

## AGENDA INFORMATION SHEET

**RESOLUTION BY THE CITY OF \_\_\_\_\_ (“CITY”) DENYING SOUTHWESTERN PUBLIC SERVICE COMPANY’S PROPOSED SURCHARGE IN RATES; AUTHORIZING THE CITY’S CONTINUED PARTICIPATION WITH OTHER CITIES IN THE ALLIANCE OF XCEL MUNICIPALITIES (“AXM”) TO DIRECT THE ACTIVITIES OF LAWYERS AND CONSULTANTS; AUTHORIZING THE HIRING OF ATTORNEYS AND CONSULTANTS; AUTHORIZING THE INTERVENTION AND PARTICIPATION IN RELATED RATE PROCEEDINGS; AND REQUIRING REIMBURSEMENT OF REASONABLE LEGAL AND CONSULTANT EXPENSES.**

### **BACKGROUND**

On July 16, 2024, Southwestern Public Service Company (“SPS”) filed an application with the City seeking authority to implement a surcharge in the amount of \$41,366,710, including interest, to recover the additional amount of revenue that SPS would have received during the period from July 13, 2023 through January 31, 2024 (“Relate Back Period”) if the rates approved in Docket No. 54634 had been in effect during that time.

Under state law SPS has the right to recover revenue for what is called the “Relate-Back Period.” The Relate-Back Period is the period of time from the 155<sup>th</sup> day after a utility files a rate case to the date of the PUCT’s final order in that rate case.

Docket No. 54634 is the case number the Public Utility Commission of Texas (“PUCT”) assigned to SPS’s most recent general rate case in which the PUCT issued its final order on April 11, 2024. In Docket No. 54634, SPS requested an increase of about \$148.5 million. Ultimately the parties, including the Alliance of Xcel Municipalities (“AXM”), reached a settlement for an increase in base rates of \$65.0 million.

Furthermore, SPS is seeking to true-up a net *credit* of \$4,926,779 associated with Docket No. 53766, thus bringing the surcharge it seeks in its pending application to a net amount of \$36,439,931.

SPS proposes to implement the net surcharge over a one-year period, from October 1, 2024 through September 30, 2025, and to true up the amounts actually surcharged or refunded against the amounts authorized by the Commission to be surcharged or refunded.

### **CITY ACTION REQUIRED**

AXM’s Special Counsel recommends that the City, as part of AXM, deny SPS’s application for its proposed surcharge. A denial is the more expeditious process to address SPS’s application. A denial by the City means that SPS will appeal the City’s decision to the PUCT and the PUCT ultimately will issue an order on the amount of the final surcharge for SPS to implement.

## **INTERVENTION AT THE PUBLIC UTILITY COMMISSION OF TEXAS**

SPS filed its surcharge application with the City and with the PUCT on the same date, July 16, 2024. It is important to participate in the proceedings before the PUCT because the PUCT's decision will impact the surcharge SPS will charge customers within the City. Thus, the accompanying Resolution authorizes intervention in proceedings at the Commission as well as any appeals taken from the Commission's decision.

## **REPRESENTATION AND PARTICIPATION IN AXM:**

The law firm of Herrera Law and Associates, PLLC has previously represented the City and its participation in the coalition of cities named the Alliance of Xcel Municipalities ("AXM") in rate matters involving SPS, including SPS's most recent general rate case and its pending fuel-factor cases. The accompanying Resolution authorizes continued retention of Herrera Law & Associates, PLLC as Special Counsel and continued participation in the AXM coalition.

## **RATE CASE EXPENSES:**

SPS's application to implement a surcharge is a ratemaking proceeding. Thus, under state law, the Alliance of Xcel Municipalities' reasonable rate case expenses are subject to reimbursement by the Company.

## **RECOMMENDATION: DENY SPS'S RATE INCREASE REQUEST**

AXM's Special Counsel recommends that the City deny SPS's request for a surcharge. If the City denies SPS's request, SPS will appeal that decision to the Public Utility Commission of Texas and the PUCT will issue a final decision on the amount of SPS's surcharge.

**The City must take action no later than October 1, 2024.**