

**REGULAR MEETING**

**June 11, 2013**

**7:00 p.m.**

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There being a quorum present, Mayor Saunders called the meeting to order at 7:00 p.m.

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

Absent: Tyrone Martin

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

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

**Against** – None

**Passed** – 4-0

**Public Comment:**

None

After some discussion, no action was taken on budget preparation for FYE 9/30/14. More information will be presented to the council at the next regular meeting.

Neumayer made a motion to accept Tyrone Martin's resignation. Fessenden seconded the motion. Votes:

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

**Against** – None

**Passed** – 4-0

Allen made a motion to appoint Bruce Franklin to serve Tyrone Martin's unfulfilled term. Fessenden seconded the motion. Votes:

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

**Against** – None

**Passed** – 4-0

Neumayer made a motion to accept and approve the Preliminary Engineering Report for Grant #712159 and to authorize the C. T. Brannon Corp. to proceed to the construction bid phase of the project. Fessenden seconded the motion. Votes:

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

**Against** – None

**Passed** – 4-0

Neumayer made a motion to accept the property located at 106 SE Second from Relief Lodge No. 236. Allen seconded the motion. Votes:

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

**Against** – None

**Passed** – 4-0

Neumayer made a motion to renew the Tax Abatement Policy with no changes. Fessenden seconded the motion. Votes:

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

**Against** – None

**Passed** – 4-0

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The following Resolution was read for consideration:

**RESOLUTION NO. 20130611**

**a RESOLUTION BY the city of KERENS, texas (“city”), approving and adopting RATE SCHEDULE “RRM – rATE REVIEW MECHANISM” for atmos energy corporation, mid-tex division to be in force in the city for a period of time as specified in the rate schedule; ADOPTING A SAVINGS CLAUSE; determining that this RESOLUTION was passed in accordance with the REQUIREMENTS of the texas open meetings act; declaring an effective date; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND REQUIRING DELIVERY OF THIS RESOLUTION TO THE COMPANY.**

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

**WHEREAS**, the City is a regulatory authority under the Gas Utility Regulatory Act (“GURA”) and under § 103.001 of GURA has exclusive original jurisdiction over the rates, operations and services of Atmos Mid-Tex within the municipality; and

**WHEREAS**, the City as a member of the coalition of cities served by Atmos Mid-Tex known as the Atmos Texas Municipalities (“ATM”); and

**WHEREAS**, the City previously approved a Rate Review Mechanism (“RRM”) Tariff that allows for an alternative, negotiated rate review process to facilitate annual changes in gas utility rates reflective of Atmos Mid-Tex’s annual system-wide cost of providing service in lieu of an interim rate adjustment through a legislatively-constructed Gas Reliability Infrastructure Program (“GRIP”); and

**WHEREAS**, the RRM process permits City review of requested rate changes and provides for a review of Atmos Mid-Tex’s total cost of service on an annual basis; and

**WHEREAS**, the initial RRM tariff expired in 2011; and

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**WHEREAS**, ATM, through its Special Counsel in conjunction with experts retained on behalf of ATM, negotiated with Atmos Mid-Tex to develop a new RRM process that would annually adjust rates in lieu of rate adjustments through annual GRIP filings or full rate cases at the Railroad Commission; and

**WHEREAS**, the renewal of the RRM process may avoid costly rate case litigation; and

**WHEREAS**, ATM's legal counsel recommend ATM member cities approve the negotiated RRM; and

**WHEREAS**, the attached Rate Schedule "RRM – Rate Review Mechanism" ("RRM Tariff") provides for a reasonable rate review process that is to be utilized in lieu of GRIP filings; and

**WHEREAS**, the attached RRM Tariff as a whole is in the public interest;

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

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

**Section 2.** That the City Council finds that the RRM Tariff, which is attached hereto and incorporated herein as "Attachment A," is reasonable and in the public interest, and from the effective date of this Resolution is in force and effect in the City.

**Section 3.** That to the extent any resolution or Resolution previously adopted by the City Council is inconsistent with this Resolution, it is hereby repealed.

**Section 4.** 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 5.** That 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

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the Resolution shall be interpreted as if the offending section or clause never existed.

**Section 6.** That this Resolution shall become effective from and after its passage.

**Section 7.** That a copy of this Resolution shall be sent to Atmos Mid-Tex, care of Christopher Felan, Vice President of Rates and Regulatory Affairs, Atmos Energy Corporation, 5420 LBJ Freeway, Suite 1600, Dallas, Texas 75240 and to Mr. Alfred R. Herrera, Herrera & Boyle, PLLC, 816 Congress Avenue, Suite 1250, Austin, Texas 78701.

Neumayer made a motion to pass and approve the Resolution as read. Fessenden seconded the motion. Votes:

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

**Against** – None

**Passed** – 4-0

The following Ordinance was read for consideration:

**ORDINANCE NO. 2013-0611**

an ordinance of the city council of the city of  
KERENS, texas, (“city”) approving and  
adopting RATE SCHEDULE “RRM – rATE  
REVIEW MECHANISM” for atmos energy  
corporation, mid-tex division to be in force in  
the city for a period of time as specified in the  
rate schedule; ADOPTING A SAVINGS  
CLAUSE; determining that this ordinance  
was passed in accordance with the  
REQUIREMENTS of the texas open  
meetings act; declaring an effective date;  
AND REQUIRING Delivery OF THIS  
ORDINANCE TO the company and acsc  
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 “the Company”), and a regulatory authority with an interest in the rates and charges of Atmos Mid-Tex; and

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WHEREAS, the City is a member of the Atmos Cities Steering Committee (“ACSC”), a coalition of cities, most of whom retain original jurisdiction over the rates and services of Atmos Mid-Tex; and

WHEREAS, in 2007 ACSC member cities and Atmos Mid-Tex collaboratively developed the Rate Review Mechanism (“RRM”) Tariff that allows for an expedited rate review process controlled by cities as a substitute for the legislatively-constructed Gas Reliability Infrastructure Program (“GRIP”); and

WHEREAS, the GRIP mechanism does not permit the City to review rate increases, and constitutes piecemeal ratemaking; and

WHEREAS, the RRM process permits City review of requested rate increases and provides for a holistic review of the true cost of service for Atmos Mid-Tex; and

WHEREAS, the initial RRM tariff expired in 2011; and

WHEREAS, ACSC’s representatives have worked with Atmos Mid-Tex to negotiate a renewal of the RRM process that avoids litigation and Railroad Commission filings; and

WHEREAS, the ACSC’s Executive Committee and ACSC’s legal counsel recommend ACSC members approve the negotiated new RRM tariff; and

WHEREAS, the attached Rate Schedule “RRM – Rate Review Mechanism” (“RRM Tariff”) provides for a reasonable expedited rate review process that is a substitute for, and is superior to, the statutory GRIP process; and

WHEREAS, the expedited rate review process as provided by the RRM Tariff avoids piecemeal ratemaking; and

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WHEREAS, the RRM tariff reflects the ratemaking standards and methodologies authorized by the Railroad Commission in the most recent Atmos Mid-Tex rate case, G.U.D. No. 10170; and

WHEREAS, the RRM Tariff provides for an annual reduction in Atmos Mid-Tex's requested rate increase of at least \$3 million; and

WHEREAS, the RRM Tariff provides for a lower customer charge than if Atmos Mid-Tex pursued GRIP filings; and

WHEREAS, the attached RRM Tariff as a whole is in the public interest;

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

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

Section 2. That the City Council finds that the RRM Tariff, **which is attached hereto and incorporated herein as Attachment A**, is reasonable and in the public interest, and is hereby in force and effect in the City.

Section 3. That to the extent any resolution or ordinance previously adopted by the City Council is inconsistent with this Ordinance, it is hereby repealed.

Section 4. 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.

Section 5. That if any one or more sections or clauses of this Ordinance is judged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance and the remaining provisions of

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the Ordinance shall be interpreted as if the offending section or clause never existed.

Section 6. That this Ordinance shall become effective from and after its passage.

Section 7. That a copy of this Ordinance shall be sent to Atmos Mid-Tex, care of Christopher Felan, Vice President of Rates and Regulatory Affairs for Atmos Mid-Tex Division, Atmos Energy Corporation, 5420 LBJ Freeway, Suite 1600, Dallas, Texas 75240, and to Geoffrey Gay, General Counsel to ACSC, at Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701.

Allen made a motion to adopt the Ordinance as read. Neumayer seconded the motion. Votes:

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

**Against** – None

**Passed** – 4-0

Neumayer made a motion to enter into an Interlocal Agreement with North Central Texas Council of Government for development of a FEMA approved Hazard Mitigation Action Plan. Fessenden seconded the motion. Votes:

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

**Against** – None

**Passed** – 4-0

Neumayer made a motion to offer Lots 7 & 8 of Block 109 for sale to the highest bidder. Fessenden seconded the motion. Votes:

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

**Against** – None

**Passed** – 4-0

### Operations

- **Property Inspections** – 3 citations were issued this month as well as 2 occupancy inspections and 4 vehicles abated.
- **Water Dept.** – No major problems to report.
- **Sewer Dept.** – Nursing Home caused another major stoppage with towels.
- **Street Dept.** – Asphalt and gravel repairs continuing as weather permits.

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- **Police Dept.** – Chief Miers reported that the department has been busy this month.
- **Animal Control** – an officer was bitten by a dog this month. The dog was surrendered by the owners, quarantined, and put down with the owner's consent.
- **Court** – No problems to report.
- **Tax Dept.** – Russell Hudson's report shows 90.15% of current taxes collected as of May 31, 2013.
- **Office** – No problems.
- **Grants** – Chief Miers reported that he had applied for a Department of Justice grant to supply bullet proof vests for the department.
- **Economic Development** – Lee McCleary has resigned and is going to Red Oak.
- **Long Range Planning** – No new information.

Neumayer made a motion to adjourn the meeting. Allen seconded the motion.

Votes:

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

**Against** – None

**Passed** – 4-0

With no further business to transact, Mayor Saunders adjourned the meeting at 8:10 p.m.

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**Jeffrey Saunders, Mayor**

**Attest:**

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**Cindy Scott, City Secretary**