City of League City, TX

Legislation Details (With Text)

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Title: Consider and take action on a resolution denying the application for approval of a rate change submitted by Texas-New Mexico Power Company and authorizing participation in proceedings at the Public Utility Commission of Texas (City Attorney)

Sponsors:

Indexes:

Code sections:

Attachments: 1. Data Sheet, 2. Proposed Resolution

Date	Ver.	Action By	Action	Result
4/27/2021	1	City Council	Approved	Pass

Consider and take action on a resolution denying the application for approval of a rate change submitted by Texas-New Mexico Power Company and authorizing participation in proceedings at the Public Utility Commission of Texas (City Attorney)

On April 5, 2021 Texas-New Mexico Power Company ("TNMP") submitted an Application for Approval of a Distribution Cost Recovery Factor ("DCRF") to increase its annual revenues by approximately $13.96 million. TNMP proposes to implement this increase on September 1, 2021.

TNMP's application affects all retail electric providers ("REPs") serving end-use retail electric customers in TNMP's service-area and will affect the retail electric customers of those REPS to the extent the REPs choose to pass along these charges to their customers, which we expect REPs to attempt to do.

A DCRF permits TNMP to recover a profit on the incremental investment it made in its distribution assets during the one-year period year following the end of the test year in its last general rate case or DCRF proceeding, whichever is the most recent; that one-year period for this filing is January 1, 2020 through December 31, 2020. A DCRF filing is a streamlined single-issue proceeding outside of a comprehensive base rate case that moves very quickly. The Commission's rules dictate, pursuant to State law, that September 1, 2021, absent good cause, is the effective date for new rates. This means, absent good cause, the case will be resolved in approximately 150 days. Discovery is also very limited allowing parties to serve, absent good cause, no more than 20 requests for information and requests for admissions of fact. Finally, the City must make its final decision within 60 days of the filing of the application or here, by no later than June 4, 2021.

REPRESENTATION

The law firm of Herrera Law & Associates, PLLC (through Mr. Alfred R. Herrera) has previously represented the Alliance of Texas-New Mexico Power Municipalities ("ATM") in rate matters involving TNMP, including its most recent comprehensive base rate. Similarly, the firm has represented other Texas cities dealing with rate case matters, therefore providing a depth of experience in dealings with TNMP and the Public Utility Commission of Texas ("PUCT" or "Commission").

CITY JURISDICTION AND RATE CASE EXPENSES

The City is a regulatory authority under the Public Utility Regulatory Act ("PURA") and under Section 33.001 of PURA has exclusive original jurisdiction over TNMP's rates, operations, and services within the municipality, and specifically over TNMP's requested change in rates to recover increased distribution costs under Section 36.210 of PURA. Also, cities, by statute, are entitled to recover their reasonable rate case expenses from the utility. Legal counsel and consultants approved by ATM will submit monthly invoices to the ATM that will be forwarded to TNMP for reimbursement.

INTERVENTION AT THE PUBLIC UTILITY COMMISSION OF TEXAS AND COURT PROCEEDINGS, IF ANY

TNMP filed its Application for Approval for a DCRF with the City on the same date it filed its application with the Public Utility Commission of Texas. It is important to participate in the Commission's proceeding because its final decision will impact rates within the City. Thus, the accompanying Resolution authorizes intervention in proceedings at the PUCT, including any appeal of the City's decision on rates.

ACTION: DENIAL OF TNMP'S PROPOSED RATE INCREASE

TNMP's application presents complex issues that merit careful review. The City only has 60 days to act on TNMP's request. If the City has not acted within 60 days, the application is deemed denied and appealed to the PUCT to be consolidated with the DCRF proceeding pending at the PUCT. And even if the City approves TNMP's application, under state law, even the approval is "deemed" appealed to the PUCT.

The application was filed on April 5, 2021; therefore, the City has until June 4, 2021 to act. It is virtually impossible for the City to set just and reasonable rates before the expiration of City's jurisdiction at the 60-day mark. Denial does not preclude the City's special regulatory counsel and experts an opportunity to perform a review of TNMP's application and request additional information as necessary to fully evaluate the proposal and determine the most appropriate response. Further, a denial will not eliminate the possibility of resolving the proceeding through settlement.

RECOMMENDATION

It is recommended that the City deny TNMP's application to increase its DCRF rates.

It is also recommended that the City retain the law firm of Herrera Law & Associates, PLLC to represent the City's interest in matters related to TNMP's DCRF filing and to advise the City with regard to TNMP's application, and that the City intervene in the proceeding before the Public Utility Commission of Texas, and represent the City in appeals, if any, regarding TNMP's application.

The City must take action no later than June 4, 2021, but it is recommended that the City take action as early as possible to allow for full participation in proceedings before the Public Utility Commission of Texas.

CONTRACT ORIGINATION: N/A

Attachments:
1. Data Sheet
2. Proposed Resolution

FUNDING
{ } Funds are available from Account #_____
{ } Requires Budget Amendment to transfer from Account #_____ to Account #_____
{x} NOT APPLICABLE

STRATEGIC PLANNING

{ } Addresses Strategic Planning Critical Success Factor # _____ and Initiative # _____
{x} NOT APPLICABLE