

RESOLUTION NO. 34-2005

**A RESOLUTION BY ABILENE, TEXAS ORDERING ATMOS ENERGY, MID-TEX DIVISION TO SHOW CAUSE REGARDING THE REASONABLENESS OF ITS EXISTING NATURAL GAS DISTRIBUTION RATES WITHIN THE CITY; REQUIRING ATMOS ENERGY, MID-TEX DIVISION TO SUBMIT A RATE PACKAGE BASED ON A RATE YEAR ENDING JUNE 30, 2005; DIRECTING THAT SUCH FILING SHALL BE MADE BY DECEMBER 31, 2005; REQUIRING REIMBURSEMENT OF REASONABLE LEGAL AND CONSULTANT EXPENSES; AND REQUIRING DELIVERY OF THIS RESOLUTION TO THE COMPANY AND LEGAL COUNSEL.**

WHEREAS, the City is a regulatory authority under the Gas Utility Regulatory Act (“GURA”) and has original jurisdiction over the gas utility rates of Atmos Mid-Tex; and

WHEREAS, the City has the authority under §§ 103.001 and 104.151, GURA, to initiate a proceeding to determine whether the existing rates of a gas utility are unreasonable or in any way in violation of any provision of law; and

WHEREAS, upon making a finding of unreasonableness, the City may determine the just and reasonable rates to be charged by Atmos Mid-Tex; and

WHEREAS, Atmos Energy Corporation, the parent company of Atmos Mid-Tex has recently experienced system-wide cost reductions due to the doubling of its nationwide customer base with the acquisition of the assets of TXU Gas, and has reported to its investors that it has experienced a significant increase in profits related to its Texas divisions; and

WHEREAS, Atmos Mid-Tex is charging rates approved based on the higher expenses and equity-to-debt ratio of TXU Gas, rather than rates that would be justified based on Atmos’ lower expenses and equity-to-debt ratio; and

WHEREAS, ratepayers of Atmos Mid-Tex, including the City and its residents, will suffer further unreasonable adverse impact from the GRIP rate increases approved by the Texas Railroad Commission and the second GRIP filing recently made by Atmos Mid-Tex; and

WHEREAS, the Commission's failure to consider testimony and argument offered by Cities during its consideration of the Company's piecemeal GRIP rate applications leaves Cities no functional choice but to exercise its statutory right to exercise original jurisdiction over Atmos' base rates and compel a comprehensive rate review; and

WHEREAS, the City has reason to believe that Atmos Mid-Tex is over-earning and that its rates are excessive; and

WHEREAS, Cities and their residents are about to experience unprecedented increases in the cost of natural gas during the heating season and protection of the public interest requires a comprehensive review of Atmos' cost of service to determine whether rates and services are just and reasonable; and

WHEREAS, Atmos Mid-Tex should be required to justify its rates on a system-wide basis; and

WHEREAS, the coalition of cities formed to review Atmos' GRIP filings (the Atmos Cities Steering Committee, or "ACSC") can most efficiently review the Atmos filing on behalf of the City; and

WHEREAS, the reasonable costs associated with the City's review of the Company's rates are reimbursable from Atmos Mid-Tex;

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

1. That Atmos Mid-Tex is hereby directed to show cause regarding the reasonableness of its existing natural gas distribution rates within the City. Atmos shall file with the City information sufficient to determine the Company's rate base, expenses, investment, and rate of return. Such filing shall be on a system-wide basis and shall be based upon a rate year ending June 30, 2005. Atmos Mid-Tex is directed to file its rate-filing package to comply, at a minimum, with the regulations and requirements of the Railroad Commission. The filing shall be made with the City on or before December 31, 2005. An electronic copy of the filing shall be made with the City simultaneously with the written filing on December 31, 2005. This filing shall be the same filing as made with the first coalition city to pass the same or similar Show Cause Resolution.

2. City's designated representatives shall have the right to obtain additional information from Atmos through the filing of written requests for information, to each of which Atmos shall respond in writing within fourteen (14) calendar days from the receipt of each such request for information.

3. A public hearing shall be conducted by the City. Based upon such hearing, the briefing of staff, and the consultants' findings, a determination of the reasonableness of the existing rates of Atmos shall be made by the City and, if necessary, just and reasonable rates shall be determined to be thereafter observed and enforced for all services of Atmos within the City.

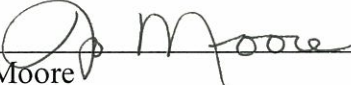
4. The City may, from time to time, amend this procedural schedule and the filing requirements, and enter additional orders as may be necessary in the public interest and to enforce the provisions hereof.

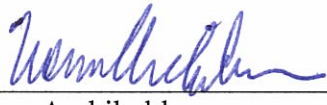
5. Atmos Mid-Tex shall promptly reimburse the City's reasonable monthly costs associated with the City's activities related to the rate review.

6. A copy of this Resolution shall be sent to Atmos Mid-Tex, care of Richard T. Reis, at Atmos Energy Corporation, 5420 LBJ Freeway, Suite 1800, Dallas, Texas 75240, and to Geoffrey Gay, legal counsel to the coalition of cities, at Lloyd Gosselink, P.O. Box 1725, Austin, Texas 78767-1725.


PASSED this the 3rd day of November, 2005.

ATTEST:

  
\_\_\_\_\_  
Jo Moore  
City Secretary

  
\_\_\_\_\_  
Norm Archibald  
Mayor

APPROVED:

  
\_\_\_\_\_  
Sharon F. Hicks  
City Attorney

**CERTIFICATE FOR RESOLUTION**

**THE STATE OF TEXAS** :  
**COUNTIES OF JONES AND TAYLOR** :  
**CITY OF ABILENE** :

We, the undersigned officers of said City, hereby certify as follows:

1. The City Council of said City convened in **REGULAR MEETING ON THE 3rd DAY OF NOVEMBER, 2005**, at the City Hall, and the roll was called of the duly constituted officers and members of said City Council, to-wit:

Norm Archibald, Mayor  
Kris Southward, Mayor Pro Tem  
Sam Chase, Deputy Mayor Pro Tem  
Dr. John Hill  
Anthony Williams  
Stormy Higgins  
Laura Moore

Jo Moore, City Secretary

and all of said persons were present, except the following absentees: None, thus constituting a quorum. Whereupon, among other business, the following was transacted at said Meeting: a written

**RESOLUTION # 35-2005**  
**DIRECTING PUBLICATION OF NOTICE OF INTENTION TO ISSUE**  
**COMBINATION TAX AND REVENUE**  
**CERTIFICATES OF OBLIGATION, SERIES 2005-A**

was duly introduced for the consideration of said City Council and read in full. It was then duly moved and seconded that said Resolution be passed; and, after due discussion, said motion carrying with it the passage of said Resolution, prevailed and carried by the following vote:


**AYES:** All members of said City Council shown present above voted "Aye".

**NOES:** None.

2. That a true, full and correct copy of the aforesaid Resolution passed at the Meeting described in the above and foregoing paragraph is attached to and follows this Certificate; that said Resolution has been duly recorded in said City Council's minutes of said Meeting; that the above and foregoing paragraph is a true, full and correct excerpt from said City Council's minutes of said Meeting pertaining to the passage of said Resolution; that the persons named in the above and foregoing paragraph are the duly chosen, qualified and acting officers and members of said City Council as indicated therein; that each of the officers and members of said City Council was duly and sufficiently notified officially and personally, in advance, of the time, place and purpose of the aforesaid Meeting, and that said Resolution would be introduced and considered for passage at said Meeting, and each of said officers and members consented, in advance, to the holding of said Meeting for such purpose, and that said Meeting was open to the public and public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code.

3. That the Mayor of said City has approved and hereby approves the aforesaid Resolution; that the Mayor and the City Secretary of said City have duly signed said Resolution; and that the Mayor and the City Secretary of said City hereby declare that their signing of this Certificate shall constitute the signing of the attached and following copy of said Resolution for all purposes.

**SIGNED AND SEALED** the 3<sup>rd</sup> day of November, 2005.

  
\_\_\_\_\_  
City Secretary

  
\_\_\_\_\_  
Mayor

(CITY SEAL)