

Memorandum



CITY OF DALLAS

DATE May 13, 2016

TO Members of the Budget, Finance & Audit Committee: Jennifer S. Gates (Chair), Philip T. Kingston (Vice Chair), Erik Wilson, Rickey D. Callahan, Scott Griggs, Lee M. Kleinman

SUBJECT Atmos Energy Franchise Fee Audit

On Monday, May 16, 2016, the Budget, Finance and Audit committee will be briefed on the Atmos Energy Franchise Fee Audit.

Please let me know if you need additional information.


Jeanne Chipperfield
Chief Financial Officer

Attachment

cc: The Honorable May and Members of the City Council
AC Gonzalez, City Manager
Christopher D. Bowers, Interim City Attorney
Craig D. Kinton, City Auditor
Rosa A. Rios, City Secretary
Daniel F. Solis, Administrative Judge
Ryan S. Evans, First Assistant City Manager

Eric D. Campbell, Assistant City Manager
Jill A. Jordan, P.E., Assistant City Manager
Mark McDaniel, Assistant City Manager
Joey Zapata, Assistant City Manager
Sana Syed, Public Information Officer
Elsa Cantu, Assistant to the City Manager – Mayor & Council

Budget, Finance, & Audit Committee

May 16, 2016

Atmos Energy Franchise Fee Audit



Atmos Energy Franchise Amendment

Purpose

- ▶ Review the Budget, Finance and Audit Committee April 4th motion pertaining to the Atmos Energy Fee Audit in light of additional points made at the Atmos rate case briefing on Wednesday May 4th and answer any questions the committee may have

Atmos Energy Franchise Fee Audit

- ▶ City of Dallas (City) contracted with MuniServices, LLC in March 2014 to provide franchise fee compliance and recovery services from franchisees that provide natural gas, electricity, cable or video, and certificated telephone services to citizens of the City
- ▶ If unpaid franchise fees are identified by MuniServices and recovered by City, then MuniServices is owed contingency based fee

What were the findings of MuniServices?

- ▶ Atmos paid City a total of \$34.6m during examination period
- ▶ Additional franchise fees are owed to City as result of Atmos' exclusion of franchise fees collected from customers in its calculation of Gross Revenues
- ▶ Atmos owes City additional \$1.7m comprised of \$1.5m in franchise fees plus \$0.2m interest accrued as of October 5, 2015
 - ▶ If these monies are recovered from Atmos, MuniServices will receive \$388,739 contingency based fee

What was the response of Atmos to the findings?

- ▶ Agreement between Atmos and City does not require inclusion of monies collected to recover franchise fees in definition of Gross Revenues on which those franchise fees are paid
- ▶ Dispute centers around definition of “Gross Revenues” as intended by franchise and what revenues are excluded from calculation of franchise fees
- ▶ Language in franchise is not as clear as it should be and may be subject to interpretation

What was the response of Atmos to the findings?

- ▶ Willingness to allow City to amend definition of Gross Revenues to include fees collected pursuant to Agreement, as well as remit an amount in settlement of past periods
 - ▶ One time payment of \$3.2m (fees due through 12/31/15)
 - ▶ Increase franchise fees going forward (approximately \$0.6m annually)
- ▶ All sums paid to City would be recovered from Atmos customers within City through Rate Rider FF
 - ▶ One time payment of \$3.2m will be recovered from customers over 12 months with temporary increase in customer bill of 1.529% and then drop to a 0.26% increase going forward
 - ▶ Typical residential bill will increase by \$0.89 from \$58.36 to \$59.25 during temporary 12 month period

What options have been proposed?

1. City Manager Recommended – Amend franchise to clarify that franchise fees billed to customers are included in gross revenues
 - ▶ City to receive one time payment of \$3.2m
 - ▶ Increase franchise fees going forward (about \$0.6m annually)
2. Alternative option identified by City Manager – Amend franchise to clarify that franchise fees billed to customers are excluded from gross revenues
 - ▶ No additional franchise fees due City
3. BFA Committee motion on April 4, 2016 - Amend franchise to clarify that franchise fees billed to customers were excluded from gross revenues in past but are to be included in franchise fees billed to customers on a going forward basis
 - ▶ Increase franchise fees going forward (about \$0.6m annually)

What are the next steps?

- ▶ June 15, 2016 agenda will include an agenda item to adopt an ordinance amending franchise to clarify either inclusion or exclusion of franchise fees from definition of gross revenues based on BFA Committee's recommendation

QUESTIONS?

