
INFORMAL STAFF REPORT TO MAYOR AND CITY COUNCIL

SUBJECT:

Atmos Energy Rate Increase

BACKGROUND:

Within the State of Texas there are coalitions that have joined together to represent the interest of cities (and its citizens) regarding rate increases and other gas regulatory matters. The largest of these coalition groups regarding Atmos groups are Atmos Texas Municipalities (ATM), which Denton is a party to, and the Atmos Cities Steering Committee (ACSC).

The City of Denton participates with its Coalition of cities to review rate increases when requested by the utility. At the May 23, 2017 City Council Meeting, a resolution was presented for consideration to approve an increase in the residential, commercial and industrial gas rates as requested by Atmos Energy. The Coalition recommended that the City Councils consider approval of the negotiated rate increase.

Historically, Atmos has requested a system wide increase on an annual basis regardless of which coalition the cities are party to. The increases and settled amounts are provided below:

Year	Requested	Settled and Approved
2010:	\$70.1 million	\$27 million
2011:	\$15.6 million	\$6.6 million
2012:	\$49.1 million	\$24.1 million
2013:	\$22.7 million	\$16.6 million
2014:	\$45.6 million	\$26.6 million * \$42.9 approved by the TRRC
2015:	\$28.7 million	\$21.87 million
2016:	\$35.4 million	\$29.9 million
2017:	\$57.4 million	\$48 million

*ATM cities approved the lower rate, Atmos denied it and appealed to the Texas Rail Road Commission. The ATM cities settled the appealed rate with Atmos for approximately 43.82 million for 2014 rate filing.

During the May 23, 2017 meeting the City Council approved the rate increase in a 4-3 vote. The following day, a request was made to reconsider the motion at the May 30, City Council meeting. In addition, there have been some follow-up questions related to this matter and more information is being provided in anticipation of next Tuesday's discussion.

The City Attorney's Office and outside Counsel will be briefing the City Council in Executive Session regarding the legal options it has regarding this matter. In Regular Session, there will be opportunity for the Council to reconsider the motion that was approved last Tuesday evening.

ATTACHMENTS:

1. Questions & Answers related to Atmos Energy
2. Rate comparisons between residential, commercial, and industrial customers at the \$48M, \$32M, and \$57M increase at the system wide level
3. Additional rate comparisons between residential, commercial, and industrial customers at \$30M, \$40M, and \$50M increase at the system wide level
4. Recent DMN articles related to Dallas City Council and Atmos rate case
5. Whitepaper by the TML Legislative Policy Subcommittee on Utility Rate Case Lobbying
6. PDF copy of the May 23 Agenda Information Sheet and supporting documents

STAFF CONTACT:

Mario Canizares, Assistant City Manager

(940) 349-8535

Mario.Canizares@cityofdenton.com

1. Denton's share in dollars of the \$48 million and \$32 million figures.

Staff Response: This breakdown is not currently available. The information would need to be requested from Atmos since revenues are recovered on a system-wide basis.

2. Total attorney fees and consultant fees paid to date by the coalition and Denton's share for this negotiation.

Staff Response: Rate Case Expenses (RCEs) are recovered on a system-wide basis. Non-reimbursable expenses are allocated on either a population or meters basis depending on the nature of the expense. For reimbursable RCEs through April 30, 2017, Legal fees have totaled \$39,228.50 and Rate Consultant fees have totaled \$29,322.50. We anticipate an additional \$17,000 in Legal expenses for May 2017, pending rate case conclusion. Non-reimbursable expenses to be billed directly to the City of Denton have been nominal as of April 30, 2017 (less than \$100.00) and do not include upcoming expenses to attend next week's Special Called Council meeting.

3. Total attorney fees incurred by the coalition and Atmos for any Atmos rate case appealed to the RRC in the last 6 years and Denton's share of said fees.

Staff Response: The last full rate case was GUD 10170 in 2012. Total expenses were \$1,935,747 (\$1,390,543 for Atmos and \$545,204 for ATM). For the 2014 RRM appeal, ATM expenses totaled \$197,088 and we estimate that Atmos expenses were approximately \$750,000. Since these expenses are recovered on a system-wide basis, Denton's share is not known.

4. List of all member cities in our coalition.

Staff Response: The Atmos Texas Municipalities ("ATM") is comprised of 56 cities that include Austin, Balch Springs, Bandera, Bartlett, Belton, Blooming Grove, Bryan, Burnet, Cameron, Cedar Park, Clifton, Commerce, Copperas Cove, Corsicana, Denton, Electra, Fredericksburg, Gatesville, Georgetown, Goldthwaite, Granbury, Greenville, Groesbeck, Hamilton, Heath, Henrietta, Hickory Creek, Hico, Hillsboro, Hutto, Jacksboro, Kerens, Lampasas, Lancaster, Leander, Lometa, Longview, Marble Falls, Mart, Mexia, Olney, Point, Pflugerville, Princeton, Ranger, Rice, Riesel, Rockdale, Rogers, Round Rock, San Angelo, Sanger, Somerville, Star Harbor, Trinidad and Whitney.

5. Name and list of cities in coalition cited by staff during last night's meeting.

Staff Response: The other coalition of cities cited by staff is represented by Lloyd, Gosselink, Rochelle & Townsend, P.C., and is called the Atmos Cities Steering Committee ("ACSC"). This coalition is comprised of 171 members that include Abilene, Addison, Albany, Allen, Alvarado, Angus, Anna, Argyle, Arlington, Aubrey, Azle, Bedford, Bellmead, Benbrook, Beverly Hills, Blossom, Blue Ridge, Bowie, Boyd, Bridgeport, Brownwood, Buffalo, Burkburnett, Burleson, Caddo Mills, Canton, Carrollton, Cedar Hill, Celeste, Celina, Centerville, Cisco, Clarksville, Cleburne, Clyde, College Station, Colleyville, Colorado City,

Comanche, Commerce, Coolidge, Coppell, Copperas Cove, Corinth, Corral City, Crandall, Crowley, Dalworthington Gardens, Denison, DeSoto, Duncanville, Eastland, Edgecliff Village, Emory, Ennis, Euless, Everman, Fairview, Farmers Branch, Farmersville, Fate, Flower Mound, Forest Hill, Forney, Fort Worth, Frisco, Frost, Gainesville, Garland, Garrett, Grand Prairie, Grapevine, Groesbeck, Gunter, Haltom City, Harker Heights, Haskell, Haslet, Hewitt, Highland Park, Highland Village, Honey Grove, Hurst, Hutto, Iowa Park, Irving, Justin, Kaufman, Keene, Keller, Kemp, Kennedale, Kerens, Kerrville, Killeen, Krum, Lakeside, Lake Worth, Lancaster, Lewisville, Lincoln Park, Little Elm, Lorena, Madisonville, Malakoff, Mansfield, McKinney, Melissa, Mesquite, Midlothian, Murphy, Newark, Nocona, North Richland Hills, Northlake, Oak Leaf, Ovilla, Palestine, Pantego, Paris, Parker, Pecan Hill, Petrolia, Plano, Ponder, Pottsboro, Prosper, Quitman, Red Oak, Reno (Parker County), Rhome, Richardson, Richland, Richland Hills, River Oaks, Roanoke, Robinson, Rockwall, Roscoe, Rowlett, Royse City, Sachse, Saginaw, Sansom Park, Seagoville, Sherman, Snyder, Southlake, Springtown, Stamford, Stephenville, Sulphur Springs, Sweetwater, Temple, Terrell, The Colony, Trophy Club, Tyler, University Park, Venus, Vernon, Waco, Watauga, Waxahachie, Westlake, Westover Hills, Whitesboro, White Settlement, Wichita Falls, Woodway, Wylie.

6. Request the presence of our outside counsel at the meeting on the 31st.

Staff Response: Outside counsel will be present.

7. Total number of meters for Atmos within Denton city limits.

Staff Response: Atmos reported there are 18,606 residential meters and 2,178 commercial meters within the city limits of Denton.

8. Rate chart similar to one in our back up for consultants recommended increase and \$40 million rate increase.

Staff Response: Staff has included this information in Attachment 1.

Atmos Energy Corp., Mid-Tex Division
Summary of Average Bill (Monthly) Comparison - Base Rates
Test Year Ending December 31, 2016

Customer Class	Current Bill	Proposed Bill @ \$48MM	Difference	% Increase w/ Gas Cost	% Increase w/o Gas Cost
Residential	\$ 52.78	\$ 54.82	\$ 2.04	3.88%	7.84%
Commercial	\$ 265.18	\$ 271.45	\$ 6.27	2.36%	8.00%
Industrial	\$ 5,384.76	\$ 5,557.89	\$ 173.13	3.22%	8.73%
Transportation	\$ 4,028.61	\$ 4,201.74	\$ 173.13	4.30%	8.73%

Customer Class	Current Bill	Proposed Bill @ \$32.1MM	Difference	% Increase w/ Gas Cost	% Increase w/o Gas Cost
Residential	\$ 52.78	\$ 54.13	\$ 1.35	2.57%	5.19%
Commercial	\$ 265.18	\$ 269.35	\$ 4.17	1.57%	5.31%
Industrial	\$ 5,384.76	\$ 5,486.60	\$ 101.83	1.89%	5.13%
Transportation	\$ 4,028.61	\$ 4,130.44	\$ 101.83	2.53%	5.13%

Customer Class	Current Bill	Proposed Bill @ \$57.4MM	Difference	% Increase w/ Gas Cost	% Increase w/o Gas Cost
Residential	\$ 52.78	\$ 55.23	\$ 2.45	4.64%	9.39%
Commercial	\$ 265.18	\$ 272.70	\$ 7.52	2.84%	9.58%
Industrial	\$ 5,384.76	\$ 5,599.82	\$ 215.05	3.99%	10.84%
Transportation	\$ 4,028.61	\$ 4,243.66	\$ 215.05	5.34%	10.84%

Atmos Energy Corp., Mid-Tex Division
Detail of Average Bill (Monthly) Comparison - Base Rates
Test Year Ending December 31, 2016

	Current Rates	Rates @ \$48MM	Rates @ \$32.1MM	Rates @ \$57.4MM	% Inc. @ \$48MM	% Inc. @ \$32.1MM	% Inc. @ \$57.4MM
Residential:							
Customer charge	\$ 19.10	\$ 19.60	\$ 19.60	\$ 19.60			
Consumption charge	\$ 5.27	\$ 6.68	\$ 6.04	\$ 7.06			
Rider GCR Part A	\$ 13.11	\$ 13.11	\$ 13.11	\$ 13.11			
Rider GCR Part B	\$ 11.78	\$ 11.78	\$ 11.78	\$ 11.78			
Subtotal	\$ 49.26	\$ 51.17	\$ 50.53	\$ 51.55			
Rider FF & Taxes	\$ 3.52	\$ 3.65	\$ 3.61	\$ 3.68			
Total	\$ 52.78	\$ 54.82	\$ 54.13	\$ 55.23	3.88%	2.57%	4.64%
Less: Cost of Gas	\$ 26.11	\$ 28.16	\$ 27.47	\$ 28.56	7.84%	5.19%	9.39%
Commercial:							
Customer charge	\$ 41.75	\$ 44.70	\$ 44.70	\$ 44.70			
Consumption charge	\$ 31.51	\$ 34.42	\$ 32.46	\$ 35.58			
Rider GCR Part A	\$ 105.07	\$ 105.07	\$ 105.07	\$ 105.07			
Rider GCR Part B	\$ 69.17	\$ 69.17	\$ 69.17	\$ 69.17			
Subtotal	\$ 247.50	\$ 253.36	\$ 251.40	\$ 254.52			
Rider FF & Taxes	\$ 17.68	\$ 18.09	\$ 17.95	\$ 18.18			
Total	\$ 265.18	\$ 271.45	\$ 269.35	\$ 272.70	2.36%	1.57%	2.84%
Less: Cost of Gas	\$ 78.49	\$ 84.77	\$ 82.66	\$ 86.01	8.00%	5.31%	9.58%
Industrial:							
Customer charge	\$ 738.00	\$ 799.75	\$ 799.75	\$ 799.75			
Consumption charge	\$ 464.40	\$ 506.10	\$ 478.20	\$ 522.30			
Consumption charge	\$ 649.26	\$ 707.40	\$ 668.74	\$ 730.32			
Consumption charge	\$ -	\$ -	\$ -	\$ -			
Rider GCR Part A	\$ 1,265.76	\$ 1,265.76	\$ 1,265.76	\$ 1,265.76			
Rider GCR Part B	\$ 1,908.41	\$ 1,908.41	\$ 1,908.41	\$ 1,908.41			
Subtotal	\$ 5,025.83	\$ 5,187.42	\$ 5,120.86	\$ 5,226.54			
Rider FF & Taxes	\$ 358.93	\$ 370.47	\$ 365.73	\$ 373.28			
Total	\$ 5,384.76	\$ 5,557.89	\$ 5,486.60	\$ 5,599.82	3.22%	1.89%	3.99%
Less: Cost of Gas	\$ 1,983.91	\$ 2,157.04	\$ 2,085.69	\$ 2,198.91	8.73%	5.13%	10.84%
Transportation:							
Customer charge	\$ 738.00	\$ 799.75	\$ 799.75	\$ 799.75			
Consumption charge	\$ 464.40	\$ 506.10	\$ 478.20	\$ 522.30			
Consumption charge	\$ 649.26	\$ 707.40	\$ 668.74	\$ 730.32			
Consumption charge	\$ -	\$ -	\$ -	\$ -			
Rider GCR Part B	\$ 1,908.41	\$ 1,908.41	\$ 1,908.41	\$ 1,908.41			
Subtotal	\$ 3,760.07	\$ 3,921.66	\$ 3,855.10	\$ 3,960.78			
Rider FF & Taxes	\$ 268.54	\$ 280.08	\$ 275.33	\$ 282.88			
Total	\$ 4,028.61	\$ 4,201.74	\$ 4,130.44	\$ 4,243.66	4.30%	2.53%	5.34%
Less: Cost of Gas	\$ 1,983.91	\$ 2,157.04	\$ 2,085.69	\$ 2,198.91	8.73%	5.13%	10.84%

Atmos Energy Corp., Mid-Tex Division
Summary of Average Bill (Monthly) Comparison - Base Rates
Test Year Ending December 31, 2016

Customer Class	Current Bill	Proposed Bill @ \$30MM	Difference	% Increase w/ Gas Cost	% Increase w/o Gas Cost
Residential	\$ 52.78	\$ 54.05	\$ 1.27	2.41%	4.87%
Commercial	\$ 265.18	\$ 269.24	\$ 4.06	1.53%	4.98%
Industrial	\$ 5,384.76	\$ 5,483.02	\$ 98.26	1.82%	4.68%
Transportation	\$ 4,028.61	\$ 4,126.87	\$ 98.26	2.44%	4.68%

Customer Class	Current Bill	Proposed Bill @ \$40MM	Difference	% Increase w/ Gas Cost	% Increase w/o Gas Cost
Residential	\$ 52.78	\$ 54.48	\$ 1.70	3.22%	6.51%
Commercial	\$ 265.18	\$ 270.41	\$ 5.23	1.97%	6.66%
Industrial	\$ 5,384.76	\$ 5,522.10	\$ 137.33	2.55%	6.92%
Transportation	\$ 4,028.61	\$ 4,165.94	\$ 137.33	3.41%	6.92%

Customer Class	Current Bill	Proposed Bill @ \$50MM	Difference	% Increase w/ Gas Cost	% Increase w/o Gas Cost
Residential	\$ 52.78	\$ 54.91	\$ 2.13	4.04%	8.16%
Commercial	\$ 265.18	\$ 271.73	\$ 6.55	2.47%	8.34%
Industrial	\$ 5,384.76	\$ 5,566.83	\$ 182.06	3.38%	9.17%
Transportation	\$ 4,028.61	\$ 4,210.67	\$ 182.06	4.52%	9.17%

Atmos Energy Corp., Mid-Tex Division
Detail of Average Bill (Monthly) Comparison - Base Rates
Test Year Ending December 31, 2016

	Current Rates	Rates @ \$30MM	Rates @ \$40MM	Rates @ \$50MM	% Inc. @ \$30MM	% Inc. @ \$40MM	% Inc. @ \$50MM
Residential:							
Customer charge	\$ 19.10	\$ 19.60	\$ 19.60	\$ 19.60			
Consumption charge	\$ 5.27	\$ 5.96	\$ 6.36	\$ 6.76			
Rider GCR Part A	\$ 13.11	\$ 13.11	\$ 13.11	\$ 13.11			
Rider GCR Part B	\$ 11.78	\$ 11.78	\$ 11.78	\$ 11.78			
Subtotal	\$ 49.26	\$ 50.45	\$ 50.85	\$ 51.25			
Rider FF & Taxes	\$ 3.52	\$ 3.60	\$ 3.63	\$ 3.66			
Total	\$ 52.78	\$ 54.05	\$ 54.48	\$ 54.91	2.41%	3.22%	4.04%
Less: Cost of Gas	\$ 26.11	\$ 27.38	\$ 27.81	\$ 28.24	4.87%	6.51%	8.16%
Commercial:							
Customer charge	\$ 41.75	\$ 44.70	\$ 44.70	\$ 44.70			
Consumption charge	\$ 31.51	\$ 32.21	\$ 33.44	\$ 34.67			
Rider GCR Part A	\$ 105.07	\$ 105.07	\$ 105.07	\$ 105.07			
Rider GCR Part B	\$ 69.17	\$ 69.17	\$ 69.17	\$ 69.17			
Subtotal	\$ 247.50	\$ 251.15	\$ 252.38	\$ 253.61			
Rider FF & Taxes	\$ 17.68	\$ 18.09	\$ 18.03	\$ 18.11			
Total	\$ 265.18	\$ 269.24	\$ 270.41	\$ 271.73	1.53%	1.97%	2.47%
Less: Cost of Gas	\$ 78.49	\$ 82.40	\$ 83.72	\$ 85.04	4.98%	6.66%	8.34%
Industrial:							
Customer charge	\$ 738.00	\$ 799.75	\$ 799.75	\$ 799.75			
Consumption charge	\$ 464.40	\$ 474.75	\$ 492.15	\$ 509.55			
Consumption charge	\$ 649.26	\$ 663.88	\$ 687.93	\$ 712.28			
Consumption charge	\$ -	\$ -	\$ -	\$ -			
Rider GCR Part A	\$ 1,265.76	\$ 1,265.76	\$ 1,265.76	\$ 1,265.76			
Rider GCR Part B	\$ 1,908.41	\$ 1,908.41	\$ 1,908.41	\$ 1,908.41			
Subtotal	\$ 5,025.83	\$ 5,112.55	\$ 5,154.00	\$ 5,195.75			
Rider FF & Taxes	\$ 358.93	\$ 370.47	\$ 368.10	\$ 371.08			
Total	\$ 5,384.76	\$ 5,483.02	\$ 5,522.10	\$ 5,566.83	1.82%	2.55%	3.38%
Less: Cost of Gas	\$ 1,983.91	\$ 2,076.81	\$ 2,121.19	\$ 2,165.92	4.68%	6.92%	9.17%
Transportation:							
Customer charge	\$ 738.00	\$ 799.75	\$ 799.75	\$ 799.75			
Consumption charge	\$ 464.40	\$ 474.75	\$ 492.15	\$ 509.55			
Consumption charge	\$ 649.26	\$ 663.88	\$ 687.93	\$ 712.28			
Consumption charge	\$ -	\$ -	\$ -	\$ -			
Rider GCR Part B	\$ 1,908.41	\$ 1,908.41	\$ 1,908.41	\$ 1,908.41			
Subtotal	\$ 3,760.07	\$ 3,846.79	\$ 3,888.24	\$ 3,929.99			
Rider FF & Taxes	\$ 268.54	\$ 280.08	\$ 277.70	\$ 280.68			
Total	\$ 4,028.61	\$ 4,126.87	\$ 4,165.94	\$ 4,210.67	2.44%	3.41%	4.52%
Less: Cost of Gas	\$ 1,983.91	\$ 2,076.81	\$ 2,121.19	\$ 2,165.92	4.68%	6.92%	9.17%

Canizares, Mario

From: Hileman, Todd
Sent: Thursday, May 25, 2017 6:32 AM
To: Canizares, Mario; Collister, Larry; Leal, Aaron
Cc: Langley, Bryan
Subject: Fwd: Dallas agrees to smaller rate hike than Atmos wanted, setting up a likely showdown

FYI...i have asked Mario to reach out to Dallas and see what he can find out about their rationale. We will try to get something to Larry today for the packet.

Dallas agrees to smaller rate hike than Atmos wanted, setting up a likely showdown

Dallas Morning News
Written by
Robert Wilonsky, City Columnist

Atmos Energy had wanted the Dallas City Council to approve a \$10.7 million rate hike. But in the end, the council agreed to give the city's gas provider less than half of what it wanted, setting up a likely legal battle between Atmos and Dallas City Hall in Austin.

By a 9-6 vote, the council approved a \$5 million hike, the result of a compromise reached by a council committee last week. Assistant city attorney Don Knight told the council that Atmos sent the city a letter saying it would "likely appeal" the vote to the Railroad Commission of Texas.

City Manager T.C. Broadnax's office and Atmos representatives had reached what they believed to be a fair compromise: a \$7.8 million rate hike, which would have added about \$2.46 to customers' monthly gas bills. Atmos has said that money will go toward improving aging infrastructure.

On Wednesday, Pleasant Grove's Rickey Callahan said he believes \$7.8 million is reasonable, since it would have saved millions in legal fees that could also wind up in taxpayers' bills.

And, he said, "I think the fundamental reason they're asking for increases is we asked them to keep the city safe."

Chris Felan, Atmos' vice president of rates and regulatory affairs, said last week that the company sank \$80 million into Dallas infrastructure upgrades last year.

But North Dallas' Lee Kleinman said the ask was out of line, given the fact that Atmos went from collecting \$53 million from Dallas residents six years ago to \$82.5 million today. "What I am struggling with is this recurring rate increase that's well beyond the inflation rate," he said.

Kleinman said after Wednesday's vote that \$5 million "seemed like a reasonable offer for Atmos to accept."

His colleague Philip Kingston said he couldn't support any increase, calling it little more than a way to line investors' pockets. A 2013 Dallas Morning News story revealed that rate hikes often wind up accounting for record revenue.

Jennifer Staubach Gates, chair of the budget committee, said she is "hopeful" Atmos will not challenge Wednesday's vote.


"My underlying concern is I don't really believe anyone is looking out for the best interests of the ratepayers," she said after the vote.







Congratulations to local area Emergency Medical Services
Learn more at www.heart.org/missionlifeline








**DALLASNEWS**
Powered by My Dallas Morning News

TOPICS ▾ **MY ACCOUNT ▾**


[SUBSCRIBE NOW](#)  

[NEWS](#) [ELECTIONS](#) [CRIME](#) [TEXAS LEGISLATURE](#) [POLITICS](#) [EDUCATION](#) [INVESTIGATIONS](#)



Dallas City Council members push back against proposed Atmos rate increase

 **Tristan Hallman, Dallas Morning News**

Don't miss a story. Like us on Facebook.

Like 369K

The Dallas City Council and Atmos Energy could be headed for a legal showdown over the gas company's latest proposed fee hike.

After more than \$18 million worth of rate increases since 2013, Atmos would like to get another \$10.7 million from Dallas customers to help pay for its infrastructure improvements. But company reps told city officials they'd settle for \$7.8 million, or roughly \$2.46 more on the average customer's monthly gas bill.

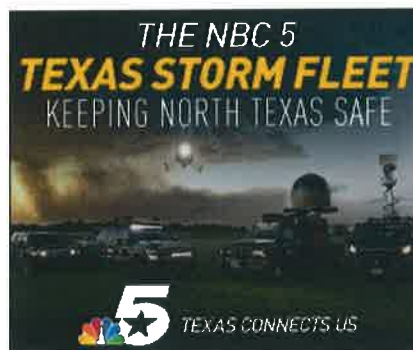
Members of the council's Budget, Finance and Audit Committee on Monday recommended that the full council reject the settlement and instead set a lower rate. The committee members also suggested appealing the increase to the Texas Railroad Commission, which regulates energy in the state.

Atmos' base rate increases of recent years haven't put a significant dent in customers' wallets because they have been largely offset by lower natural gas prices. But council members said they still want a better deal from Atmos.

"In every conceivable way, 2017 will be the most expensive year to live in the city of Dallas for its taxpayers and fee payers," said council member Philip Kingston. "That's going to be the case in 2018 also, almost certainly. We've got to look for reasonable ways to hold that down."

Kingston said his council colleagues ought to consider publicly shaming Atmos and the Railroad Commission if they allow the rates to continue to climb.

A vote on the matter is scheduled for the May 24 council meeting.



[As Atmos prepares to ask for yet another rate hike, one Dallas council member balks \(again\)](#)

Council member Lee Kleinman said city officials need to take a tougher stance with Atmos in the future.

"Our job as a council and staff is to get the lowest rates possible for our citizens," Kleinman said. "It seems like we're negotiating against ourselves."

Atmos officials said, as they have in the past, that the rate increases help pay for the company's investments in infrastructure, such as new gas lines. The company spent more than \$80 million on capital expenditures in Dallas alone last year, said Chris Felan, a vice president of rates and regulatory affairs.

Felan said the settlement reached with City Hall was a reasonable compromise "that would be in the interest of the company and the city of Dallas."



SPONSORED CONTENT


The truth about coconut oil, bone broth and more



By [Methodist Health System](#)

If the city appeals the case, Atmos and the city will incur legal fees that mean customers or taxpayers will pay a price regardless of the outcome.

"We'd rather spend that money on aging infrastructure rather than litigating with the city," Felan said.

 [VIEW COMMENTS](#)

[DALLAS CITY HALL](#) [DALLAS CITY COUNCIL](#) [ENERGY](#)

SPONSORED STORIES

Get the Most Important D-FW News in Your Inbox

Sign up for our daily email newsletters

[your@email.com](#)

Get Headlines, Business, SportsDay, and GuideLive [Change](#)

[SIGN UP NOW](#)

NEWS

 [LOADING...](#)

TEXAS MUNICIPAL LEAGUE

**LEGISLATIVE POLICY SUBCOMMITTEE
ON
UTILITY RATE CASE LOBBYING
AND SUBSTANTIVE RATE CASE ISSUES**

**July 9, 2012
10:00 a.m.
Texas Municipal Center
Austin, Texas**

Contents

List of Committee Members	1
Meeting Agenda.....	2
Utility Rate Case Lobbying	3
Substantive Rate Case Issues	11
Appendix A.....	13

**Texas Municipal League
Legislative Policy Subcommittee on Utility Rate Case Lobbying and
Substantive Rate Case Issues**

Membership

Chair: Gregory L. Wortham, Mayor, Sweetwater

Carl Robinson, City Representative, El Paso
Roger E. Gordon, City Attorney, Woodcreek
Tina Paez, Deputy Director, Regulatory Affairs, Houston
Ron Fletcher, City Councilmember, Buda
Greg Vick, City Manager, Elgin
Gary Cox, Police Chief, Cibolo

Meeting Agenda

1. Call to Order
2. Introductions
3. Utility Rate Case Lobbying Issues
 - a. TML Staff Briefing
 - b. Coalition Representatives Overview:

TCAP
ATMOS Cities
TCCFUI
HERRERA & BOYLE, P.C.
 - c. Consideration of Discussion Topics
4. Substantive Rate Case Issues
 - a. TML Staff Briefing
 - b. Consideration of Discussion Topics
5. Other Business
6. Adjourn

Utility Rate Case Lobbying

Texas cities have a long history of participation in the ratemaking process for both gas and electric utilities in the State of Texas. In addition, a few cities are active in the area of water rates. A 2010 article from the Texas City Attorneys Association newsletter related to municipal participation follows:

Prior to the enactment of the Public Utility Regulatory Act (PURA) in 1975 and the Gas Utility Regulatory Act (GURA) in 1983, utility rates were set exclusively at the city level, with any appeals of municipal rate ordinances decided in the courts.

Currently, under PURA and GURA, cities have original jurisdiction over the utility rates within their city limits. This means that the Railroad Commission (RRC) and the Public Utility Commission (PUC) have original jurisdiction over gas and electric rates in service areas outside city limits and also within the city limits of those cities that have ceded their original jurisdiction to the agency. In addition, the PUC and RRC have appellate jurisdiction over rate ordinances and orders of cities concerning electric and gas utility service within a city's limits.

Recognizing the important role cities play in the regulation of utilities, hundreds of cities across the state participate in ratemaking proceedings at both the PUC and the RRC in order to ensure fair, just, and reasonable rates, as well as adequate and efficient services for the city and its residents.

Historically, cities have formed coalitions to represent the collective interests of cities and their citizens before the regulatory agencies and courts. By forming coalitions, cities have been able to present a strong voice for consumers for over 30 years. This has served to reduce the costs that cities and their residents pay for electric and gas service. Cities' active participation in rate cases demonstrates their concern for reliability, quality of service, and the prices their citizens pay for gas and electricity. In numerous instances, without city participation, rate increases would have gone into effect without any party scrutinizing the utility's application.

City coalitions have been effective in ensuring that utilities charge cities and their residents reasonable rates. In 2010, cities successfully fought to mitigate excessive rate increase requests by both gas and electric utilities, playing a vital role advocating on behalf of consumers. For example, in Oncor Electric Delivery Company's ("Oncor") last rate case, Oncor sought to increase its rates by \$253 million annually. However, based on many of the recommendations made by cities, the PUC determined that Oncor was entitled to a rate increase of just \$130 million.

In another notable electric rate case in 2010, cities negotiated a settlement with Texas-New Mexico Power Company ("TNMP"). TNMP originally sought a \$20.1 million rate increase, but after lengthy negotiations, the parties agreed to an increase of just \$10.25 million. Additionally, the cities were able to obtain a more favorable rate design structure for residential rates in order to reduce the impact of the rate

increase on that rate class. Because of their strong presence, cities were able to secure rates and a rate structure that was as good as, if not better than, a result that could have been expected had the case been fully litigated.

Similarly, cities have recently participated in gas proceedings brought by the various divisions of the Atmos Energy Corporation. For example, in March 2010, the Atmos Mid-Tex division filed for a \$56.8 million rate increase. After lengthy negotiations, the parties reached a settlement that provided for a \$27 million increase in annual revenue (less than half of the company's initial request).

City coalitions also participated in a rate case brought by CenterPoint Energy Entex (Houston Division) and decided by the RRC in February 2010. While CenterPoint initially sought a \$25.4 million increase, the RRC adopted almost all of the accounting adjustments recommended by cities, resulting in an increase of only \$5 million (one-fifth of CenterPoint's original request).

In each of these cases, cities have saved their ratepayers money by refusing to accept the utilities' rate increase requests at face value. By participating in rate cases, cities are able to dig into the complex calculations of ratemaking to determine whether a utility has made a reasonable request. When cities determine that a utility's request is unreasonable, they present evidence supporting the findings to the PUC or RRC and recommend reducing the rate increase requested by the utility.

Both PURA and GURA allow for cities to be reimbursed by the utility company for their reasonable rate case expenses associated with participation in ratemaking proceedings. In providing for the reimbursement of rate case expenses in the statutes, the Texas Legislature has acknowledged the important role that cities play in protecting citizens from unreasonable utility costs. Because these expenses are ultimately passed on to consumers by the utility, cities are always cost-conscious. Cities must balance the cost of participation in a ratemaking proceeding against the need to protect the interests of their residents. In prior cases, however, municipal participation has resulted in a net savings for ratepayers because the utility's rate increase was reduced by an amount far in excess of the expenses incurred by the cities. Cities' participation in utility ratemaking proceedings have proven time and again to be a good value for consumers.

It seems clear that municipal participation in ratemaking has prevented large increases in consumer utility rates and that cities value this authority.

Separate from the issue of substantive ratemaking itself is an equally important issue: what role should the League play in lobbying on ratemaking issues? Various groups and coalitions, often with divergent goals, lobby legislators on the issues. In addition to the League, some of those groups include:

- **The Texas Coalition for Affordable Power (TCAP** – www.tcaptx.com). TCAP's Board of Directors consists of fifteen member-city employees. According to TCAP's Web site:

When it comes to electric deregulation, the Texas Coalition for Affordable Power enjoys a unique vantage point. The more than 160 cities and other political subdivisions that make up TCAP purchase in excess of 1.3 billion kilowatt/hours of power each year for their own governmental use. As such, it is one of the largest organizations of energy consumers in the state.

High energy costs can impact municipal budgets and the ability to fund essential services. An increase by even a single penny in electric rates can cost cities millions of dollars. TCAP members understand this first-hand. High energy prices also places a burden on local businesses and home consumers.

That's why TCAP, as part of its mission, proactively promotes affordable energy policies. TCAP monitors federal, state and local initiatives that may affect the price and availability of energy. The organization represents consumer interests at the Electric Reliability Council of Texas, the Public Utility Commission and before state legislative panels. TCAP's original policy research has been cited nationally and internationally and has won praise from key lawmakers and staff.

TCAP was originally two separate non-profit corporations — the Cities Aggregation Power Project and the South Texas Aggregation Project — organizations formed in 2001 for the specific purpose of purchasing power in the then-newly deregulated market. TCAP also is the parent organization of Recharge Texas, and supports its online newsletter, the Recharge Ratepayer Report. In 2012, TCAP released *Deregulated Electricity in Texas: A History of Retail Competition — The First 10 Years*. In 2011, TCAP released *The Story of ERCOT: The Grid Operator, Power Market & Prices under Texas Electric Deregulation*.

TCAP's members include the following cities:

Abilene	Brownwood	Authority	Fulton
Addison	Burkburnett	Corpus Christi RTA	Gainesville
Alamo	Burleson	Crockett	George West
Alice	Calhoun Port Authority	Decatur Denison	Godley
Allen	Carrizo Springs	DeSoto	Grand Prairie
Alton	Cedar Hill	Dickinson	Grapevine
Anna	Celina	Dilley	Haltom City
Aquilla Water Supply	Charlotte	Dublin	Hamilton
Aransas County Mud	Cisco	Duncanville	Harker Heights
Aransas Pass	Cleburne	Eastland	Harlingen
Arlington	Clute	Edgecliff Village	Harlingen Housing
Austwell	Clyde	Edna	Authority
Beeville	Colleyville	Eules	Henrietta
Bellmead	Colorado City	Everman	Highland Park
Belton	Comanche	Falfurrias	Howe
Benbrook	Commerce	Farmersville	Hurst
Benbrook Library District	Copperas Cove	Flower Mound	Ingleside
Benbrook Water	Corinth	Forest Hill	Ingleside on the Bay
Authority	Corpus Christi	Fort Stockton	Johnson County SUF
Bishop	Corpus Christi Housing	Frisco	Kaufman

Kennedale	Mission Housing	Premon	Springtown
Kenedy	Authority	Prosper	Sugar Land
Kingsville	Missouri City	Red Oak	Sunnyvale
La Feria	Murphy	Refugio	Sweetwater
La Marque	Nacogdoches	Richland Hills	Taft
Laguna Vista Lake	North Richland Hills	Rio Grande Robinson	Terrell
Jackson	Oak Point	Rockwall	Texas City
Lancaster	Odem	Rockport	The Colony
Lewisville	Odessa	Rotan	Trophy Club
Lorena	Orange Grove	Rowlett	University Park
Los Fresnos	Ovilla	Sachse	Upper Leon River MUD
Lovelady	Palestine	Saginaw	Vernon
Lyford	Palmer	San Angelo	Victoria
Mansfield	Pantego	San Juan	Watauga
McAllen	Paris	Seadrift	Webster
McAllen Housing	Pearland	Sherman	West Central Texas MUD
Authority	Plano	Sinton	White Settlement
Mercedes	Pleasanton	Snyder	Whitney
Merkel	Point Comfort	South Padre Island	Wichita Falls
Midlothian	Port Aransas	South Texas Water	Woodsboro
Mission	Port Layaça	Authority	Woodway
	Portland	Spring Valley	Wylie

- **The Texas Coalition of Cities for Utility Issues (TCCFUI – www.tccfui.org).** TCCFUI is governed by an eleven-member board consisting of city employees. According to TCCFUI's Web site, its purpose is:

To represent member cities, participate in, and influence the results of legal, legislative and regulatory activity and policy affecting the rights of cities with respect to utility and rights-of-way issues at all levels of government, as well as provide education and assistance to the staff of member cities.

- To provide representation for member cities at all venues where cities have a vested interest in utility issues;
- To educate the staff of member cities;
- To participate in, and influence the results of legal, legislative and regulatory activity affecting the rights of cities with respect to utility and rights-of-way issues;
- To develop model ordinances;
- To provide technical assistance to the membership;
- To establish an active role in the development of telecommunications policy at the Local, State and Federal level; and
- To provide other services as may be determined by the membership.

TCCFUI's members include the following cities:

Abernathy	Breckenridge	Conroe	Electra
Addison	Brenham	Corinth	Mansfield
Alamo	Brookside Village	Corpus Christi	Euless
Allen	Brownfield	Cottonwood Shores	Fairview
Andrews	Brownwood	Crockett	Flower Mound
Arlington	Buffalo	Crockett	Fort Worth
Balcones Heights	Canyon	Dallas	Fredericksburg
Belton	Carrollton	Denison	Friendswood
Benbrook	Cedar Hill	Denton	Frisco
Big Spring	Henrietta	Dickinson	Galveston
Bowie	Center	El Lago	Grand Prairie
	Cleburne		Grapevine

Greenville	Longview	Ralls	Sugar Land
Pearsall	Los Fresnos	Refugio	Sweeny
Gregory	McAllen	Victoria	Taylor Lake Village
Huntsville	Midlothian	Reno	Terrell
Irving	Missouri City	Richardson	Thompsons
La Grange	Newark	River Oaks	Timpson
La Joya	Nolanville	Rosenberg	Trophy Club
Lampasas	North Richland Hills	San Jacinto City	Tyler
Lancaster	Sunset Valley	San Marcos	University Park
Laredo	Oak Point	Seminole	Vernon
League City	Palacios	Seymour	Waxahachie
Leon Valley	Pampa	Smithville	Webster
Levelland	Paris	Snyder	West University Place
San Saba	Plainview	South Padre Island	Westlake
Lewisville	Plano	Spearman	
Selma	Port Neches	Stephenville	

- **Atmos Cities Steering Committee (ACSC** – www.texasgasconsumers.org). According to ACSC's Web site:

The Atmos Cities Steering Committee is a permanent standing coalition of more than 150 Texas cities that has been authorized, through council resolutions, to represent the interests of municipal and residential consumers in gas utility regulatory matters. One of the most important municipal coalitions currently active in gas ratemaking, [it] is an organization of over 150 cities in north and central Texas with nearly 1.2 million residential customers. Membership in this standing committee is determined by passage of a resolution by each governing body. The Steering Committee undertakes activities on behalf of its city members and their citizens such as participation in rate cases, rulemakings and legislative efforts that impact natural gas rates.

ACSC's members include the following cities:

Abilene	Colleyville	Garrett	Little Elm
Addison	Colorado City	Grand Prairie	Lorena
Allen	Comanche	Grapevine	Madisonville
Angus	Coolidge	Haltom City	Malakoff
Anna	Coppell	Harker Heights	Mansfield
Argyle	Corinth	Haskell	McKinney
Arlington	Corral City	Haslet	Melissa
Bedford	Crandall	Highland Park	Mesquite
Bellmead	Crowley	Highland Village	Midlothian
Benbrook	Dalworthington Gardens	Honey Grove	Mills
Beverly Hills	Denison	Hurst	Murphy
Blossom	DeSoto	Iowa Park	Nocona
Blue Ridge	Duncanville	Irving	North Richland Hills
Bowie	Eastland	Justin	Northlake
Boyd	Edgecliff	Kaufman	Oak Leaf
Bridgeport	Emory	Keene	Ovilla
Brownwood	Ennis	Keller	Palestine
Buffalo	Eules	Kemp	Pantego
Burkburnett	Everman	Kennedale	Paris
Burleson	Fairview	Kerrville	Parker
Caddo	Farmers Branch	Killeen	Pecan Hill
Carrollton	Farmersville	Krum	Plano
Cedar Hill	Fate	Lake Worth	Ponder
Celeste	Forest Hill	Lakeside	Pottsboro
Cisco	Fort Worth	Lancaster	Prosper
Cleburne	Frisco	Lewisville	Quitman
Clyde	Gainesville	Lincoln Park	Red Oak

Reno (Parker County)	Royce City	Sulphur Springs	Waco
Richardson	Sachse	Sweetwater	Watauga
Richland	Saginaw	Temple	Waxahachie
Richland Hills	Seagoville	Terrell	Westlake
River Oaks	Sherman	The Colony	White Settlement
Roanoke	Snyder	Tyler	Whitesboro
Robinson	Southlake	University Park	Wichita Falls
Rockwall	Springtown	Venus	Woodway
Roscoe	Stamford	Vernon	Wylie
Rowlett	Stephenville	Village	

- **Atmos Texas Municipalities (Atmos Mid-Tex)** members include the following cities:

Austin	Denton	Hillsboro	Riesel
Balch Springs	Electra	Hutto	Rogers
Bandera	Fredericksburg	Kerens	Round Rock
Barlett	Gatesville	Lampasas	San Angelo
Belton	Georgetown	Leander	Sanger
Blooming Grove	Goldwaite	Lometa	Somerville
Bryan	Granbury	Longview	Star Harbor
Cameron	Greenville	Mart	Trinidad
Cedar Park	Groesbeck	Mexia	Trophy Club
Clifton	Hamilton	Olney	Whitney
Commerce	Henrietta	Pflugerville	
Copperas Cove	Hickory Creek	Ranger	
Corsicana	Hico	Rice	

- **Atmos West Texas Cities (Atmos West Texas)** members include the following cities:

Amarillo	Lubbock	Channing	Dalhart
----------	---------	----------	---------

- **Alliance of Xcel Municipalities (SPS)** members include the following cities:

Abernathy	Earth	Lockney	Sanford
Adrian	Farwell	Lorenzo	Seagraves
Amarillo	Floydada	McLean	Seminole
Amherst	Follett	Meadow	Shallowater
Anton	Friona	Miami	Silverton
Booker	Fritch	Mobeetie	Skellytown
Borger	Groom	Morton	Slaton
Bovina	Gruver	Muleshow	Spearman
Canadian	Hale Center	New Deal	Springlake
Canyon	Happy	Olton	Stinnet
Cactus	Hart	Palisades	Stratford
Channing	Hereford	Pampa	Sudan
Claude	Higgins	Panhandle	Sunray
Crosby	Idalou	Perryton	Tahoka
Dalhart	Kress	Petersburg	Timbercreek
Darouzett	Lake Tanglewood	Plainview	Vega
Denver City	LeFors	Post	
Dimmit	Levelland	Ralls	
Dumas	Littlefield	Ropesville	

- **Cities Advocating Reasonable Deregulation (SWEPCO)** members include the following cities:

Atlanta	Center	Daingerfield	Gladewater
---------	--------	--------------	------------

Hawkins
Henderson
Kilgore
Longview

Marshall
Mineola
Mt. Enterprise
Mt. Pleasant

Naples
New London
Pittsburg
Waskom

Wellington
White Oak
Winnsboro
Winona

- **Alliance of Texas-New Mexico Power Municipalities (TNMP)** members include the following cities:

Angleton
Brazoria
Clifton

Hamilton
Hico
Kermit

Olney
Pecos
Point

Whitney

- **Texas Coast Utilities Coalition (CenterPoint Electric and Gas)** members include the following cities:

Angleton
Baytown
Clute

Freeport
League City
Pearland

Shoreacres
West Colombia
Wharton

The bottom line is that – as the above list of coalitions illustrates – numerous city-related groups are engaged in rate case lobbying at the Capitol, and each group may have divergent goals. That makes it difficult for legislators to know “which voice” actually represents municipal interests.

One example of the issue took place during the 2007 legislative session. The League’s 2006 Legislative Policy Committee on Utilities appointed a subcommittee to review various gas utilities issues. The subcommittee’s report ultimately became part of the League’s program for 2007; it directed the League to support legislation that would “repeal the Gas Reliability Infrastructure Program (GRIP) or, in the alternative, enact beneficial amendments to Section 104.301 of the Texas Utilities Code.”

During the 2007 legislative session, lawmakers considered S.B. 742, a bill that, as filed and as approved by a Senate Committee, would have repealed GRIP. Later in the process, a Senate floor amendment by the bill’s author essentially proposed an entirely new bill that would have, among many other things, clarified that the purpose of the GRIP program is to provide an incentive to utilities to promptly replace aging portions of the gas delivery system; to encourage investment; and to enhance reliability, public safety, and service without triggering the need for a formal ratemaking proceeding.

The bill appeared to meet the “beneficial amendments” provision of the membership-adopted and board-approved TML legislative program. Thus, when asked by legislators, League staff were in support of it. Other municipal groups at the Capitol didn’t believe the bill appropriately benefitted their clients, and that conflict likely caused the bill to die in the late days of the session.

Similar legislation for electric rate cases, known as the periodic rate adjustment (PRA) bill, passed in 2011. S.B. 1693 (the “PRA bill”) was not as internally contentious as the GRIP reforms, but similar issues related to “who represented who” did arise during the session.

More recently, the issue of water rate regulation has bubbled to the surface. A number of cities are involved in trying to assist their citizens with unreasonable rate hikes proposed by investor-owned water utilities in the city's limits.

The bottom line is that it appears to be true that most city officials would agree that the League should oppose, in the abstract, legislation that would erode municipal authority over rate cases. For example, H.B. 3407 was filed in 2011 and would have provided that: (1) in establishing a gas utility's rates, the regulatory authority (e.g., a city or the Railroad Commission) may not allow the utility to recover through its rates the attorney's fees or other expenses incurred by any party in a rate proceeding or in an appeal of a rate proceeding; and (2) a court may not award to a party the right to recover through a gas utility's rates the attorney's fees or other expenses incurred by any party in a rate proceeding conducted or in an appeal of a rate proceeding. Assuming that cities wish to continue participating in gas rate cases, H.B. 3407 would have all but eliminated their ability to do so.

More difficult, however, is deciding whether, how the League should interact with other players in the system. Here are some issues the Subcommittee may wish to consider when crafting its position:

1. What should League lobbyists do when the League negotiates a ratemaking bill into something that we can live with but one or more city coalitions oppose the bill?
2. How should the League address ratemaking legislation that only benefits a certain coalition of cities but not the remainder of cities?
3. Should the League abandon ratemaking lobbying and leave it to the various coalitions to handle?
4. As an alternative to (3), should the League encourage the creation of a "task force" to which all city-related ratemaking lobby groups ceded some autonomy in exchange for a collective, unified front during legislative negotiations?

Because of the intricacies of these questions, the full TML Utilities and Transportation Committee created this subcommittee to review them and report back to the TML General Government Committee on August 24, 2012, for final action, if any.

After hearing presentations from the various coalitions, it may be that the Subcommittee could recommend the blanket position that the League should oppose legislation that would erode municipal authority over rate cases. In addition to that position, the Subcommittee may wish to recommend the creation of a "task force" to which the League and all city-related ratemaking lobby groups appoint one member. The League could then defer to the recommendations of that task force, so long as those recommendations do not conflict with any other provision in the 2013 TML legislative program.

Substantive Rate Case Issues

The following information was submitted by Greg Vick, City Manager of Elgin, and provides an excellent overview of municipal issues related to private water providers:

In Texas and other parts of the U.S., water supply corporations, IOU's, and other rural water companies have traditionally played a role with providing safe drinking water to rural America. Generally, their original purpose was adequate for farmers, and ranchers, and the occupants of those areas. As urban areas have grown, conflicts between the full water services cities provide and the limited service offered by these other providers have escalated. Many times these providers offered small water lines to large areas with very few customers per mile of line. Fire protection and addressing the needs of subdivisions was never a substantial consideration of these operators.

For dozens of years, the conflicts with cities have grown as the urban areas in America have expanded. Providing service to the public is where these providers fail regularly. Some examples of their failure to address the needs to the public and responsibility to the public are as follows:

1. Failure to provide any fire protection.
2. Providing false security for fire protection.
3. Allowing subdivisions to be created near cities with no fire protections.
4. Water rates, connection fees, and other charges that have no respect for the concerns cities consider regarding their citizens, both corporate and residential, or for their effects on economic development.
5. Others.

The state legislature has attempted to address this matter many times with limited or no success. One of the most recent efforts is now moving its way through federal court, primarily being opposed by the Texas Rural Water Association and a law firm from Oklahoma. Federal legislation also provides some "crutches" that protect these operators. Generally speaking, the concern that Texas cities express when managing the development, planning, growth, and rate structure of a water utility is "how can we best serve our citizens." These providers have little or no motivation to use this approach, instead seeing the water business as a for profit operation with little or no substantial rate or infrastructure oversight or standards by third parties.

Possible issues to address:

1. Special regulations and oversight by cities for these providers operating in city limits and ETJs.
2. Address 1926(b) concerns.
3. Address rate and tariff setting standards.

4. Address valuation issues when cities attempt to purchase all or part of these operations as they begin to cause problems for growth and expansion of cities.

Two separate issues could be addressed: (1) state and/or municipal oversight of private water providers, which can be addressed through state law; and (2) the 1926b issue, which would require changes to federal law.

With regard to rates and oversight of private water providers, Appendix A is a Texas Commission on Environmental Quality document that contains an overview of the area. The document is also available at:

<http://www.senate.state.tx.us/75r/senate/commit/c510/handouts11/0728-TCEQ.pdf>.

With regard to 1926b, the League has – over the past 15 years – sought the assistance of the National League of Cities (NLC) on the problem. In fact, the NLC national municipal policy currently contains the following provision:

NLC urges Congress to amend Title 7 U.S.C. Section 1926 to eliminate any restrictions on the ability of a municipality to provide a full range of services within any portion of a rural service district which is incorporated within a municipality. A mechanism should be provided allowing a municipality to make a negotiated cash payment to a rural district that will extinguish section 1926 territorial protection for specified portions of the district's territory.

However, the issue does not appear to have ever been a priority for NLC because the problem is more often than not a southern state phenomenon. That, and the fact that the rural water supply association is a powerful force in litigation and legislation, has meant little progress on the issue.

The Subcommittee may wish to discuss possible changes to state law with regard to water rate case and oversight issues, and may also wish to discuss a strategy for ameliorating the effects of 1926b.

Appendix A

UTILITY 101

Utilities & Districts Section
Water Supply Division
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (TCEQ)
June, 2011

HISTORY OF RATES IN TEXAS – The TCEQ or its predecessor agencies first became involved in rate regulation when the 1913 Irrigation Act provided broad general powers to set rates for waters of the State, i.e. surface water. (Current Water Code Sections 11.036 – 11.041 & 12.013) On September 1, 1975, the Texas Public Utility Commission was created to regulate telephone, electric, water and sewer utilities. On March 1, 1986, portions of the Public Utility Regulatory Act related to jurisdiction of retail water and sewer service were transferred from the Texas Utilities Code to the Texas Water Code and the authority over water and sewer utility regulation moved to the Texas Water Commission. Water Code Chapter 13 jurisdiction covers jurisdiction over retail water and sewer rates and utility service areas and is quite complex.

WATER AND SEWER UTILITY SERVICE PROVIDERS -- There are three types of entities that can provide water or utility service in Texas:

- Public utilities, also known as private or investor owned utilities (IOUs) are those for profit entities owned or operated by a person, corporation, cooperative corporation, affected counties, or combination of persons or entities, other than a municipal corporation, water supply or sewer corporation or political subdivision of the state, or their lessees, trustees and receivers. IOUs must obtain approval from the regulatory authority to change rates. Their rates generally cover reasonable operating and maintenance costs, depreciation expense and a return on the net book value of their utility investment. With a very few exceptions, IOUs are not eligible for low interest government loans or grants for infrastructure costs;
- Water supply or sewer service corporations (WSCs) are non-profit member owned and controlled corporations with membership elected boards. The WSC's board sets rates. Their rates generally cover reasonable operating and maintenance costs, a reserve fund and loan debt service expenses. The rate payers may appeal rate changes to the TCEQ. WSCs are eligible for low interest government loans and grants for infrastructure costs; and
- Political subdivisions, which includes counties (other than affected counties), water districts and cities, are non-profit entities with elected boards, councils or commissions. The political subdivision's boards sets rates. Their rates generally cover reasonable operating and maintenance costs, a reserve fund and also may include loan or bond debt service expenses unless that debt is pay for through taxes. The rate payers, except for in city customers, may appeal rate changes to the TCEQ. Political subdivisions are eligible for low interest government loans and grants or may sale bonds to cover infrastructure costs.

All of these entities are defined as “retail public utilities” in Water Code, Chapter 13. However, the IOUs are further defined in Chapter 13 as “public utilities or utilities”, a subset of the retail public utilities.

RATE JURISDICTION – Under Water Code Chapter 13, the TCEQ has original rate jurisdiction over public utilities; however, Water Code Section 13.042 grants cities original rate jurisdiction over public utilities operating within their corporate boundaries. The TCEQ does have appellate jurisdiction over the city’s rate making decisions affecting public utilities operating within its corporate limits. The TCEQ also has appellate jurisdiction under § 13.043(b) over rates for out-of-city retail customers of a municipality, all district retail customers, all water supply or sewer service customers and for retail customers of affected counties as defined by Water Code Section 13.002(26). For customers of these retail public utilities to appeal a rate change, they must file a petition signed by 10% of the affected customers with the TCEQ within 90 days of the effective date of the rate change (See RG-024). Cities and districts serving outside their corporate boundaries and affected counties are required to provide individual written notice of a rate change to affected customers. There are no requirements to provide notice of a rate change to customers receiving service from a city or district inside their corporate boundaries, or for customers of water supply or sewer service corporations, or other counties.

The TCEQ has appellate jurisdiction over wholesale rates of potable water and wastewater service under Water Code § 13.043(f) as well as wholesale rates for surface water (state water) under Water Code § 11.036 – 11.041 & 12.013. For wholesale water or sewer rate appeals, TCEQ rules provide for a bifurcated hearings process at the State Office of Administrative Hearings. The first step is a hearing to establish jurisdiction and determine if it is in the public interest based on the contract or agreement between the wholesale provider and purchaser to proceed to the second phase, a hearing on the wholesale rates. If it is determined during the first phase that the contract or agreement is in the public interest the hearing is concluded. However, if it is determined that the contract or agreement is not in the public interest, a hearing is held to set cost based wholesale rates.

BASIC UTILITY REGULATION

- A. *OVERVIEW* – Utility service providers are typically monopolies in the areas that they serve. The TCEQ grants Certificates of Public Convenience and Necessity (CCNs) which designate their service areas, in most cases making them the sole provider in the area. Utility regulation serves as a substitute for competition. The basic principles of rate regulation are based on the concepts of fairness and equity without unreasonable discrimination. A utility is entitled to rates that are just and reasonable. Decisions in utility cases have been based on constitutional prohibitions against the confiscation of private property. A utility is entitled to an opportunity to earn a fair return on the value of property used in providing utility service. Water Code Chapter 13

charges the TCEQ with assuring “rates, operations, and services that are just and reasonable to the consumers and to the retail public utilities.”

- B. **CCNs** – CCNs are designated utility service areas granting a virtual monopoly or franchise to a specific geographic area. They can eliminate expensive and impractical competition and provide a stable customer base to encourage a utility service provider to make the large capital expenditures for infrastructure necessary to provide quality service. Generally CCNs are issued for a geographic area identified by distinct physical boundaries such as metes and bounds, roads, creek, railroad tracks, etc. Occasionally they are issued for a strip of service area consisting of facilities plus 200 feet to either side of the facilities. Unless it infringes on another CCN, a service provider can extend service $\frac{1}{4}$ of a mile beyond the CCN boundaries without having to file for an amendment to their CCN. TCEQ can grant dual certification for two utilities to the same area; however this may negatively impact their ability to attract capital for infrastructure improvements. Extending service beyond the boundaries does not automatically extend the CCN and the service provider could be subject to competition in those areas. It is important to note that for a customer to be within a CCN area, the customer’s primary point of use (in most cases the residence) must be within the CCN area or within $\frac{1}{4}$ of a mile of the CCN boundary for extensions.

CCNs are required for public utilities, WSCs and affected counties. They are optional in most cases for cities, districts and other counties unless they want to serve in areas where service is already being lawfully provided by another utility. In those situations, a CCN is required. Although not required for districts, cities or other counties, many of these entities have acquired CCNs. The CCN clearly identifies where the utility service provider is required to serve, allows for master planning even beyond the corporate or district boundaries, limits potential competition and problems associated with having to take over utility systems in the future that do not meet standards and ensure customer confidence which can encourage planned growth.

The TCEQ approves applications to obtain, amend, transfer and cancel CCNs. CCNs are granted on a nondiscriminatory basis after consideration of the following criteria:

1. The financial, managerial and technical capability of the applicant;
2. The adequacy of service currently provided to the requested area;
3. The need for additional service in the requested area;
4. The effect of granting the CCN on landowners or other utilities in the area;
5. The ability of the applicant to provide adequate service;
6. The feasibility of obtaining service from an adjacent utility;
7. The financial ability and stability of the applicant;
8. Environmental integrity;

9. The probable improvement of service or lowering of cost to consumers; and
10. The effect on the land.

The CCN applicant must provide notice to affected current customers, landowners with 25 acres or more partially or wholly in the proposed area, neighboring utilities and must also publish notice in a local newspaper once a week for two consecutive weeks. Uncontested applications that meet all criteria are processed administratively. Contested applications are referred to the State Office of Administrative Hearings (SOAH) and a preliminary hearing is scheduled.

Public utilities and WSCs providing water service may be exempt from the requirement to obtain a CCN if they have less than 15 potential connections and are not within the service area of another retail public utility. Potentially exempt systems that already have a CCN may request cancellation, but must consider the potential benefits of operating under a CCN, especially if they are near another utility. There are currently no exemptions for sewer utilities.

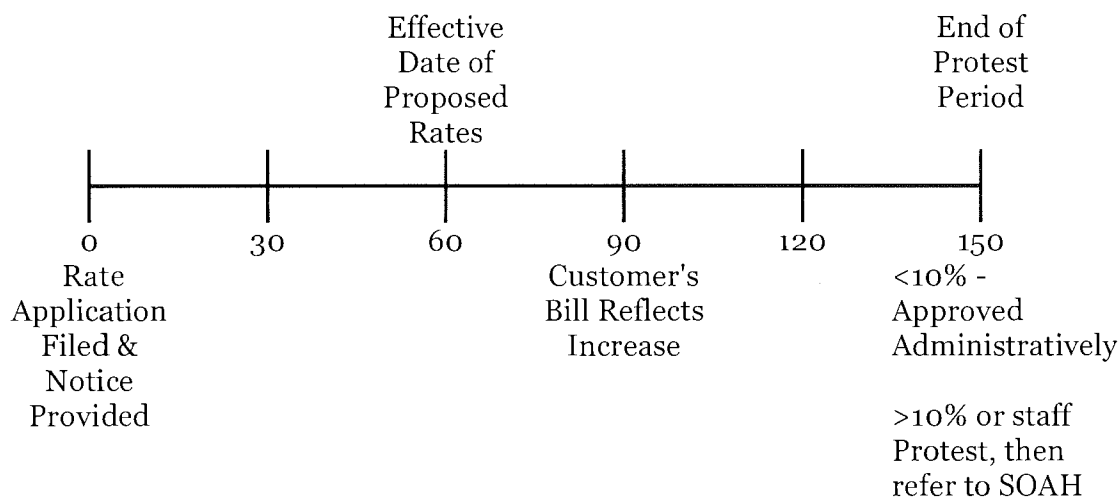
CCN areas can be transferred between utilities. If the utilities agree to the transfer, if there are no affected customers they may submit an agreement under Water Code § 13.248, if there are affected customers, they must submit a Sale, Transfer, Merger application under Water Code § 13.301. If the utilities cannot agree on a transfer, the uncertificated utility has three options: to submit a regular application to obtain a CCN and to either decertify the certificated utility or request dual certification under Water Code § 13.246; if it's a city it may submit an application under Water Code § 13.255 to be single certified; or a landowner may submit a request under Water Code § 13.254 for an expedited release.

- C. *PLANNING FOR FUTURE CAPACITY* – Any utility service provider that possesses a CCN is obligated to ensure adequate system capacity to service qualified applicants within its CCN area. If the system demand has reached 85% or more of design capacity when compared to the most restrictive criteria (well capacity, pumping, etc.) of the Commission's minimum capacity requirements in the Chapter 290 Rules and Regulations for Public Water Systems, the utility service provider must submit a planning report to the Commission in accordance with § 291.93(3) of the Commission's Rules explaining how the service provider plans to expand capacity to meet demands in the foreseeable future. Although the services of a licensed professional engineer are not required for the planning report required by the rule, it may be wise for a utility service provider to consult with an engineer when preparing the report. The report is due no later than 120 days after the system becomes aware that the demand reached 85% of capacity.
- D. *TARIFFS* – A tariff is the schedule of a retail public utility containing all rates, tolls, and charges along with the applicable rules, regulations and policies

which may include but not be limited to customer service, billings, disconnections, extensions, and drought contingency plans. The tariff provides a single, ready reference for utility staff and management and promotes customer confidence when the customer can be shown written policies. Public utilities, affected counties, and WSCs are required by the TCEQ to have tariffs and although cities, districts and other counties are not required to have them, but they are a very useful tool. WSCs are required to file their tariffs with the TCEQ, but are not required to obtain TCEQ approval of the tariffs. Political subdivisions are not required to file a tariff with the TCEQ and may have rate orders or ordinances that cover their rates, rules, policies, extensions and drought contingency plans.

An extension policy is a vital part of the tariff. If the policy is not followed consistently it may result in charges of discrimination. The extension policy describes the requirements, procedures and costs an applicant for new service may be required pay to connect to the utility's system. It may also include cost sharing programs to reimburse an original applicant when additional customers are added to a line originally paid for by the first applicant. The Commission has original jurisdiction over extension policies for IOUs, appellate jurisdiction over WSC extension policies, and no jurisdiction over extension policies for cities, districts and affected or other counties.

- E. *RETAIL RATE SETTING PROCESS FOR IOUs* – Public utilities or IOUs must file an application with the TCEQ or regulatory authority and provide notice to its affected customers when proposing to change rates. The comment or protest period is 150 days from the date the application is submitted and customer notice is provided. Sixty days after the notice is provided, the utility is required to put the proposed rates into effect so the customers see the impact of the proposed rates 30 days later when they receive their first affected bills. Thereafter, the customers have an additional 60 days to comment on the proposed rates. The chart below is a timeline of the comment period showing when the proposed rates are put into effect.



The staff may recommend interim rates if the proposed rates cannot be supported by the financial information provided by the utility in its initial application, or if the increase results in a significant change in an average customer's bill. If interim rates are set, the utility is required to notify its customers. The interim rate will be charged until a final rate is set. An interim rate is a temporary rate charged until a final rate is approved and is typically a lower amount somewhere between the current rate and the proposed rate increase. Under current law, an interim rate may only be set by the Commissioners or by an Administrative Law Judge (ALJ) after SOAH has assumed jurisdiction. The utility may have to credit the customers if a lower final rate is set or if a higher final rate is set, the customers may have to pay a surcharge to make up the difference.

If less than 10% or 1000 customers protest the application in writing, the application may be approved administratively. However, if 10% or 1000 customers, whichever is less, protest the IOU's customers protest the rate change application or if the Executive Director protests the rates, then it is referred to SOAH to schedule a hearing. Regardless, the TCEQ reviews the proposed rates to determine if the rates are just and reasonable. At SOAH, the ALJ names parties and allows the parties to mediate. If a settlement is reached then the case is referred back to the TCEQ to be approved administratively. If a settlement is not reached, a discovery schedule and evidentiary hearing date is set. After the evidentiary hearing the ALJ prepares a Proposal for Decision (PFD) based on the testimony for the Commission to consider. The Commission sets a final rate which can be appealed to District Court by any of the parties in the case.

F. Some of the key issues for a rate change include:

- a. Cost Based Rates – According to Chapter 13 of the Water Code and Chapter 291 of the Commission’s Rules, rates for public utilities must be cost based and may not be unreasonably preferential or prejudicial. Although there is a difference in the true cost to serve individual customers depending on how far they are from a well, elevation, etc., it isn’t practical to set a different rate for each customer. Therefore, rates are typically set by meter size since it represents the potential demand of the customer. Occasionally, rates are set for classes of customers with similar cost characteristics such as residential, commercial, or industrial users.
- b. Frequency of Rate Changes – Chapter 13 establishes a rate change procedure for public utilities which should encourage frequent, but smaller rate adjustments by allowing rate changes every 12 months and not requiring public hearings unless 10% of the customers protested. Frequent, smaller rate adjustments are preferable to less frequent, larger increases, but the vast majority of utilities have not taken advantage of this opportunity.
- c. Historical Test Year – Water Code Chapter 13 establishes a rate setting method for public utilities based on a historical test year. The historic test year looks at actual expenses over a recent 12 month period and includes adjustments for known and measurable changes such as power, chemical and salary expense changes, to establish the utility’s reasonable cost of service.
- d. Rate Implementation –Water Code Chapter 13 allows public utilities to place their proposed rates in effect 60 days after proper notice is provided to affected customers and to continue charging the proposed rates while the case proceeds through the hearing process. Customers can see how their utility bill will be impacted by the proposed change and the utility can begin to cover expenses already incurred. Refunds, with interest, are required if the proposed rates are not granted.
- e. Interim Rates – TCEQ can set interim rates under Water Code Chapter 13 to remain in effect during the pendency of the rate case or require that rates be escrowed. In instances where an increase is clearly unwarranted, interim rates can be set by the Commissioner or at the preliminary hearing by SOAH. One concern with setting interim rates is that if the final rates are higher than the interim rates, customers must pay the new rates plus a surcharge to make up the under payment.
- f. Suspended Rates- TCEQ can suspend rates for 150 days if the application or the statement of intent is not substantially complete or does not comply with the rules, the application may be rejected and the rate change suspended for up to 150 days.

- g. Revenue Requirement – The revenue requirement is the amount of money the utility reasonably needs every year to provide service to customers. The basic formula is:

$$\begin{aligned} \text{Revenue Requirement} = & \text{Reasonable Operations \& Maintenance} \\ & \text{Expenses} \\ & + \text{Depreciation on Utility Property} \\ & + \text{Taxes} \\ & + \text{Return on Rate Base (Invested Capital)} \\ & + \text{Acquisition Adjustment (if any)} \end{aligned}$$

Under the historical test year method, a utility looks at last year's expenses and revenues and raises the rates to cover the apparent revenue deficiency. There are a number of factors that affect revenues and expenses. The following abbreviated list of factors should help illustrate this point.

<u>Revenues Depend On</u>	<u>Revenues Requirements Depend On</u>
Number of customers	Number of customers
Customer water usage	Customer water usage
Weather	Weather
Conservation	Conservation
Rate changes	Capital Needs
Price elasticity	Compliance

Maintaining a stable or hopefully growing customer base is crucial to both revenues and revenue requirements or expenses. It is equally important to understand customer water usage patterns, the effects of weather changes, price elasticity, conservation and the effect of rate changes. Understanding and planning for changing capital needs in many cases is driven by changes in the TCEQ's requirements and the federal requirements in the Safe Drinking Water Act and Clean Water Act. A utility's compliance with federal and state requirements is absolutely essential to its long term viability.

A little planning when rate changes are being considered can go a long way toward heading off problems in the future. An effective cost of service study, which doesn't necessarily have to be expensive, may identify the reasons for cost increases and may also help properly assign or allocate these costs. The study is also invaluable when trying to communicate the reasons for rate increases to customers. If a study identifies needs to make major adjustments in how rates are allocated, it is usually wise to gradually make the adjustments to prevent rate shock and allow customers to adjust usage patterns, if necessary. Some of the key components of a cost of service study for a public utility or an IOU include:

- i. Operations & Maintenance Expenses – These are the actual day to day expenses of running the utility, The expenses may include but are not limited to salaries, contract labor, purchased water, chemicals, utilities, repairs and maintenance, office expenses, accounting and legal, insurance, miscellaneous, etc. The “known and measureable” changes in the cost of service that may include adjustments for expenses that have changed or will change after the end of the 12 month period such as fuel or insurance costs.
- ii. Depreciation of Utility Property – The utility recovers its actual initial investment in plant and equipment through depreciation using a straight line method over the projected useful life of the asset. For example, distribution lines have a recommended service life of 50 years which means that if a utility invested \$1,000,000 on the distribution system, a portion of the annual depreciation expense would include \$20,000 ($1,000,000/50$) to account for recovery of the cost of the distribution system.
- iii. Taxes – Payroll, property and federal income taxes on the profits are included.
- iv. Return on Rate Base (Invested Capital) – A utility is entitled to an opportunity to earn a reasonable rate of return on its investment in plant and equipment. The rate base is essentially the utility’s original investment at the time the assets were placed in service less the accumulated depreciation. It also includes a working capital allowance which includes reasonable inventories of materials and supplies, reasonable prepayments for operating expenses and an allowance up to 1/8 of operational and maintenance (O & M) expenses. In recent years the TCEQ has typically started with the most current BAA public utility bond average and made adjustments based on factors such as quality of service, compliance, water loss, and size of the system to determine the rate of return. (Note that this is after tax return because income taxes on the projected return were included above.) The return is not guaranteed. Rate of return, should reflect similar return that an investor would hope to receive on another investment with similar risks.
- v. Acquisition Adjustment – To encourage regionalization and consolidation, in addition to the depreciation of the original cost and return on rate base, a utility that purchases another utility at a price higher than the net book value (original cost less accumulated depreciation) may be eligible for a positive acquisition adjustment. A positive acquisition adjustment, if granted, would allow recovery of the difference between the purchase price and the net book value

in a straight line manner over the weighted average remaining useful life of the assets at an interest rate equal to the rate of return.

h. Rate Design

- i. Principles of Rate Design – Rates should be designed and schedules developed to yield the necessary revenue requirement. That may sound simple, but the revenue requirement is not guaranteed to the utility. Just because a rate design indicates that the revenues may be generated, it doesn't always equate to those revenues being collected or received. However, the closer rates are designed to match the true cost of service, the smaller the fluctuations in cash flow will be. There are at least eight attributes of a good rate design:

1. Yield total revenue requirements;
2. Practical to implement;
3. Freedom from controversy of interpretation;
4. Revenue stability from year to year;
5. Stability of rates themselves;
6. Fairness of rates in recovering cost of service;
7. Avoid undue discrimination; and
8. Efficiency of rates in discouraging wasteful use (Conservation).

ii. Basic Rate Structures

1. Fixed or flat rates – There is one charge no matter how much water is used. This design is typically used by sewer systems. It is also used by some small water systems that do not have customer meters but it is strongly discouraged by TCEQ because it does not encourage water conservation.
2. Variable rates – There is no base charge. This design does not include a “demand” component so water is paid for as it is used. This rate structure does encourage conservation but also causes large revenue fluctuations for the utility.
3. Fixed-variable – The fixed costs are used to calculate a base monthly charge which represents the demand the customer

can put on the system (by meter size or customer class) and may include some water. The variable costs are used to calculate a volume charge for the actual water usage. This structure is the most commonly used and also encourages conservation. Many water utilities that use this type of design are moving toward a base charge with no amount of water included in the bill and incorporating an increasing block rate structure for the volume charge. Increasing block consumption rate structures include higher gallonage charges for the higher gallon block tiers, but they can increase financial risk and revenue fluctuations, such as winter versus summer or wet versus dry years, and do not always change customer usage patterns.

4. Winter months averaging – This is often used for sewer customers instead of a flat rate if water consumption data is available. The monthly sewer bill is allocated based on the amount of water the customer used during the winter months. This provides a more accurate depiction of the amount of water the customer sends to the wastewater treatment plant since there is little or no outside watering done during the winter months.
- iii. System-wide or single tariff rates – Utilities often operate a number of separate, unconnected utility systems, but when they have similar physical and operational cost characteristics, the utility will typically request a system-wide or single tariff rate for all of its systems. Many utilities prefer a system wide rate because it may simplify record keeping, and enables utilities to make capital improvements that might not be supportable if each system operated as a stand alone operation. It is also necessary to consider, however, whether the costs of operating the systems involved are so different that it would be unfair to set the same rate for all. TCEQ rules allow system wide rates only if the utility can demonstrate similar conditions exist in the systems involved.
- i. Customer Acceptance – Rates based on the true cost of service yield revenues that are properly matched to expense and in the long term can build customer acceptance. Customers will typically accept rates based on the concepts of fairness and equity without unreasonable discrimination. Customers frequently do not understand how a utility's revenue requirement is determined or how rates are designed, but they do understand how they are impacted by the rates. It is essential that a utility effectively communicate with its customers the true cost of service and the constraints it faces related to supply, demand and the need for capital improvements. Failure to effectively communicate, especially before a rate increase is requested, could result in a contentious public hearing.

- G. *RETAIL RATE SETTING FOR WSCs AND POLITICAL SUBDIVISIONS*- When a board, council or commission sets rates, those affected customers that have an appeal have 90 days from the effective date of the rate change to file a petition with the TCEQ that provides specific information about the old rates, new rates and the nature of the appeal. If the petition is signed by over 10 percent of the affected customers the petition is referred to SOAH. The hearing process for retail rate appeals is very similar to the hearing process for IOUs and many of the issues outlined above are similar.

Current Rate Applications

The number of rate reviews performed annually is a key performance measure reported to the Legislative Budget Board. The TCEQ's total performance standard is set at 80 rate reviews per year. In FY 2010 the Water Supply Division completed a total of 129 rate reviews. As of June 30, 2011, the Water Supply Division has completed a total of 107 rate applications.

There are currently several controversial rate cases pending that have a high level of interest from legislators. Those cases include Monarch Utilities I, LP, Aqua Utilities, Inc. (Southeast Region Only), Canyon Lake Water Company, LCRA's rate appeals, Deer Creek Ranch Water Company, LLC, and Texas Landing Utilities.

The number of rate reviews performed annually is a key performance measure reported to the Legislative Budget Board. The TCEQ's total performance standard is set at 80 rate reviews per year. In FY 2010 the Water Supply Division completed a total of 129 rate reviews. Of those, 68 were contested and 54 settled and 7 went on to evidentiary hearing. As of June 30, 2011, the Water Supply Division has completed 123 rate applications.



Legislation Details (With Text)

File #: ID 17-645 **Version:** 1 **Name:**
Type: Resolution
File created: 5/9/2017 **In control:** City Council
On agenda: 5/23/2017 **Final action:**
Title: Consider approval of a resolution by the City of Denton, Texas ("City"), approving a change in the rates of Atmos Energy Corporation, Mid-Tex Division ("Atmos") as a result of a settlement between Atmos and the Atmos Texas Municipalities ("ATM") under the rate review mechanism; finding the rates set by the attached tariffs to be just and reasonable; finding that the meeting complied with the Open Meetings Act; declaring an effective date; and requiring delivery of the resolution to the company and legal counsel; and providing an effective date.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Atmos-Approving a change in rates.pdf, 2. Atmos 2017 map

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

Agenda Information Sheet

DEPARTMENT: Legal Department

ACM/CM: Aaron Leal, Interim City Attorney

Date: May 23, 2017

SUBJECT

Consider approval of a resolution by the City of Denton, Texas ("City"), approving a change in the rates of Atmos Energy Corporation, Mid-Tex Division ("Atmos") as a result of a settlement between Atmos and the Atmos Texas Municipalities ("ATM") under the rate review mechanism; finding the rates set by the attached tariffs to be just and reasonable; finding that the meeting complied with the Open Meetings Act; declaring an effective date; and requiring delivery of the resolution to the company and legal counsel; and providing an effective date.

ATMOS TEXAS MUNICIPALITIES

The City is a member of the Atmos Texas Municipalities (ATM). The ATM group was organized by a number of municipalities served by Atmos and has been represented by the law firm of Herrera & Boyle, PLLC (through Mr. Alfred R. Herrera). ATM also retained the services of a consulting firm, Utilitech, Inc. (Mr. Mike Brosch and Mr. Steve Carver) to assist in reviewing an application submitted by the Atmos Energy-Mid-Tex Division (Atmos) that seeks to increase its rates. Herrera & Boyle, PLLC and Utilitech, Inc. have participated in prior rate cases involving Atmos and have extensive knowledge and experience in rate matters affecting Atmos' rates, operations, and services.

HISTORY OF PRIOR RATE INCREASES

Increase Under Previous Version of RRM (Approved October 2010)

On March 15, 2010, Atmos requested an increase of \$70.1 million in its system-wide rates. ATM and Atmos settled on an increase of \$27 million for prospective rates.

Increase Under Previous Version of RRM (Approved September 2011)

On April 1, 2011, Atmos filed a request to increase rates system-wide by \$15.6 million. ATM and Atmos agreed to not increase base rates and permitted Atmos to recover \$6.6 million for the steel pipe replacement program.

General Rate Case (Approved December 2012)

In January 2012, Atmos sought an increase of about \$49.1 million. Ultimately, the ATM cities and Atmos were not able to reach agreement on an increase and Atmos filed an appeal to the Railroad Commission of Texas. The Railroad Commission approved an increase of about \$24.1 million, representing an increase in revenue of about 7%.

Prior Increase Under Current RRM (July 2013)

In the summer of 2013, Atmos and ATM entered into an agreement that approved a revised Rate Review Mechanism (RRM). The RRM approved in the summer of 2013 is the third iteration of that rate-setting mechanism.

On about July 15, 2013, Atmos submitted a request to increase rates under the current RRM. Atmos requested an increase in rates on a system-wide basis of \$22.7 million, which is an increase of about 5%. Following a series of settlement negotiations between Atmos' experts and ATM's experts, Atmos agreed to an increase of \$16.6 million, an increase in revenue of about 3.7%.

Prior Increase Under the RRM (June 2014) - Atmos Filed Appeal With the Railroad Commission - Gas Utility Docket (GUD) No. 10359:

On about February 28, 2014, Atmos filed its second request to increase rates under the current iteration of the RRM (the "2014 RRM") and requested a system-wide increase of about \$45.6 million (9.2% increase in revenue). ATM's consultants' preliminary assessment indicated that Atmos warranted at most an increase of \$26.6 million. A settlement was not reached, the ATM cities denied Atmos' proposed increase, and Atmos appealed ATM's denial of its revenue increase to the Railroad Commission. On appeal Atmos revised its request downward from \$45.6 million to \$43.8 million. Atmos implemented the full rates on June 1, 2014, subject to refund. The Commission held a hearing on September 3, 2014, and after the hearing, the hearing examiner proposed an increase of \$42.9 million, that is, only about \$860,000 less than Atmos requested.

Prior Increase Under the RRM (May 2015):

On February 27, 2015, Atmos submitted its third application under the current RRM seeking a *system-wide* rate increase of \$28.7 million ("2015 RRM"), which equates to an increase of about 5.6%. After review of Atmos' application, the Railroad Commission's proposal for decision in GUD No. 10359, and the Hearing Examiner's PFD for the 2014 RRM, ATM's Special Counsel and consultants concluded that if the matter were appealed to the Railroad Commission, the result would be an increase closer to about \$23 million.

Ultimately, ATM and Atmos settled the appeal related to Atmos' proposed increase for Atmos' 2014 RRM, and Atmos' 2015 RRM, for a combined increase in rates of about \$65.69 million, comprised on an increase of about \$43.82 million for its 2014 RRM and about \$21.87 million for its 2015 RRM.

Prior Increase Under the RRM (May 2016):

On about March 1, 2016, Atmos submitted its fourth application under the current RRM seeking a *system-wide* rate increase of \$35.4 million ("2016 RRM"), which equates to an increase of about 6.04%. After review of Atmos' application, the Railroad Commission's prior rulings, and Atmos' responses to requests for information submitted to Atmos by ATM's Special Counsel and consultants, ATM's consultants concluded that Atmos merited an increase of about \$10.8 million. ATM's Special Counsel presented its findings to Atmos, with which Atmos disagrees. Following negotiations with Atmos, Atmos agreed to an increase of \$29.9 million, which equates to an increase of about 5.5%.

Pending Increase Under RRM (May 2017):

On about March 1, 2017, Atmos submitted its fifth and final application under the current RRM seeking a *system-wide* rate increase of \$57.4 million ("2017 RRM"), which equates to a base-rate increase of about 8.35%. After review of Atmos' application, the Railroad Commission's prior rulings, and Atmos' responses to requests for information submitted to Atmos by ATM's Special Counsel and consultants, ATM's consultants concluded that Atmos merited an increase of about \$32.1 million. ATM's Special Counsel presented its findings to Atmos, with which Atmos disagrees. Following negotiations with Atmos, Atmos agreed to an increase of \$48.0 million, which equates to an increase of about 7%.

OPTIONS FOR CITY ACTION REGARDING ATMOS' 2017 RRM:

The item requiring City action is Atmos' 2017 RRM. At this juncture, the ATM cities' options are as follows:

- Option 1.** To deny Atmos' requested increase under the 2017 RRM of about \$57.4 million and approve no increase;
- Option 2.** To deny Atmos' requested increase and approve an increase of no more than \$32.1 million for its 2017 RRM, based on ATM's consultants' preliminary report;
- Option 3.** To take no action and allow Atmos' proposed increase of \$57.4 million to go into effect; or
- Option 4.** To approve a settlement agreement that resolves the 2017 RRM with an increase in rates of \$48.0 million.

Note that under Option 1 and Option 2, Atmos has the right to appeal the ATM cities' decisions to the Railroad Commission of Texas and pending such an appeal has the right to implement its proposed increase of \$57.4 million effective June 1, 2017, subject to refund if the Commission's review later finds a lower amount is appropriate. Atmos would very likely file an appeal to the Railroad Commission should the ATM cities approve an increase less than \$48.0 million.

In an appeal to the Commission, Atmos would in all likelihood argue that the costs of appeal should be borne by only those cities that "caused" the appeal. Given the Commission's tendency to err in favor of utilities, Atmos would likely prevail. An appeal would increase the burden on ratepayers by adding rate case expenses, which would include both ATM's and Atmos' costs of preparing and prosecuting the appeal, and the costs of a hearing.

RECOMMENDATION:

ATM's Special Counsel recommends resolving the 2017 RRM with an increase of \$48.0 million.

If the ATM Cities reject Atmos' settlement offer, Atmos would likely appeal the cities' decision to the Railroad Commission. While there are a number of contested issues whose outcome is uncertain in an appeal, based on the Railroad Commission's history and prior decisions, ATM's Special Counsel and consultants are of the opinion that the Railroad Commission would reach a result not materially different than the settlement amount of \$48.0 million, and perhaps approve a higher increase.

Therefore, because of the risks of a litigated outcome, including the cost of litigation at the Railroad Commission, ATM's special counsel advises the ATM cities to accept a settlement that increases Atmos' revenue by about \$48.0 million over the current revenue Atmos is collecting.

An increase under the 2017 RRM of \$48.0 million over the base-rate revenue Atmos is *currently* collecting, represents an increase of about 8% in a customer's bill excluding the cost of gas, and an increase of about 3% - 4% including the cost of gas, as shown in the table below:

Customer Class	Current Bill	Proposed Bill	Difference	% Increase with Gas Cost	% Increase without Gas Cost
Residential	\$52.78	\$54.82	\$2.04	3.87%	7.86%
Commercial	\$265.18	\$271.45	\$6.27	2.37%	8.00%
Industrial	\$5,384.76	\$5,557.89	\$173.13	3.22%	8.73%
Transportation	\$4,028.61	\$4,201.74	\$173.13	4.30%	8.73%

The rate schedules to accomplish the increase are attached to the Resolution related to Atmos' 2017 RRM.

The City should take action as soon as possible but no later than May 31, 2017.

EXHIBITS

1. Atmos Mid-Tex Resolution

Respectfully submitted:
Aaron Leal
Interim City Attorney

Prepared By:
Larry Collister
Deputy City Attorney

RESOLUTION NO. _____

A RESOLUTION BY THE CITY OF DENTON, TEXAS ("CITY"), APPROVING A CHANGE IN THE RATES OF ATMOS ENERGY CORPORATION, MID-TEX DIVISION ("ATMOS") AS A RESULT OF A SETTLEMENT BETWEEN ATMOS AND THE ATMOS TEXAS MUNICIPALITIES ("ATM") UNDER THE RATE REVIEW MECHANISM; FINDING THE RATES SET BY THE ATTACHED TARIFFS TO BE JUST AND REASONABLE; FINDING THAT THE MEETING COMPLIED WITH THE OPEN MEETINGS ACT; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THE RESOLUTION TO THE COMPANY AND LEGAL COUNSEL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Denton, Texas ("City") is a regulatory authority under the Gas Utility Regulatory Act ("GURA") and under § 103.001 of GURA has exclusive original jurisdiction over Atmos Energy Corporation – Mid-Tex Division's ("Atmos") rates, operations, and services within the municipality; 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, pursuant to the Rate Review Mechanism ("RRM") for 2017 filed with the City on or around March 1, 2017 for a proposed system-wide increase of \$57.4 million; and

WHEREAS, experts representing ATM have analyzed data furnished by Atmos and interviewed Atmos' management regarding the RRM; and

WHEREAS, the Steering Committee of ATM and its counsel recommend approval of the attached tariffs, set forth as Attachment A, along with the proof of revenues set forth as Attachment B, which results in an increase in Atmos' revenue of \$48.0 million, and Attachment C, setting forth the beginning balance for purposes of determining pension and other post-employment benefits to be recovered in the next rate filing; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY RESOLVES:

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

SECTION 2. The amended tariffs in Attachment A are hereby adopted to become effective on June 1, 2017.

SECTION 3. To the extent any Resolution previously adopted by the City Council is inconsistent with this Resolution, it is hereby superseded.

SECTION 4. 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. 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 6. This Resolution shall become effective from and after its passage.

SECTION 7. 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.

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:  _____

Attachment A

MID-TEX DIVISION
ATMOS ENERGY CORPORATION

RRC Tariff No:

RATE SCHEDULE:	R – RESIDENTIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 06/01/2017	PAGE:

Application

Applicable to Residential Customers for all natural gas provided at one Point of Delivery and measured through one meter.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and Ccf charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Bill	\$ 19.60 per month
Rider CEE Surcharge	\$ 0.02 per month ¹
Total Customer Charge	\$ 19.62 per month
Commodity Charge – All <u>Ccf</u>	\$0.14427 per Ccf

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Weather Normalization Adjustment: Plus or Minus an amount for weather normalization calculated in accordance with Rider WNA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

¹Reference Rider CEE - Conservation and Energy Efficiency as approved in GUD 10170. Surcharge billing effective July 1, 2016.

RATE SCHEDULE:	C – COMMERCIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 06/01/2017	PAGE:

Application

Applicable to Commercial Customers for all natural gas provided at one Point of Delivery and measured through one meter and to Industrial Customers with an average annual usage of less than 30,000 Ccf.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and Ccf charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Bill	\$ 44.70 per month
Rider CEE Surcharge	\$ 0.08 per month ¹
Total Customer Charge	\$ 44.78 per month
Commodity Charge – All Ccf	\$ 0.09279 per Ccf

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Weather Normalization Adjustment: Plus or Minus an amount for weather normalization calculated in accordance with Rider WNA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

¹ Reference Rider CEE - Conservation and Energy Efficiency as approved in GUD 10170. Surcharge billing effective July 1, 2016.

RATE SCHEDULE:	I – INDUSTRIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 06/01/2017	PAGE:

Application

Applicable to Industrial Customers with a maximum daily usage (MDU) of less than 3,500 MMBtu per day for all natural gas provided at one Point of Delivery and measured through one meter. Service for Industrial Customers with an MDU equal to or greater than 3,500 MMBtu per day will be provided at Company's sole option and will require special contract arrangements between Company and Customer.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and MMBtu charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Meter	\$ 799.75 per month
First 0 MMBtu to 1,500 MMBtu	\$ 0.3374 per MMBtu
Next 3,500 MMBtu	\$ 0.2470 per MMBtu
All MMBtu over 5,000 MMBtu	\$ 0.0530 per MMBtu

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Curtailment Overpull Fee

Upon notification by Company of an event of curtailment or interruption of Customer's deliveries, Customer will, for each MMBtu delivered in excess of the stated level of curtailment or interruption, pay Company 200% of the midpoint price for the Katy point listed in *Platts Gas Daily* published for the applicable Gas Day in the table entitled "Daily Price Survey."

Replacement Index

In the event the "midpoint" or "common" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" is no longer published, Company will calculate the applicable imbalance fees utilizing a daily price index recognized as authoritative by the natural gas industry and most closely approximating the applicable index.

RATE SCHEDULE:	I – INDUSTRIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 06/01/2017	PAGE:

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

Special Conditions

In order to receive service under Rate I, Customer must have the type of meter required by Company. Customer must pay Company all costs associated with the acquisition and installation of the meter.

RATE SCHEDULE:	T – TRANSPORTATION	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 06/01/2017	PAGE:

Application

Applicable, in the event that Company has entered into a Transportation Agreement, to a customer directly connected to the Atmos Energy Corp., Mid-Tex Division Distribution System (Customer) for the transportation of all natural gas supplied by Customer or Customer's agent at one Point of Delivery for use in Customer's facility.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's bill will be calculated by adding the following Customer and MMBtu charges to the amounts and quantities due under the riders listed below:

Charge	Amount
Customer Charge per Meter	\$ 799.75 per month
First 0 MMBtu to 1,500 MMBtu	\$ 0.3374 per MMBtu
Next 3,500 MMBtu	\$ 0.2470 per MMBtu
All MMBtu over 5,000 MMBtu	\$ 0.0530 per MMBtu

Upstream Transportation Cost Recovery: Plus an amount for upstream transportation costs in accordance with Part (b) of Rider GCR.

Retention Adjustment: Plus a quantity of gas as calculated in accordance with Rider RA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Imbalance Fees

All fees charged to Customer under this Rate Schedule will be charged based on the quantities determined under the applicable Transportation Agreement and quantities will not be aggregated for any Customer with multiple Transportation Agreements for the purposes of such fees.

Monthly Imbalance Fees

Customer shall pay Company the greater of (i) \$0.10 per MMBtu, or (ii) 150% of the difference per MMBtu between the highest and lowest "midpoint" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" during such month, for the MMBtu of Customer's monthly Cumulative Imbalance, as defined in the applicable Transportation Agreement, at the end of each month that exceeds 10% of Customer's receipt quantities for the month.

RATE SCHEDULE:	T – TRANSPORTATION	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 06/01/2017	PAGE:

Curtailment Overpull Fee

Upon notification by Company of an event of curtailment or interruption of Customer's deliveries, Customer will, for each MMBtu delivered in excess of the stated level of curtailment or interruption, pay Company 200% of the midpoint price for the Katy point listed in *Platts Gas Daily* published for the applicable Gas Day in the table entitled "Daily Price Survey."

Replacement Index

In the event the "midpoint" or "common" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" is no longer published, Company will calculate the applicable imbalance fees utilizing a daily price index recognized as authoritative by the natural gas industry and most closely approximating the applicable index.

Agreement

A transportation agreement is required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

Special Conditions

In order to receive service under Rate T, customer must have the type of meter required by Company. Customer must pay Company all costs associated with the acquisition and installation of the meter.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RIDER:	WNA – WEATHER NORMALIZATION ADJUSTMENT	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 11/01/2017	PAGE:

Provisions for Adjustment

The Commodity Charge per Ccf (100 cubic feet) for gas service set forth in any Rate Schedules utilized by the cities of the Mid-Tex Division service area for determining normalized winter period revenues shall be adjusted by an amount hereinafter described, which amount is referred to as the "Weather Normalization Adjustment." The Weather Normalization Adjustment shall apply to all temperature sensitive residential and commercial bills based on meters read during the revenue months of November through April. The five regional weather stations are Abilene, Austin, Dallas, Waco, and Wichita Falls.

Computation of Weather Normalization Adjustment

The Weather Normalization Adjustment Factor shall be computed to the nearest one-hundredth cent per Ccf by the following formula:

$$WNAF_i = R_i \frac{(HSF_i \times (NDD-ADD))}{(BL_i + (HSF_i \times ADD))}$$

Where i = any particular Rate Schedule or billing classification within any such particular Rate Schedule that contains more than one billing classification

$WNAF_i$ = Weather Normalization Adjustment Factor for the i^{th} rate schedule or classification expressed in cents per Ccf

R_i = Commodity Charge rate of temperature sensitive sales for the i^{th} schedule or classification.

HSF_i = heat sensitive factor for the i^{th} schedule or classification divided by the average bill count in that class

NDD = billing cycle normal heating degree days calculated as the simple ten-year average of actual heating degree days.

ADD = billing cycle actual heating degree days.

BL_i = base load sales for the i^{th} schedule or classification divided by the average bill count in that class

The Weather Normalization Adjustment for the j th customer in i th rate schedule is computed as:

$$WNA_j = WNAF_i \times q_{ij}$$

Where q_{ij} is the relevant sales quantity for the j th customer in i th rate schedule.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RIDER:	WNA – WEATHER NORMALIZATION ADJUSTMENT	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 11/01/2017	PAGE:

Base Use/Heat Use Factors

Weather Station	<u>Residential</u>		<u>Commercial</u>	
	Base use <u>Ccf</u>	Heat use <u>Ccf/HDD</u>	Base use <u>Ccf</u>	Heat use <u>Ccf/HDD</u>
Abilene	9.79	0.1347	93.16	0.6060
Austin	10.37	0.1483	190.68	0.9069
Dallas	13.36	0.2089	180.35	1.0191
Waco	9.64	0.1348	124.37	0.5791
Wichita Falls	11.20	0.1412	107.96	0.5571

Weather Normalization Adjustment (WNA) Report

On or before June 1 of each year, the Company posts on its website at atmosenergy.com/mtx-wna, in Excel format, a *Weather Normalization Adjustment (WNA) Report* to show how the Company calculated its WNAs factor during the preceding winter season. Additionally, on or before June 1 of each year, the Company files one hard copy and an Excel version of the *WNA Report* with the Railroad Commission of Texas' Gas Services Division, addressed to the Director of that Division.

ATMOS ENERGY CORP., MID-TEX DIVISION
SUMMARY OF CURRENT AND PROPOSED RATE STRUCTURE - BASE RATES
TEST YEAR ENDING DECEMBER 31, 2016

Line No.	Description	Current ICL (b)	Proposed ICL (c)
1	Rate R		
2	Customer Charge per month	\$ 19.08	\$ 19.60
3	Customer Charge Rate Case Expense Recovery	0.02	-
4	Total Customer Charge	\$ 19.10	\$ 19.60
5			
6	Consumption Charge per CCF	\$ 0.11378	\$ 0.14427
7			
8			
9	Rate C		
10	Customer Charge per month	\$ 41.70	\$ 44.70
11	Customer Charge Rate Case Expense Recovery	0.05	-
12	Total Customer Charge	\$ 41.75	\$ 44.70
13			
14	Consumption Charge per CCF	\$ 0.08494	\$ 0.09279
15			
16			
17	Rate I & T		
18	Customer Charge per month	\$ 737.00	\$ 799.75
19	Customer Charge Rate Case Expense Recovery	1.00	-
20	Total Customer Charge	\$ 738.00	\$ 799.75
21			
22	Consumption Charge per MMBTU:		
23	First 1,500 MMBTU	\$ 0.3096	\$ 0.3374
24	Next 3,500 MMBTU	\$ 0.2267	\$ 0.2470
25	Over 5,000 MMBTU	\$ 0.0486	\$ 0.0530

**ATMOS ENERGY CORP., MID-TEX DIVISION
PROPOSED TARIFF STRUCTURE (BEFORE RATE CASE EXPENSE RECOVERY)
TEST YEAR ENDING DECEMBER 31, 2016**

(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)
1	Proposed Change In Rates:									
2	Proposed Change In Rates without Revenue Related Taxes:	\$	48,000,000	Schedule A						
3		\$	44,800,457	Ln 1 divided by factor on WP_F.5.1						
4										
5										

	Revenue Requirements	Allocations	Per GUD 10170 Final Order
6 Residential	\$ 338,431,486	77.95%	Per GUD 10170 Final Order
7 Commercial	84,223,622	19.40%	Per GUD 10170 Final Order
8 Industrial and Transportation	11,490,316	2.65%	Per GUD 10170 Final Order
9 Net Revenue Requirements GUD No. 10170	\$ 434,145,424		

With Proportional Increase all classes but Residential and a 40% residential base charge increase.

	Current	Prospective	Revenues
18 Residential Base Charge	\$ 19.08	\$ 0.77	\$ 13,969,407
19 Residential Consumption Charge	\$ 0.11378	\$ 0.02502	\$ 20,954,111
20 Commercial Base Charge	\$ 41.70	\$ 2.96	\$ 4,345,614
21 Commercial Consumption Charge	\$ 0.08494	\$ 0.00797	\$ 4,345,614
22 I&T Base Charge	\$ 737.00	\$ 62.70	\$ 592,856
23 I&T Consumption Charge Tier 1 MMBTU	\$ 0.3096	\$ 0.0278	\$ 279,522
24 I&T Consumption Charge Tier 2 MMBTU	\$ 0.2267	\$ 0.0203	\$ 225,635
25 I&T Consumption Charge Tier 3 MMBTU	\$ 0.0486	\$ 0.0044	\$ 87,699
26			\$ 44,800,457

Data Sources:
GUD10170_FINAL.xlsx

In accordance with RRM tariff:

	Proposed Change In Revenues	Proposed Rates	Proposed Revenues
Residential Base Charge	\$ 0.52	\$ 19.60	\$ 353,851,897
Residential Consumption Charge	\$ 0.03049	\$ 0.14427	\$ 120,821,718
Commercial Base Charge	\$ 3.00	\$ 44.70	\$ 65,707,365
Commercial Consumption Charge	\$ 0.00785	\$ 0.09279	\$ 50,595,093
I&T Base Charge	\$ 62.75	\$ 799.75	\$ 7,562,427
I&T Consumption Charge Tier 1 MMBTU	\$ 0.0278	\$ 0.3374	\$ 3,394,949
I&T Consumption Charge Tier 2 MMBTU	\$ 0.0203	\$ 0.2470	\$ 2,739,848
I&T Consumption Charge Tier 3 MMBTU	\$ 0.0044	\$ 0.0530	\$ 1,065,879
	\$ 44,797,060		\$ 605,739,177

Line	June 1, 2016									
	PROPOSED					CHANGE				
1	Rate R @ 46.3 Ccf									
2	Customer charge									
3	Consumption charge									
4	Rider GCR Part A									
5	Rider GCR Part B									
6	Subtotal									
7	Rider FF & Rider TAX									
8	Total									
9										
10	Customer charge									
11	Consumption charge									
12	Rider GCR Part A									
13	Rider GCR Part B									
14	Subtotal									
15	Rider FF & Rider TAX									
16	Total									
17										
18										
19	Rate C @ 371 Ccf									
20	Customer charge									
21	Consumption charge									
22	Rider GCR Part A									
23	Rider GCR Part B									
24	Subtotal									
25	Rider FF & Rider TAX									
26	Total									
27										
28	Customer charge									
29	Consumption charge									
30	Rider GCR Part A									
31	Rider GCR Part B									
32	Subtotal									
33	Rider FF & Rider TAX									
34	Total									
35										

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Rate I @ 4364 MMBTU		CURRENT		PROPOSED		CHANGE	
36	Customer charge		\$ 738.00				
37	Consumption charge		464.40				
38	Consumption charge		649.26				
39	Consumption charge		-				
40	Consumption charge		1,265.76				
41	Rider GCR Part A		1,908.41				
42	Rider GCR Part B		5,025.83				
43	Subtotal		358.93				
44	Rider FF & Rider TAX		5,384.76				
45	Total						
46							
47	Customer charge						
48	Consumption charge						
49	Consumption charge						
50	Consumption charge						
51	Rider GCR Part A						
52	Rider GCR Part B						
53	Subtotal						
54	Rider FF & Rider TAX						
55	Total						
56							
57	Rate I @ 4364 MMBTU						
58	Customer charge		\$ 738.00				
59	Consumption charge		464.40				
60	Consumption charge		649.26				
61	Consumption charge		-				
62	Rider GCR Part B		1,908.41				
63	Subtotal		3,760.07				
64	Rider FF & Rider TAX		268.54				
65	Total		4,028.61				
66							
67	Customer charge						
68	Consumption charge						
69	Consumption charge						
70	Consumption charge						
71	Rider GCR Part B						
72	Subtotal						
73	Rider FF & Rider TAX						
74	Total						
75							

ATTACHMENT C
ATMOS ENERGY CORP., MID-TEX DIVISION
PENSIONS AND RETIREE MEDICAL BENEFITS FOR CITIES APPROVAL
TEST YEAR ENDING DECEMBER 31, 2016

Line No.	Description (a)	Shared Services (b)		Mid-Tex Direct (c)		Mid-Tex Direct (d)		Mid-Tex Direct (e)		Mid-Tex Direct (f)		Adjustment Total (g)
		Pension Account Plan ("PAP")	Post-Retirement Medical Plan ("FAS 106")	Pension Account Plan ("PAP")	Post-Retirement Medical Plan ("FAS 106")	Pension Account Plan ("PAP")	Post-Retirement Medical Plan ("FAS 106")	Supplemental Executive Benefit Plan ("SERP")	Retirement Medical Plan ("FAS 106")	Supplemental Executive Benefit Plan ("SERP")	Retirement Medical Plan ("FAS 106")	
1	Fiscal Year 2017 Willis Towers Watson Report as adjusted (1), (\$ 5,004,862	\$ 2,864,121	\$ 8,234,627	\$ 194,941	\$ 4,375,142						
2	Allocation to Mid-Tex	45.03%	45.03%	71.23%	100.00%	71.23%						
3	Fiscal Year 2017 Actuarially Determined O&M Benefits (Ln 1 x Ln 2)	\$ 2,253,477	\$ 1,289,592	\$ 5,865,537	\$ 194,941	\$ 3,116,420						
4	O&M and Capital Allocation Factor	100.00%	100.00%	100.00%	100.00%	100.00%						
5	Fiscal Year 17 Willis Towers Watson Benefit Costs To Approve (excluding Removed Cost Centers) (Ln 3 x Ln 4)	\$ 2,253,477	\$ 1,289,592	\$ 5,865,537	\$ 194,941	\$ 3,116,420						
6												
7												
8	Summary of Costs to Approve:											
9												
10	Total Pension Account Plan ("PAP")	\$ 2,253,477	\$ 1,289,592	\$ 5,865,537		\$ 8,119,015						
11	Total Post-Retirement Medical Plan ("FAS 106")				\$ 194,941	4,406,012						
12	Total Supplemental Executive Retirement Plan ("SERP")					194,941						
13	Total (Ln 10 + Ln 11 + Ln 12)	\$ 2,253,477	\$ 1,289,592	\$ 5,865,537	\$ 194,941	\$ 12,719,968						
14												
15												
16	O&M Expense Factor	74.05%	74.05%	37.75%	20.00%	37.75%						
17												
18	Expense Portion (Ln 13 x Ln 16)	\$ 1,668,700	\$ 954,943	\$ 2,214,432	\$ 38,988	\$ 1,176,551						
19												
20	Capital Factor	25.95%	25.95%	62.25%	80.00%	62.25%						
21												
22	Capital Portion (Ln 13 x Ln 20)	\$ 584,777	\$ 334,649	\$ 3,651,105	\$ 155,953	\$ 1,939,870						
23												
24	Total (Ln 18 + Ln 22)	\$ 2,253,477	\$ 1,289,592	\$ 5,865,537	\$ 194,941	\$ 12,719,968						