



TOWN COUNCIL COMMUNICATION

DATE August 15, 2023

FROM: Ed Voss, Town Attorney

AGENDA ITEM: Discuss and consider a Resolution suspending the September 1, 2023 Effective Date of CoServ Gas, LTD's requested Rate Change to permit the Town time to study the request and to establish reasonable rates and provide an effective date.

STAFF REPORT REGARDING COSERV'S REQUESTED RATE CHANGE

ACTION MUST BE TAKEN TO SUSPEND THE EFFECTIVE DATE ON OR BEFORE SEPTEMBER 1, 2023

On July 28, 2023, CoServ Gas, Ltd. ("CoServ" or "Company"), pursuant to Subchapter C of Chapter 104 of the Gas Utility Regulatory Act, filed its Statement of Intent to change gas rates at the Railroad Commission of Texas ("RRC") and in all municipalities exercising original jurisdiction within its service area, effective September 1, 2023.

CoServ is seeking to increase its annual revenues in incorporated areas by \$10,314,726, which is an increase of 7.5% including gas costs, or 27.3% excluding gas costs. CoServ is also requesting: (1) new depreciation rates for distribution and general plant; (2) a prudence determination for capital investment; (3) specification of the factors to be used in any Interim Rate Adjustment Filing the Company makes pursuant to Texas Utilities Code § 104.302; and (4) a surcharge on customer bills to recover the reasonable rate case expenses associated with the filing of this statement of intent.

Purpose of the Resolution:

The proposed resolution suspends the September 1, 2023, effective date of the Company's rate increase for the maximum period permitted by law to allow the Town, working in conjunction with other similarly situated municipalities with original jurisdiction served by CoServ, to evaluate the filing, to determine whether the filing complies with the law, and if lawful, to determine what further strategy, including settlement, to pursue.

The law provides that a rate request cannot become effective until at least 35 days following the filing of the application to change rates. The law permits the Town to suspend the rate change for 90 days after the date the rate change would otherwise be effective. If the Town fails to take some action regarding the filing before the effective date, CoServ's rate request is deemed approved.

Explanation of “Be It Resolved” Sections:

Section 1. This section incorporates the “whereas” provisions in the preamble into the Resolution.

Section 2. The Town is authorized to suspend the rate change for 90 days after the date that the rate change would otherwise be effective for any legitimate purpose. Time to study and investigate the application is always a legitimate purpose. Please note that the resolution refers to the suspension period as “the maximum period allowed by law” rather than ending by a specific date. This is because the Company controls the effective date and can extend the deadline for final municipal action to increase the time that the Town retains jurisdiction if necessary to reach settlement on the case. If the suspension period is not otherwise extended by the Company, the Town must take final action on CoServ’s request to increase rates by September 1, 2023.

Section 3. This provision authorizes the Town to participate in a coalition of cities served by CoServ in order to more efficiently represent the interests of the Town and their citizens. It also authorizes the hiring of Thomas L. Brocato with the law firm of Lloyd Gosselink Rochelle and Townsend to represent the Town in this matter.

Section 4. By law, the Company must reimburse the municipalities for their reasonable rate case expenses. Legal counsel and consultants approved by the municipalities will present their invoices to legal counsel who will then seek reimbursement from CoServ. The Town will not incur liability for payment of rate case expenses by adopting a suspension resolution.

Section 5. This section merely recites that the resolution was passed at a meeting that was open to the public and that the consideration of the Resolution was properly noticed.

Section 6. This section provides that both CoServ’s counsel and counsel for the municipalities will be notified of the Town’s action by sending a copy of the approved and signed Resolution to certain designated individuals.

Section 7. This section identifies the effective date of the Resolution as the time it is adopted.