ordinance previously adopted by the Council is inconsistent with this Ordinance, it is hereby repealed.

**PART 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.

**PART 10.** That if any one or more sections or clauses of this Ordinance is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair, or invalidate the remaining provisions of this Ordinance, and the remaining provisions of the Ordinance shall be interpreted as if the offending section or clause never existed.

**PART 11.** That consistent with the City Ordinance that established the RRM process, this Ordinance shall become effective from and after its passage with rates authorized by attached tariffs to be effective for bills rendered on or after December 1, 2021.

**PART 12.** That a copy of this Ordinance shall be sent to Atmos Mid-Tex, care of Chris Felan, Vice President of Rates and Regulatory Affairs Mid-Tex Division, Atmos Energy Corporation, 5420 LBJ Freeway, Suite 1862, Dallas, Texas 75240, and to Thomas Brocato, General Counsel to ACSC, at Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701.

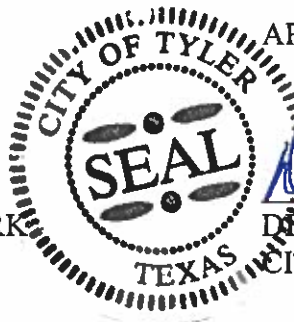
**PASSED AND APPROVED**, on this 22<sup>nd</sup> day of September 2021




DONALD P. WARREN, MAYOR  
OF THE CITY OF TYLER, TEXAS

ATTEST:

  
CASSANDRA BRAGER, CITY CLERK



APPROVED:

  
DEBORAH G. PULLUM,  
CITY ATTORNEY