

REGULAR MEETING

May 6, 2014

7:00 p.m.

A Public Hearing was held concerning the condemnation of the residence located on Noble Block 2, Lot 5 & part of 6 at 706 SW Third Street.

There being a quorum present, Mayor Saunders called the meeting to order at 7:15 p.m.

Council members present: Rick Neumayer, Greg Allen, Brandon Blue, Ann Fessenden, and Bruce Franklin.

Absent: None

- Neumayer made a motion to approve the Consent Agenda to include the Minutes to the last meeting and budget review and payment of bills. Fessenden seconded the motion. Votes:

For – Neumayer, Blue, Allen, Fessenden, and Franklin

Against – None

Passed – 5-0

Public Comment:

- Marie Graham stated that the City is beautiful! She is proud of the work that the City and the Beautification Committee have accomplished.

Council decided to present the Proclamation to the Kerens LadyCats Basketball Team at the annual Awards Day since softball games continue to conflict with Council Meetings.

Allen made a motion to issue an Order of Condemnation on the residence located on Noble Block 2, Lot 5 & part of 6 at 706 SW Third Street. . Neumayer seconded the motion. Votes:

For – Neumayer, Blue, Allen, Fessenden, and Franklin

Against – None

Passed – 5-0

The following Resolution was read for consideration:

RESOLUTION

A RESOLUTION AUTHORIZING CONTINUED PARTICIPATION WITH THE STEERING COMMITTEE OF CITIES SERVED BY ONCOR; AND AUTHORIZING THE PAYMENT OF 11 CENTS PER CAPITA TO THE STEERING COMMITTEE TO FUND REGULATORY AND LEGAL PROCEEDINGS AND ACTIVITIES RELATED TO ONCOR ELECTRIC DELIVERY COMPANY, LLC.

WHEREAS, the City of Kerens is a regulatory authority under the Public Utility Regulatory Act (PURA) and has exclusive original jurisdiction over the rates and services of Oncor Electric Delivery Company, LLC (Oncor) within the municipal boundaries of the city; and

WHEREAS, the Steering Committee has historically intervened in Oncor (formerly known as TXU) rate proceedings and electric utility related

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rulemakings to protect the interests of municipalities and electric customers residing within municipal boundaries; and

WHEREAS, the Steering Committee is participating in Public Utility Commission dockets and projects, as well as court proceedings, and legislative activity, affecting transmission and distribution utility rates; and

WHEREAS, the City is a member of the Steering Committee of Cities Served by Oncor; and

WHEREAS, the Steering Committee functions under the direction of an Executive Committee (whose current members are identified in Attachment 1) which sets an annual budget and directs interventions before state and federal agencies, courts and legislatures, subject to the right of any member to request and cause its party status to be withdrawn from such activities; and

WHEREAS, the Executive Committee in its December 2013 meeting set a budget for 2014 that compels an assessment of eleven cents (\$0.11) per capita; and

WHEREAS, in order for the Steering Committee to continue its participation in these activities which affects the provision of electric utility service and the rates to be charged, it must assess its members for such costs.

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

I.

That the City is authorized to continue its membership with the Steering Committee of Cities Served by Oncor to protect the interests of the City of Kerens and protect the interests of the customers of Oncor Electric Delivery Company, LLC residing and conducting business within the City limits.

II.

The City is further authorized to pay its assessment to the Steering Committee of eleven cents (\$0.11) per capita based on the population figures for the City shown in the latest TML Directory of City Officials.

III.

A copy of this Resolution and the assessment payment check made payable to "*Steering Committee of Cities Served by Oncor*" shall be sent to Jay Doegey, Chair, Steering Committee of Cities Served by Oncor, c/o City Attorney's Office, Mail Stop 63-0300, P.O. Box 90231, Arlington, Texas 76004-3231.

Neumayer made a motion to pass the Resolution as presented. Fessenden seconded the motion. Votes:

For – Neumayer, Blue, Allen, Fessenden, and Franklin

Against – None

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Passed – 5-0

The following Resolution was read for consideration:

RESOLUTION

A RESOLUTION BY THE CITY OF KERENS, TEXAS DENYING AN INCREASE IN RATES REQUESTED BY ATMOS ENERGY CORPORATION – MIDTEX DIVISION, SUBMITTED ON OR ABOUT FEBRUARY 28, 2014 UNDER THE RATE REVIEW MECHANISM; FINDING ATMOS' REQUEST UNREASONABLE; DIRECTING ATMOS ENERGY TO REIMBURSE THE CITY'S RATE-CASE EXPENSES; AUTHORIZING THE CITY'S PARTICIPATION IN APPEALS ATMOS MAY TAKE DENYING ITS REQUESTED INCREASE; REQUIRING DELIVERY OF THE RESOLUTION TO THE COMPANY AND THE CITY'S SPECIAL COUNSEL; FINDING THAT THE MEETING COMPLIED WITH THE OPEN MEETINGS ACT; DECLARING AN EFFECTIVE DATE; AND MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT.

WHEREAS, Atmos Energy Corporation-MidTex Division ("Atmos" or "Company") filed a request with the City of Kerens, Texas ("City") on or about February 28, 2014, thereby initiating a ratemaking proceeding to increase its revenue and change its rates within the corporate limits of the City, and specifically to increase its system-wide, annual revenue requirement by approximately \$45.7 million, which is an increase in base rates exclusive of the cost of gas of approximately 9.2%; and

WHEREAS, the City is a regulatory authority under Utilities Code § 103.001 (more commonly referred to as the Gas Utility Regulatory Act ("GURA")) and has exclusive original jurisdiction over Atmos' rates, operations, and services within the City; and

WHEREAS, Section 103.021 of GURA authorizes the City to obtain information from Atmos as necessary to make a determination of the basis for the Atmos' proposed increase in rates in the City; and

WHEREAS, Section 103.022 of GURA provides that Atmos shall reimburse the City its reasonable cost of engaging personnel to assist it in reviewing Atmos' application; and

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WHEREAS, the City has participated in prior cases regarding Atmos as part of a coalition of cities known as the Atmos Texas Municipalities (“ATM”); and

WHEREAS, Atmos submitted its application to increase rates under the Rate Review Mechanism (“RRM”); and

WHEREAS, Special Counsel and experts representing ATM have analyzed the data furnished by Atmos, sought and obtained additional data, and have interviewed Atmos’ management regarding Atmos’ request to increase rates; and

WHEREAS, the City’s Special Counsel and rate experts concluded that Atmos’ request to increase rates by \$45.7 million is unreasonably high; and

WHEREAS, the City’s Special Counsel and rate experts’ conclusion that Atmos’ request to increase rates by \$45.7 million is unreasonably high is based on numerous elements in Atmos’ request that are inconsistent with sound rate-setting and regulatory principles; and

WHEREAS, the City’s Special Counsel and rate experts participated in discussions with Atmos to attempt to resolve Atmos’ proposed change in rates and increase in revenue through negotiations but were unable to reach agreement; and

WHEREAS, it is anticipated that Atmos will appeal the City’s denial of its request to increase rates to the Railroad Commission of Texas and possibly to the courts, thus requiring the continued assistance of Special Counsel and rate experts in those proceedings.

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

Section 1. The findings set forth in this Resolution are hereby in all things approved.

Section 2. Atmos Energy Corporation-MidTex Division’s request to change its rates and to increase its revenue by approximately \$45.7 million is hereby **DENIED.**

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Section 3. Pursuant to Utilities Code § 103.022 and under the terms of the Rate Review Mechanism, Atmos is hereby directed to reimburse the City's rate case expenses, as participants in the coalition of cities known as the Atmos Texas Municipalities, for engaging counsel, rate consultants, and other personnel in assisting the City in its investigation of Atmos' proposed increase in rates, and is further directed to reimburse the City's rate case expenses on a monthly basis for the City's participation in any appeal Atmos seeks of the City's denial of its request to increase rates.

Section 4. This Resolution supersedes any Resolution or Ordinance previously adopted by the City Council to the extent such previously adopted Resolution or Ordinance is inconsistent with this Resolution.

Section 5. The meeting at which this Resolution was approved was in all things conducted in compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section 6. If any one or more sections or clauses of this Resolution is judged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this Resolution and the remaining provisions of the Resolution shall be interpreted as if the offending section or clause never existed.

Section 7. This Resolution shall become effective from and after its passage.

Section 8. A copy of this Resolution shall be sent to Atmos Energy-Mid-Tex Division, care of Christopher Felan, Vice President of Rates and Regulatory Affairs, Atmos Energy Corporation, 5420 LBJ Freeway, Suite 1600, Dallas, Texas 75240, and to Special Counsel, Mr. Alfred R. Herrera, Herrera & Boyle, PLLC, 816 Congress Avenue, Suite 1250, Austin, Texas 78701.

Neumayer made a motion to pass the Resolution as presented. Allen seconded the motion. Votes:

For – Neumayer, Blue, Allen, Fessenden, and Franklin

Against – None

Passed – 5-0

The following Resolution was read for consideration:

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KERENS, TEXAS, DENYING THE RATE INCREASE REQUESTED BY ATMOS ENERGY CORP., MID-TEX DIVISION UNDER THE COMPANY'S 2014 ANNUAL RATE REVIEW MECHANISM FILING IN ALL CITIES EXERCISING ORIGINAL JURISDICTION; REQUIRING THE COMPANY TO REIMBURSE CITIES' REASONABLE RATEMAKING EXPENSES PERTAINING TO REVIEW OF THE RRM; AUTHORIZING THE CITY'S PARTICIPATION WITH ATMOS CITIES STEERING COMMITTEE IN ANY APPEAL FILED AT THE RAILROAD COMMISSION OF TEXAS BY THE COMPANY; REQUIRING THE COMPANY TO REIMBURSE CITIES' REASONABLE RATEMAKING EXPENSES IN ANY SUCH APPEAL TO THE RAILROAD COMMISSION; DETERMINING THAT THIS RESOLUTION WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; ADOPTING A SAVINGS CLAUSE; AND REQUIRING DELIVERY OF THIS RESOLUTION TO THE COMPANY AND THE STEERING COMMITTEE'S LEGAL COUNSEL.

WHEREAS, the City of Kerens, 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 and charges of Atmos Mid-Tex; and

WHEREAS, the City is a member of the Atmos Cities Steering Committee ("ACSC"), a coalition of approximately 164 similarly situated cities served by Atmos Mid-Tex 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, pursuant to the terms of the agreement settling the Company's 2007 Statement of Intent to increase rates, ACSC Cities and the Company worked collaboratively to develop a Rate Review Mechanism ("RRM") tariff that allows for an expedited rate review process controlled in a three-year experiment by ACSC Cities

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as a substitute to the current Gas Reliability Infrastructure Program (“GRIP”) process instituted by the Legislature; and

WHEREAS, the City took action in 2008 to approve a Settlement Agreement with Atmos Mid-Tex resolving the Company’s 2007 rate case and authorizing the RRM tariff; and

WHEREAS, in 2013, ACSC and the Company negotiated a renewal of the RRM tariff process for an additional five years; and

WHEREAS, the City passed an ordinance renewing the RRM tariff process for the City for an additional five years; and

WHEREAS, the RRM renewal tariff contemplates reimbursement of ACSC Cities’ reasonable expenses associated with RRM applications; and

WHEREAS, on or about February 28, 2014, the Company filed with the City its second annual RRM filing under the renewed RRM tariff, requesting to increase natural gas base rates by \$45.7 million; and

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

WHEREAS, ACSC attorneys and consultants have concluded that the Company is unable to justify a rate increase of the magnitude requested in the RRM filing; and

WHEREAS, ACSC’s consultants determined the Company is only entitled to a \$19 million increase, approximately 42% of the Company’s request under the 2014 RRM filing; and

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WHEREAS, the Company would only be entitled to approximately \$31 million if it had a GRIP case; and

WHEREAS, the Company's levels of operating and maintenance expense have dramatically risen without sufficient justification; and

WHEREAS, the Company has awarded its executives and upper management increasing and unreasonable levels of incentives and bonuses, expenses which should be borne by shareholders who received a 23% total return on investment in 2013; and

WHEREAS, the Company requested a drastically high level of medical expense that is unreasonable and speculatively based upon estimates; and

WHEREAS, ACSC and the Company were unable to reach a compromise on the amount of additional revenues that the Company should recover under the 2014 RRM filing; and

WHEREAS, the ACSC Executive Committee, as well as ACSC's counsel and consultants, recommend that ACSC Cities deny the requested rate increase; and

WHEREAS, the Company's current rates are determined to be just, reasonable, and in the public interest.

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

Section 1. That the findings set forth in this Resolution are hereby in all things approved.

Section 2. That the City Council finds that Atmos Mid-Tex was unable to justify the appropriateness or the need for the increased revenues requested in the

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2014 RRM filing, and that existing rates for natural gas service provided by Atmos Mid-Tex are just and reasonable.

Section 3. That Atmos Mid-Tex shall reimburse the reasonable ratemaking expenses of the ACSC Cities in processing the Company's RRM application.

Section 4. That in the event the Company files an appeal of this denial of rate increase to the Railroad Commission of Texas, the City is hereby authorized to intervene in such appeal, and shall participate in such appeal in conjunction with the ACSC membership. Further, in such event Atmos Mid-Tex shall reimburse the reasonable expenses of the ACSC Cities in participating in the appeal of this and other ACSC City rate actions resulting from the 2014 RRM filing.

Section 5. That the meeting at which this Resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section 6. That if any one or more sections or clauses of this Resolution is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair, or invalidate the remaining provisions of this Resolution and the remaining provisions of the Resolution shall be interpreted as if the offending section or clause never existed.

Section 7. That a copy of this Resolution shall be sent to Atmos Mid-Tex, care of Chris Felan, Manager of Rates and Regulatory Affairs, at Atmos Energy Corporation, 5420 LBJ Freeway, Suite 1862, Dallas, Texas 75240, and to Geoffrey Gay, General Counsel to ACSC, at Lloyd Gosselink Rochelle & Townsend, P.C., P.O. Box 1725, Austin, Texas 78767-1725.

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Neumayer made a motion to pass the Resolution as presented. Fessenden seconded the motion. Votes:

For – Neumayer, Blue, Allen, Fessenden, and Franklin

Against – None

Passed – 5-0

Neumayer made a motion to set the rent for the Head Start Building at \$400.00 per month and to use our standard commercial lease. Franklin seconded the motion. Votes:

For – Neumayer, Blue, Allen, Fessenden, and Franklin

Against – None

Passed – 5-0

After some discussion, Council set a Budget Workshop for June 3, 2014 at 7:00 pm.

Operations

- **Code Enforcement** – Officer Covey reported that he had issued 3 citations, had 6 vehicles abated and that 404 N Alma had been demolished.
- **Water Dept.** – No major problems.
- **Sewer Dept.** – Scott reported that she is taking bids on the installation of a new electrical panel at the east lift station that will accommodate the new grinder pump.
- **Street Dept.** – No new problems.
- **Police Dept.** – Chief Miers stated that everything is running smoothly.
- **Animal Control** – No new problems.
- **Court** – No problems to report.
- **Tax Dept.** – 88.73% of current taxes collected as of March 31, 2014..
- **Office** – Scott stated that auditors are to start field work tomorrow..
- **Grants** – No new information.
- **Economic Development** – No new information
- **Long Range Planning** – no new information.

Neumayer made a motion to adjourn the meeting. Fessenden seconded the motion. Votes:

For – Neumayer, Blue, Allen, Fessenden, and Franklin

Against – None

Passed – 5-0

With no further business to transact, Mayor Saunders adjourned the meeting at 7:45 p.m.

Jeffrey Saunders, Mayor

Attest:

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Cindy Scott, City Secretary
