

RESOLUTION 2024-035

A RESOLUTION BY THE CITY OF WOLFFORTH, TEXAS (“CITY”) DENYING SOUTHWESTERN PUBLIC SERVICE COMPANY’S PROPOSED SURCHARGE IN CONNECTION WITH FINAL RATES APPROVED RELATED TO ITS STATEMENT OF INTENT SUBMITTED ON ABOUT FEBRUARY 8, 2023; AUTHORIZING THE CITY’S CONTINUED PARTICIPATION WITH OTHER CITIES IN THE ALLIANCE OF XCEL MUNICIPALITIES (“AXM”) AND PARTICIPATION IN RELATED RATE PROCEEDINGS; AUTHORIZING THE HIRING OF ATTORNEYS AND CONSULTANTS; REQUIRING REIMBURSEMENT OF REASONABLE LEGAL AND CONSULTANT EXPENSES; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT

WHEREAS, Southwestern Public Service Company (“SPS” or the “Company”) filed a Statement of Intent with the City and with the Public Utility Commission of Texas (“PUC”) on or about February 8, 2023, to increase its base revenues for its Texas retail service area by approximately \$148.5 million; and

WHEREAS, the Public Utility Commission of Texas (“PUC”) approved a settlement reached by SPS, the Alliance of Xcel Municipalities (“AXM”), and other parties granting SPS an increase of \$65.0 million; and

WHEREAS, under state law and under the terms of the settlement reached in SPS’s general rate case, SPS filed its request for a net surcharge of about \$36.4 million, including interest related to PUC Docket Nos. 54634 and 53766; and

WHEREAS, SPS also 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; 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 SPS’s rates, operations, and services within the municipality; and

(unapproved draft)

WHEREAS, under PURA § 33.025(a), the City has standing in each case before the Public Utility Commission of Texas that relates to an electric utility providing service in the City; and

WHEREAS, in order to maximize the efficient use of resources and expertise in reviewing, analyzing, and investigating SPS's rate request and its changes in tariffs 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 SPS to change rates, has in the past joined with other local regulatory authorities to form the Alliance of Xcel Municipalities ("AXM") and hereby continues its participation in AXM; and

WHEREAS, SPS's request for a surcharge consists of numerous complex calculations premised on various billing determinants and corresponding rates; and

WHEREAS, after review of SPS's application for a surcharge, SPS failed to establish that its requested surcharge is just and reasonable.

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

Section 1. The findings set out in the preamble are in all things hereby approved.

Section 2. SPS's application fails to provide sufficient information to justify the adoption of SPS's proposed surcharges and thus SPS failed to show that its proposed surcharges are just and reasonable.

Section 3. The City hereby **DENIES** SPS's proposed surcharges.

Section 4. The City authorizes intervention in proceedings related to SPS's application before the Public Utility Commission of Texas and any related proceedings in any courts of law.

Section 5. The City continues its participation with other cities in a coalition of cities known as the Alliance of Xcel Municipalities ("AXM") with the understanding that

(unapproved draft)

the Steering Committee of AXM is to provide direction and guidance to Special Counsel representing AXM.

Section 6. The City, as part of AXM, hereby retains Herrera Law & Associates, PLLC as Special Counsel to represent the City with regard to SPS's requested increase in rates and related proceedings before local and state regulatory authorities and any court of law and authorizes Special Counsel to employ such rate experts as may be necessary for review and evaluation of SPS's rate application.

Section 7. The City, in coordination with the Steering Committee, shall review the invoices of the lawyers and rate experts for reasonableness before submitting the invoices to SPS for reimbursement.

Section 8. SPS shall reimburse the City on a monthly basis, through AXM's coordinating city, the City of Amarillo, Texas, for the reasonable costs of attorneys and consultants and expenses related thereto, upon the presentation of invoices reviewed by the City of Amarillo.

Section 9. The City Secretary or other appropriate city official shall provide a copy of this Resolution to **Mr. Alfred R. Herrera, Herrera Law & Associates, PLLC, P.O. Box 302799, Austin, Texas 78703**, and as a courtesy, provide SPS a copy of this Resolution by **sending a copy of the Resolution to Jeremiah W. Cunningham, Rate Case Manager, Southwestern Public Service Company, 790 S. Buchanan St. Amarillo, Texas 79101.**

Section 10. 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 11. To the extent any Resolution previously adopted by the City is inconsistent with this Resolution, it is hereby superseded.

Section 12. The findings set out in the preamble are in all things hereby approved.

Section 13. This Resolution shall become effective from and after its passage.

(unapproved draft)

PASSED AND APPROVED this 16TH day of September 2024.

MAYOR

ATTEST:

CITY SECRETARY

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