

RESOLUTION NO. _____

A RESOLUTION BY THE CITY OF DENTON, TEXAS ("CITY") DENYING A \$57,400,000 INCREASE IN RATES REQUESTED BY ATMOS ENERGY CORPORATION, MID-TEX DIVISION ("ATMOS"), SUBMITTED ON OR ABOUT MARCH 1, 2017 UNDER THE RATE REVIEW MECHANISM; FINDING ATMOS' REQUESTED RATE INCREASE OF \$57,400,000 IS UNJUST AND UNREASONABLE; [OPTIONAL: FINDING THAT A RATE INCREASE OF \$ _____] IS JUST AND REASONABLE; DIRECTING ATMOS 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 ATMOS AND THE CITY'S SPECIAL COUNSEL; FINDING THAT THE MEETING COMPLIED WITH THE OPEN MEETINGS ACT; AND MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT AND DECLARING AN EFFECTIVE DATE.

WHEREAS, Atmos Energy Corporation, Mid-Tex Division ("Atmos") filed a request with the City of Denton, Texas ("City") on or about March 1, 2017, 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 \$57,400,000; 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

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 and sought and obtained additional data regarding Atmos' request to increase rates; and

WHEREAS, the City's Special Counsel and rate experts concluded, and the City's Council finds, that Atmos' request to increase rates by \$57,400,000 is both unjust and unreasonably high; and

WHEREAS, the City's Special Counsel and rate experts' conclusion that Atmos' request to increase rates by \$57,400,000 is both unjust and unreasonably high is based on numerous

elements in Atmos' request that are inconsistent with sound rate-setting and regulatory principles; and

[OPTIONAL: WHEREAS, the City's Special Counsel and rate experts have determined, and the City's Council finds, that a rate increase for Atmos of \$32,100,000 is just, reasonable and based on sound rate-setting and regulatory principles

OR

WHEREAS, the City's Council finds that a rate increase for Atmos of \$ _____ is appropriate; 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

THE CITY COUNCIL OF THE CITY OF DENTON HEREBY RESOLVES:

SECTION 1. The recitations and findings contained in the above Preamble are incorporated herewith and are considered to be a part of this Ordinance.

SECTION 2. Atmos Energy Corporation, Mid-Tex Division's request to change its rates and to increase its revenue by approximately \$57,400,000 is hereby DENIED.

SECTION 3. Pursuant to Utilities Code § 103.022, and under the terms of the Rate Review Mechanism, Atmos is 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 and replaces Resolution No. R2017-021 adopted by the City Council on May 23, 2017.

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. 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.

SECTION 8. This Resolution shall become effective from and after its passage.


PASSED AND APPROVED this the _____ day of _____, 2017.

CHRIS WATTS, MAYOR

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
AARON LEAL, INTERIM CITY ATTORNEY

BY:  _____