

RESOLUTION NO. _____

RESOLUTION BY THE CITY OF _____, TEXAS (“CITY”) DENYING THE DISTRIBUTION COST RECOVERY FACTOR RATE REQUEST OF TEXAS-NEW MEXICO POWER COMPANY MADE ON OR ABOUT APRIL 5, 2022; AUTHORIZING PARTICIPATION IN A COALITION OF SIMILARLY SITUATED CITIES; AUTHORIZING PARTICIPATION IN RELATED RATE PROCEEDINGS; REQUIRING THE REIMBURSEMENT OF MUNICIPAL RATE CASE EXPENSES; AUTHORIZING THE RETENTION OF SPECIAL COUNSEL; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE

WHEREAS, on about April 5, 2022, Texas-New Mexico Power Company (“TNMP”) filed an application for approval to amend its Distribution Cost Recovery Factor (“DCRF”) with the City that will increase TNMP’s rates effective September 1, 2022; and

WHEREAS, the City is a regulatory authority under the Public Utility Regulatory Act (“PURA”) and under Chapter 33, §33.001 et seq. of PURA has exclusive original jurisdiction over TNMP’s rates, operations, and services within the municipality, and specifically over its requested amendment to its DCRF under Chapter 36, §36.210; and

WHEREAS, TNMP seeks to include in rates a profit related to its incremental investment in distribution assets it has made from January 1, 2021 through December 31, 2021; and

WHEREAS, the inclusion of TNMP’s profit on its investment in distribution assets in rates, has the effect of increasing TNMP’s revenue requirement by approximately \$9.7 million; and

WHEREAS, the jurisdictional deadline for the City to act in this rate matter is 60 days from the application date, or June 4, 2022; and

WHEREAS, the City will require the assistance of specialized legal counsel and rate experts to review the merits of TNMP’s application to increase rates; and

WHEREAS, in order to maximize the efficient use of resources and expertise in reviewing, analyzing and investigating TNMP’s rate request, it is prudent to coordinate the City’s efforts with a coalition of similarly situated municipalities; and

WHEREAS, the City, in matters regarding applications by TNMP to change rates, has in the past joined with other local regulatory authorities to form the Alliance of Texas-New Mexico Power Municipalities Cities (“ATM”) and hereby continues its participation in ATM; and

WHEREAS, TNMP simultaneously filed an application for approval of a DCRF with the Public Utility Commission of Texas, and therefore the decision of the Public Utility Commission of Texas will have an impact on the rates paid by the City and its citizens who are customers in TNMP’s service territory, and in order for the City’s participation to be meaningful, it is important that the City promptly intervene in such proceeding at the Public Utility Commission of Texas; and

WHEREAS, TNMP failed to show that its proposed rate change in rates is reasonable and therefore the City has concluded that TNMP’s proposed rate change is unreasonable;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF _____, TEXAS THAT:

Section 1. The findings set out in the preamble are in all things approved and incorporated herein as if fully set forth.

Section 2. The City **DENIES** the rate change TNMP requested on or about April 5, 2022.

Section 3. The City authorizes intervention in proceedings related to TNMP’s application for approval of its DCRF before the Public Utility Commission of Texas and related proceedings in courts of law as part of the coalition of cities known as the Alliance of Texas-New Mexico Power Municipalities (“ATM”).

Section 4. The City hereby orders TNMP to reimburse the City’s rate case expenses as provided in the Public Utility Regulatory Act and that TNMP shall do so on a monthly basis and within 30 days after submission of the City’s invoices for the City’s reasonable

costs associated with the City's activities related to this rate review or to related proceedings involving TNMP before the City, the Public Utility Commission of Texas, or any court of law.

Section 5. Subject to the right to terminate engagement at any time, the City retains and authorizes the law firm of Herrera Law & Associates, PLLC to act as Special Counsel with regard to rate proceedings involving TNMP before the City, the Public Utility Commission of Texas, or any court of law and to retain such experts as may be reasonably necessary for review of TNMP's rate application subject to approval by the City.

Section 6. The City, through its participation in ATM, shall review the invoices of the lawyers and rate experts for reasonableness before submitting the invoices to TNMP for reimbursement.

Section 7. A copy of this resolution shall be sent to Texas-New Mexico Power Company, care of Mr. Scott Seamster, Texas-New Mexico Company, 577 N. Garden Ridge Blvd. Lewisville, Texas 75067; and to Mr. Alfred R. Herrera, Herrera Law & Associates, PLLC, 4400 Medical Parkway, Austin, Texas 78756.

Section 8. The meeting at which this resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section 9. This resolution supersedes any prior inconsistent or conflicting resolution or ordinance.

Section 10. This resolution shall become effective from and after its passage.

PASSED AND APPROVED this _____ day of _____, 2022.

Mayor

ATTEST:

City Secretary