

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

CITY CLERK DEPT.
2018 FEB 1 AM 11:50
DEPARTMENT:

City Attorney

AGENDA DATE: 02/06/2018

PUBLIC HEARING DATE:

CONTACT PERSON NAME AND PHONE NUMBR: Sylvia Borunda Firth

DISTRICT(S) AFFECTED: All Districts

STRATEGIC GOAL: Goal 6 - Set the Standard for Sound Governance and Fiscal Man

SUBGOAL: 6.8 Support transparent and inclusive government

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.

Discussion and Action on a Resolution Addressing Interim Accounting for Texas Gas Service Company, Division of One Gas, Inc. due to the income tax reduction from the Tax Cuts and Jobs Act of 2017.

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?

Public Law 115-97 Tax Cuts and Jobs Act of 2017 was signed into law by President Donald Trump on December 22nd, 2017. As a result of the federal income tax reductions for corporations resulting from the Tax Cuts and Jobs Act it is likely that Texas Gas Service Company will over collect federal income taxes in rates charged to customers within the City of El Paso.

This resolution will authorize City Staff to work on a mechanism and procedure to accomplish the refunds and report back to City Council at its regular meeting of March 20, 2018.

PRIOR COUNCIL ACTION:

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

N/A

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?

N/A

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

DEPARTMENT HEAD:

Sylvia Brando

(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, Inc., 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, Title 3, Subtitle A, the Gas Utility Regulatory Act ("GURA") Section 103.001, the City of El Paso has exclusive original jurisdiction over the rates, operations, and services of Texas Gas Service Company within the City of El Paso; and

WHEREAS, the Tax Cuts and Jobs Act of 2017 (the "Act") was signed into law on December 22, 2017; and

WHEREAS, as a result of the Act, the federal income tax rate applicable to Texas Gas Service Company changed from 35% to 21%; and

WHEREAS, Texas Gas Service Company has agreed to calculate and defer as a regulatory liability the impact to customer rates, resulting from the change in the federal income tax rate included in the Act that would have occurred between January 1, 2018 and the effective date of new customer rates that reflect the new 21% federal income tax rate; and

WHEREAS, Texas Gas Service Company has agreed to work with City Staff to develop a mechanism and procedure to incorporate the impact of the Act on customer rates and also develop a process to reflect the 21% federal income tax rate in future rate filings that comply with all applicable rules and laws; and

WHEREAS, an order requiring the creation of a regulatory liability protects customers within the City of El Paso, while such a mechanism and procedure is developed to reflect the 21% federal income tax rate within customer rates; 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 Council of the City of El Paso desires, not to exercise such power at this time.

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

SECTION 1. Texas Gas Service Company shall record a deferred liability beginning effective January 1, 2018 to reflect the change in the federal corporate tax rate to 21% and to reflect any customer flow back associated with excess Accumulated Deferred Income Taxes ("ADIT") and

any other tax implications of the Act on an interim basis subject to refund until utility rates are adjusted to reflect the changes in the federal income tax rate and the ADIT. In addition, Texas Gas Service Company shall, to the extent excess ADIT balances are not reflected in rates as an offset to rate base, accrue carrying charges calculated at the company's weighted-average cost of capital on the unrefunded balance on the portion of excess ADIT.

SECTION 2. Texas Gas Service Company and City Staff shall work on a mechanism and procedure to address the change in the federal income tax rate and its effect on customer rates, including any refunds, and report back to City Council at its regular meeting on March 20, 2018.

SECTION 3. After Notice and Review by City Staff, the City Council shall conduct a public hearing for the City of El Paso.

SECTION 4. The City Manager shall give notice to Texas Gas Service Company by transmitting an electronic copy of this resolution to Stephanie Houle, Texas Gas Service Company at stephanie.houle@onegas.com.

SECTION 5. 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
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:


Sylvia Borunda Firth
City Attorney

Tomás Gonzalez
City Manager