

November 10, 2008

**ORDINANCE #** \_\_\_\_\_

**WHEREAS**, on or about May 23, 2008, Atmos Energy Corp., Mid-Tex Division, (the "Company") filed with the City of Dallas ("City"), a request for an annual gas reliability infrastructure program (GRIP) rate increase for customers on the Company's statewide gas utility system to be effective July 22, 2008; and

**WHEREAS**, the City on June 25, 2008, by Resolution No. 08-1805 extended the effective date until September 5, 2008; and

**WHEREAS**, on or about August 1, 2008, Atmos Energy Corp., Mid-Tex Division, (the "Company") filed with the City of Dallas ("City"), a superseding request for an annual gas reliability infrastructure program (GRIP) rate increase for customers on the Company's statewide gas utility system which stated no new effective date; and

**WHEREAS**, the City has exclusive original jurisdiction to evaluate the Company's request as it pertains to the distribution facilities located within the City, pursuant to Texas Utilities Code §§ 102.001(b) and 103.001; and

**WHEREAS**, on August 27, 2008, by Resolution No. 08-2309, the City extended the effective date until November 14, 2008; and

**WHEREAS**, the Texas Utilities Code § 103.022 provides that costs incurred by the City in ratemaking activities are to be reimbursed by the regulated utility; and

**WHEREAS**, upon review of the Company's filing and upon consultation with consultants, staff recommends findings that the Company's proposal is unjustified and unreasonable; and

**WHEREAS**, the Company's GRIP request fails to account for growth in numbers of customers, thereby undercounting the revenues it will receive from its proposed GRIP rate increase; and

**WHEREAS**, the Company's GRIP request seeks to impose costs on customers within the City of Dallas which were incurred to serve customers in other cities; and

**WHEREAS**, the Company's GRIP request materially overstates the increase in net plant for the entire Mid-Tex Division; and

**WHEREAS**, in the August 1, 2008 filing, Atmos neglected to specify an effective date, other than the date in the original filing which date had passed by the time of the amended filing; and

**WHEREAS**, Atmos' failure to specify an effective date renders the request ineffective to allow the request to be implemented on any basis;

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

**SECTION 1.** That the Company's GRIP rate increase request is found to be unreasonable and is therefore denied in all respects. The unreasonableness of the request includes the following: (a) the Company's GRIP calculations fail to account for customer growth in the system; (b) the Company's GRIP calculations seek to impose rates on customers in the City of Dallas that Atmos incurred to serve customers in other cities and environs, (c) the request is based upon materially overstated increases in plant for the entire Mid-Tex Division.

**SECTION 2.** That the costs incurred by the City in reviewing the Company's GRIP request shall be promptly reimbursed by the Company.

**SECTION 3.** That the City is authorized to intervene in any appeal of the city's action filed at the Commission, and to participate in any such appeal or to take such other action as may be deemed appropriate by the City Attorney to seek compliance with this ordinance.

**SECTION 4.** This Ordinance shall become effective immediately from and after its passage, as the law and charter in such cases provide.

**SECTION 5.** That it is hereby officially found and determined that the meeting at which this Ordinance is passed is open to the public as required by law and that public notice of the time, place and purpose of said meeting was given as required.

DULY PASSED and approved by the City Council of the City of Dallas, Texas, on this the 10th day of November, 2008.

RECOMMENDED BY:

\_\_\_\_\_  
Chief Financial Officer

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By \_\_\_\_\_  
Assistant City Attorney

Passed and corrected enrolled