

CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT:

AGENDA DATE:

PUBLIC HEARING DATE:

CONTACT PERSON NAME
AND PHONE NUMBR:

DISTRICT(S) AFFECTED:

STRATEGIC GOAL:

SUBGOAL:

SUBJECT:

APPROVE a resolution / ordinance / lease to do what? OR AUTHORIZE the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.

BACKGROUND / DISCUSSION:

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

RESOLUTION

WHEREAS, Texas Gas Service Company, a division of ONE Gas ("Company") distributes natural gas within the City Limits of the City of El Paso pursuant to a franchise granted to Southern Union Company dated as of February 22, 2000, and assigned to ONEOK, Inc., further assigned to ONE Gas, Inc., and is a gas utility; and

WHEREAS, pursuant to the Gas Utility Regulatory Act, Texas Utilities Code Section 103.001, the City of El Paso has exclusive original jurisdiction over the rates, operations, and services of the Texas Gas Service Company within the City of El Paso; and

WHEREAS, Sections 103.021, 104.003 and 104.151 of GURA empower a regulatory authority, on its own motion or on a complaint by any affected person, to determine whether the existing rates of any gas utility for any service are unreasonable or in any way in violation of any provision of law, and upon such determination, to determine the just and reasonable rates; and

WHEREAS, the City of El Paso has reason to believe that Texas Gas Service is over earning and that its rates exceed those which are just and reasonable; and

WHEREAS, the City Council of the City of El Paso desires, on the City's own motion, to exercise the City's authority under Sections 103.021, 104.003 and 104.151 of GURA; and

WHEREAS, a procedural schedule should be established for the filing of certain information by Texas Gas Service, procedures to be followed to obtain and review information from Texas Gas Service, the filing of an analysis of such information by the City, the filing of rebuttal information from Texas Gas Service, and a public hearing at which time the City shall make a determination whether the existing rates of Texas Gas Service are unreasonable or unjust, including whether they are in any way in violation of any provision of law, and if such rates should be revised and just and reasonable rates determined for Texas Gas Service.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

SECTION 1. This resolution constitutes notice of the City's intent to proceed with an inquiry into the local distribution rates charged by Texas Gas Service. On or before March 31, 2018, Texas Gas Service shall file with the City of El Paso, information that demonstrates good cause for showing that Texas Gas Service's distribution rates for service within the City of El Paso should not be reduced. Specifically, Texas Gas Service shall file with the City of El Paso information for the test year beginning January 1, 2017 and ending December 31, 2017, regarding Texas Gas Service's cost of service elements, including, but not limited to the elements detailed by the Railroad Commission as necessary for the filing of a Statement of Intent to Change Rates.

SECTION 2. The City's designated representatives shall have the right to obtain additional information from Texas Gas Service through the filing of written requests for information, to each of which Texas Gas Service shall respond in writing within fifteen (15) calendar days from the receipt of each such request for information.

SECTION 3. After Notice and Review by City Staff, the City Council shall conduct a public hearing for the City of El Paso. Based upon such hearing, the briefing of staff, and the consultants' findings, a determination of the reasonableness of the existing rates of Texas Gas Service shall be made by the City Council and, if necessary, just and reasonable rates shall be determined to be thereafter observed and enforced for all services of Texas Gas Service within the City of El Paso, Texas.

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

SECTION 5. The City Manager shall give notice to Texas Gas Service Division of ONE Gas, Inc., by transmitting a copy of this resolution to Texas Gas Service Division of ONE Gas, Inc.

SECTION 6. That the City Attorney is authorized to engage outside counsel to represent the City on this matter and the City Manager be authorized to engage consultants to evaluate the filing.

APPROVED this ____ day of _____ 2018.

CITY OF EL PASO:

Dee Margo
Mayor

ATTEST:

Laura D. Prine
Interim City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:



Sylvia Borunda Firth
City Attorney

Tomás González
City Manager

CITY CLERK DEPT.
2019 JAN 18 AM 11:52

EFFECT OF TAX AND JOBS ACT ON GAS AND ELECTRIC RATES

Council Meeting 1/23/18, Item 27.1

Norman J. Gordon
David M. Mirazo
Mounce, Green, Myers, Safi,
Paxson & Galatzan, P.C.
El Paso, Texas

Tax and Jobs Act of 2017 (PL-115-97)

- Passed Congress and signed into Law December 22, 2017 for Tax years beginning after December 31, 2017.
- Reduced Income Tax Rate for Corporations from 35% to 21%

Tax and Jobs Act of 2017 (2)

- Two Issues
 - Current Income Taxes Included in Rates
 - Accumulated Deferred Income Taxes

Current Income Taxes Included in Rates

- Current Utility Rates have built in to the rate calculation federal income taxes at 35%.
- Without rate action or agreement, the utility will collect from customers as if the rate is 35% and only be subject to income tax at 21%

Accumulated Deferred Income Taxes (ADIT)

- Texas Law Requires Depreciation Rates to be calculated on a straight line basis
 - If the Plant life is expected to be 40 years, the amount is $1/40$ (2.5%)
- Internal Revenue Code allows utilities to claim depreciation for federal income tax purposes on an accelerated basis
 - Accelerated Cost Recovery System
 - Bonus Depreciation 50% or 100% from Stimulus bills
- Differences--Internal Revenue Code prohibits the flow through of the
 - Income Taxes for setting rates does not include the savings from accelerated methods of depreciation
 - The differences are called deferred taxes (Accumulated Deferred Income Taxes)
 - Deferred Taxes are cost free capital and deducted from the base(investment) upon which rates are set

Accumulated Deferred Income Taxes (ADIT)

- ADIT are taxes that are due the government when the depreciation differences reverse (e.g. when the straight line amount for a given plant is greater than the amount that may be deducted from the tax return)
- ADIT have been paid by ratepayers in rates
- ADIT Accumulated at 35% (mostly)
- ADIT must be returned to ratepayers
- Tax and Jobs Act Requires flow back no more rapidly than ratably over the remaining regulatory life of the plant

El Paso Electric

- Rate Case Settlement Agreement Article I, B addresses changes in Income Tax Rates
 - Effective January 2, 2018 EPE will accrue a Regulatory Liability (Money owed ratepayers) for the difference in tax rate
 - EPE has 120 from Enactment to file a tariff with a refund factor for the difference between 35% and 21% (April 21, 2018)
 - Credit to customers will be in a refund factor
 - Calculated Difference will be in the range of \$21 million per year
 - Residential Class will receive 46.34%
- Excess Deferred will be treated in next rate case

El Paso Electric

- ACTION
 - No Action Required at this time

Texas Gas Service

- Current Rates were set in 2016
- GRIP Increase in July 2017
- All based on 35% Federal Income Tax Rate
- Income Taxes in Rates (after GRIP increase) \$10.3 million.
- Actual Income Tax Expense Estimated at \$5.0 million
- Reduction of \$5.3 million
- Excess Deferred Taxes (ADIT) Est. \$15.3 million (\$450,000) per year
- TGS not required to file another rate case until late 2022/early 2023

Texas Gas Service

- Action At this Time
 - Continue Discussions with TGS for short period
 - Initiate Proceeding to Reduce Rates (Show Cause)

QUESTIONS/
COMMENTS?