



## Legislation Details (With Text)

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**Title:** Consider approval of a resolution by the City of Denton; authorizing participation in a coalition of similarly situated cities in connection with the statement of intent to change rate CGS and rate PT of Atmos Pipeline-Texas filed on or about January 6, 2017; authorizing participation in related rate proceedings; authorizing the retention of special counsel; requiring the reimbursement of municipal rate case expenses; finding that the meeting complies with the open meetings act; and making other findings and provisions related to the subject

**Sponsors:**

**Indexes:**

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**Attachments:** 1. Exhibit 1 Resolution

Date	Ver.	Action By	Action	Result
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## Agenda Information Sheet

**DEPARTMENT:** Legal Department

**CM/ ACM:** Anita Burgess

**Date:** February 21, 2017

### SUBJECT

Consider approval of a resolution by the City of Denton; authorizing participation in a coalition of similarly situated cities in connection with the statement of intent to change rate CGS and rate PT of Atmos Pipeline-Texas filed on or about January 6, 2017; authorizing participation in related rate proceedings; authorizing the retention of special counsel; requiring the reimbursement of municipal rate case expenses; finding that the meeting complies with the open meetings act; and making other findings and provisions related to the subject

### BACKGROUND

On or about January 6, 2017, Atmos Pipeline Texas (“APT” or “Atmos”) submitted a Statement of Intent with the Railroad Commission of Texas to raise “Rate CGS” (“city gate service”) and Rate PT (“pipeline transportation”). This request represents an increase in revenue of approximately \$72.9 million or a 17.38% increase over current revenues.

The proposed increase directly affects the following firm transportation customers: Atmos Energy Corp., Mid-Tex Division; Co-Serv Gas Ltd.; the City of Rising Star; the City of Navasota; Corix Utilities, Inc.; Terra Gas Supply; Terra Gas Service, Co.; and WTG Marketing, Inc. In addition, there are 70 interruptible customers who take service under “Rate PT - Pipeline Transportation” and that will be affected by this rate increase request.

It is expected that Atmos MidTex (the distribution gas-utility company) will pass along to its customers, APT’s proposed increase in rates. Thus, the rates that the City’s citizens and businesses, and the City as a consumer of gas-utility services pay Atmos Texas

MidTex (the distribution gas-utility company), will likely be affected by APT's proposed rate increase.

On a rate schedule basis, the impact is as follows:

#### Capacity Charges

Rate Schedule	Current Capacity Charge per MMBtu of MDQ	Proposed Capacity Charge per MMBtu of MDQ	Difference	Percentage Increase
Rate CGS ("City Gate Service") - MidTex	\$9.1275	\$11.24146	\$2.11396	23%
Rate CGS - Other	\$9.1275	\$11.24146	\$2.11396	23%
Rate PT ("Pipeline Transportation")	\$4.8331	\$7.70001	\$2.86691	59%

The customer charge in a customer's bill is the "Maximum Daily Quantity" ("MDQ"), multiplied by the capacity charges shown in the table above.

#### Usage Charge

Rate Schedule	Current Usage Charge per MMBtu	Proposed Usage Charge per MMBtu	Difference	Percentage Increase
Rate CGS - Mid-Tex	\$0.0276	\$0.02785	\$0.00025	1%
Rate CGS - Other	\$0.0276	\$0.02785	\$0.00025	1%
Rate PT	\$0.0163	\$0.01325	(\$0.00305)	-19%

APT seeks a Return on Equity (ROE) of 13.5% and a capital structure weighted toward equity - 59.83% Equity and 40.17% Debt. More recently the ROE the Railroad Commission has approved have been materially lower than APT is requesting.

APT also seeks to revise its depreciation rates for its capital assets.

#### **REPRESENTATION**

The law firm of Herrera & Boyle, PLLC (through Mr. Alfred R. Herrera) has previously represented the Atmos Texas Municipalities ("ATM") in rate matters involving APT as well as other Texas cities in rate case matters. Thus, the law firm of Herrera & Boyle, PLLC has substantial experience in rate case matters generally and specifically in dealings with APT and the Railroad Commission of Texas ("Commission").

#### **INTERVENTION AT THE RAILROAD COMMISSION OF TEXAS AND COURT PROCEEDINGS, IF ANY**

Atmos Pipeline Texas filed its Statement of Intent to raise rates with the Railroad Commission of Texas. It is important to participate in the Commission's proceedings related to APT's rate application because its final decision will impact rates within the City. Thus, the accompanying Resolution authorizes intervention in

proceedings at the Railroad Commission including any related commission and court proceedings.

### **RATE CASE EXPENSES**

Cities, by statute, are entitled to reimbursement of their reasonable rate case expenses from the utility. Legal counsel and consultants approved by the City will submit monthly invoices to a member ATM city that will be forwarded to APT for reimbursement.

### **ACTION: INTERVENTION IN THE RAILROAD COMMISSION PROCEEDING PERTAINING TO APT'S RATE CASE**

Unlike proceedings brought by gas distribution utilities to increase rates, Texas municipalities do not have jurisdiction over the rates of gas pipeline companies. Under Texas law, the Railroad Commission of Texas has exclusive original jurisdiction over the rates of gas pipeline companies. Therefore, the City's opportunity to evaluate and affect APT's proposed rate increase is to intervene as a party in the pending APT rate proceeding at the Railroad Commission of Texas.

### **RECOMMENDATION**

It is recommended that the City authorize intervening in APT's pending rate proceeding at the Railroad Commission as part of the coalition of similarly-situated municipalities known as the Atmos Texas Municipalities (ATM).

It is also recommended that the City retain the law firm of Herrera & Boyle, PLLC to represent the City's interest in matters related to APT's rate proceeding at the Railroad Commission, including any appeals, and to advise the City with regard to APT's application.

To ensure full participation in the proceedings at the Railroad Commission, it is recommended that the City take action authorizing intervention at its earliest opportunity in order to maximize the benefits of participation as a party in the proceedings at the Railroad Commission.

### **EXHIBITS**

1. Resolution

Respectfully submitted:

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Prepared by:

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