

## AGENDA INFORMATION SHEET

AGENDA ITEM NO. \_\_\_\_\_

**ACTION TO SUSPEND THE EFFECTIVE DATE PROPOSED BY WEST TEXAS GAS UTILITY, LLC (WTG) TO INCREASE RATES UNDER THE GAS RELIABILITY INFRASTRUCTURE PROGRAM FOR 45 DAYS, AND AUTHORIZE THE CITY'S CONTINUED PARTICIPATION IN A COALITION OF CITIES KNOWN AS THE "ALLIANCE OF WTG MUNICIPALITIES"**

### **ALLIANCE OF WEST TEXAS GAS COMPANY MUNICIPALITIES ("AWM")**

The City is a member of the Alliance of West Texas Gas Company Municipalities ("AWM"). The AWM group was organized by a number of municipalities served by West Texas Gas Company ("WTG") and has been represented by the law firm of Herrera & Boyle, PLLC (through Mr. Alfred R. Herrera) to assist in reviewing applications to change rates submitted by WTG.

### **"GRIP" RATE APPLICATIONS**

Under section 104.301 of the Gas Utility Regulatory Act (GURA), a gas utility is allowed to request increases in its rates to recover a return on investments it makes between rate cases. This section of GURA is commonly referred to as the "GRIP" statute (the "Gas Reliability Infrastructure Program").

Under a decision by the Supreme Court of Texas, the Court concluded that a filing made under the GRIP statute permitted gas utilities the opportunity to recover a return on capital expenditures made during the interim period between rate cases by applying for interim rate adjustment and that proceedings under the GRIP statute did not contemplate either adjudicative hearings or substantive review of utilities' filings for interim rate adjustments. Instead, the Court concluded, the GRIP statute provides for a *ministerial* review of the utility's filings to ensure compliance with the GRIP statute and the Railroad Commission's rules, and that it is within the Railroad Commission's authority to preclude cities from intervening and obtaining a hearing before the Railroad Commission.

### **WTG'S "GRIP" APPLICATION**

On or about February 15, 2023, WTG filed for an increase in gas utility rates under the Gas Reliability Infrastructure Program ("GRIP"). WTG's application when approved by the Railroad Commission will result in an increase in the monthly customer charges as shown below:

<b>Rate Schedule</b>	<b>Customer Charge</b>	<b>Proposed 2021 Interim Adjustment</b>	<b>Adjusted Customer Charge</b>	<b>Increase to Each Bill</b>
Texas Residential	\$19.99 per meter per month	\$0.63 per meter per month	\$20.62 per meter per month	\$0.63 per meter per month
Texas Commercial, Public Authority, & Non-Profit	\$36.38 per meter per month	\$1.31 per meter per month	\$37.69 per meter per month	\$1.31 per meter per month

Note that WTG refers to its application as its “2021” interim adjustment because the increase in rates WTG presents in its application is based on capital expenditures it made from January 1, 2021 through December 31, 2021.

### **REVIEW AND ACTION RECOMMENDED**

Although the City’s ability to review and effectuate a change in WTG’s requested increase is limited, the City should exercise due diligence with regard to rate increases by monopoly utilities who operate within its boundaries, including increases requested under the GRIP statute to ensure compliance with the requirements of that law.

To exercise its due diligence, it is necessary to suspend WTG’s proposed effective date of April 16, 2023, for forty-five days, so that the City can evaluate whether the data and calculations in WTG’s rate application are correctly done, and whether WTG’s application otherwise conforms to the requirements of the GRIP statute.

Therefore, AWM’s Special Counsel, the law firm of Herrera & Boyle, PLLC (through Alfred R. Herrera) recommends that the City adopt a resolution suspending WTG’s proposed effective date for 45 days. Assuming a proposed effective date of April 16, 2023, WTG’s proposed effective date is suspended until May 31, 2023.

**The City must take action to suspend by no later than April 16, 2023.**

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION BY THE CITY OF \_\_\_\_\_, TEXAS, ("CITY") RESPONDING TO THE APPLICATION OF WEST TEXAS GAS COMPANY, TO INCREASE RATES UNDER THE GAS RELIABILITY INFRASTRUCTURE PROGRAM; SUSPENDING THE EFFECTIVE DATE OF THIS RATE APPLICATION FOR FORTY-FIVE DAYS; AUTHORIZING THE CITY'S PARTICIPATION IN A COALITION OF CITIES KNOWN AS THE "ALLIANCE OF WEST TEXAS GAS COMPANY MUNICIPALITIES;" REQUIRING THE REIMBURSEMENT OF COSTS; DETERMINING THAT THE MEETING AT WHICH THE RESOLUTION WAS ADOPTED COMPLIED WITH THE TEXAS OPEN MEETINGS ACT; MAKING SUCH OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE.**

**WHEREAS:** on or about February 15, 2023, West Texas Gas Company ("WTG") filed for an increase in gas utility rates under the Gas Reliability Infrastructure Program ("GRIP"), resulting in a requested increase in the monthly customer charge from \$19.99 to \$20.62 for Residential customers, and from \$36.38 to \$37.69 for non-residential customers (Commercial, Public Authority, and Non-Profit); and

**WHEREAS:** the City has a special responsibility to exercise due diligence with regard to rate increases of monopoly utilities who operate within its boundaries; and

**WHEREAS:** the application to increase rates by WTG is complex; and

**WHEREAS:** it is necessary to suspend the effective date for the increase in rates for forty-five days, so that the City can assure itself that the data and calculations in WTG's rate application are correctly done, and whether WTG's application otherwise conforms to the requirements of Texas Utilities Code § 104.301, commonly referred to as the GRIP statute; and

**WHEREAS:** the effective date proposed by WTG is April 16, 2023, but a suspension by the City will mean that the rate increase cannot go into effect prior to May 31, 2023.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF \_\_\_\_\_, TEXAS THAT:**

**Section 1.** That the statements and findings set out in the preamble to this resolution are hereby in all things approved and adopted.

**Section 2.** The City suspends the requested effective date by WTG for forty-five days pursuant to the authority granted the City under Section 104.301 of the Texas Utilities Code. The City finds that additional time is needed in order to review the data and calculations that provide the basis for the rate increase application, and to determine whether WTG's application otherwise conforms to the requirements of the GRIP statute.

**Section 3.** The City shall continue to act jointly with other cities that are part of a coalition of cities known as the Alliance of WTG Municipalities ("AWM").

**Section 4.** The City authorizes the law firm of Herrera Law & Associates, PLLC, to act on its behalf in connection with WTG's application to increase rates.

**Section 5.** WTG is ordered to reimburse the City's reasonable rate case expenses incurred in response to WTG's rate increase application within 30 days of receipt of invoices for such expenses to the extent allowed by law.

**Section 6.** The meeting at which this resolution was approved was in all things conducted in compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

**Section 7.** This resolution shall be effective immediately upon passage.

**PASSED AND APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_ 2023.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY SECRETARY