

AN ORDINANCE 100709

**AUTHORIZING A COMPETITIVE MATTER MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY AND CPS ENERGY TO ALLOW CPS ENERGY TO IMPLEMENT FLEXIBLE PRICING STRATEGIES FOR CERTAIN GAS SALES.**

\* \* \* \*

**WHEREAS**, CPS Energy provides natural gas service to customers in the greater San Antonio area and competes with other gas companies in certain portions of the area generally served by CPS Energy today and may face greater competition in the future in areas located on the periphery of its current gas system; and

**WHEREAS**, this proposed ordinance will allow CPS Energy to implement flexible pricing strategies for certain gas sales which will allow CPS Energy to effectively compete for and/or attract new customers as well as retain existing customers; and

**WHEREAS**, this flexibility also allows CPS Energy to maximize opportunities for the use of its natural gas distribution assets and further bolster the competitive and economic position of its gas business; and

**WHEREAS**, in order to preserve CPS Energy's competitive position in seeking or retaining certain new and existing gas sales, a Memorandum of Understanding (MOU) has been created to describe in detail the flexibility being provided to CPS Energy; however, the MOU shall remain confidential pursuant to §552.133 of the Texas Public Information Act (Chapter 552 of the Tex. Govt. Code); and

**WHEREAS**, upon a good faith determination by the City Council that the subject matter of the MOU is an appropriate competitive matter, the details of the MOU shall be outlined for City Council in executive session pursuant to §551.086 of the Texas Open Meeting Act (Chapter 551 of the Tex. Govt. Code).; and

**WHEREAS**, the subject matter of the MOU has already been identified as a competitive activity pursuant to CPS Energy's Competitive Matters Resolution, and the details of that activity, if disclosed, would confer an advantage upon actual and prospective competitors of CPS Energy; and

**WHEREAS**, the City Clerk shall maintain a certified executive session agenda or tape recording that includes the substantive details of the MOU that will be presented in executive session and the City Council will vote on the MOU in the public forum; and

**WHEREAS**, this Ordinance shall remain on file for public access in the City Clerk's office, however, the MOU shall not be attached to the Ordinance and shall remain confidential and be maintained by the appropriate City and CPS Energy staff; and

**WHEREAS**, this action is anticipated to generate additional revenue for CPS Energy and the City; and

**WHEREAS**, this item was reviewed by the Public Utilities Division, the City Attorney's Office and City Public Service; **NOW THEREFORE:**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1.** The Competitive Matter Memorandum of Understanding between the City and CPS Energy to allow CPS Energy to implement flexible pricing strategies for certain gas sales is hereby approved. The Interim City Manager, or his designee, is authorized to execute the MOU consistent with the information provided to City Council in executive session.

**SECTION 2.** This Ordinance shall take effect on the tenth (10<sup>th</sup>) day after the date of passage hereof.

**PASSED AND APPROVED** this 14<sup>th</sup> day of April, 2005

**MAYOR**  
EDWARD D. GARZA

**ATTEST:**   
City Clerk

**APPROVED AS TO FORM:**   
for City Attorney

# Agenda Voting Results

**Name:** 35.

**Date:** 04/14/05

**Time:** 10:47:56 PM

**Vote Type:** Multiple selection

**Description:** An Ordinance authorizing a Competitive Matter Memorandum of Understanding between the City and City Public Service to allow CPS Energy to implement flexible pricing strategies for certain gas sales. [Presented by Ben Gorzell, Jr., Director, Public Utilities; Melissa Byrne Vossmer, Assistant City Manager]

Voter	Group	Status	Yes	No	Abstain
ROGER O. FLORES	DISTRICT 1	Not present			
JOEL WILLIAMS	DISTRICT 2		x		
RON H. SEGOVIA	DISTRICT 3		x		
RICHARD PEREZ	DISTRICT 4		x		
PATTI RADLE	DISTRICT 5	Not present			
ENRIQUE M. BARRERA	DISTRICT 6		x		
JULIAN CASTRO	DISTRICT 7	Not present			
ART A. HALL	DISTRICT 8		x		
CARROLL SCHUBERT	DISTRICT 9		x		
CHIP HAASS	DISTRICT_10	Not present			
MAYOR ED GARZA	MAYOR		x		



**CITY OF SAN ANTONIO**  
**Interdepartmental Correspondence**

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

**35**

**TO:** Mayor and City Council

**FROM:** Andrew Martin, City Attorney and Ben Gorzell Jr., CPA, Director, Public Utilities Department

**SUBJECT:** Ordinance Authorizing Competitive Matter MOU w/ CPS Energy

**DATE:** April 14, 2005

**SUMMARY AND RECOMMENDATIONS**

This ordinance will authorize a Competitive Matter Memorandum of Understanding (MOU) between the City and City Public Service Energy (CPS Energy) to allow CPS Energy to implement flexible pricing strategies for certain gas sales.

Staff recommends the approval of this ordinance.

**BACKGROUND INFORMATION**

CPS Energy provides natural gas service to customers in the greater San Antonio area. Under Texas statutes, there is no provision for the certification of natural gas distribution and sales service areas. As such, CPS Energy directly competes with other gas supplying entities in certain portions of the area generally served by CPS Energy today and may face greater competition in the future in areas located on the periphery of its current gas system. This proposed ordinance will allow CPS Energy to implement flexible pricing strategies for certain gas sales which will allow CPS Energy to effectively compete for and/or attract new customers as well as retain existing customers. The flexibility also allows CPS Energy to maximize opportunities for the use of its natural gas distribution assets and further bolster the competitive and economic position of its Gas Business.

**POLICY ANALYSIS**

In order to preserve CPS Energy's competitive position, in seeking and/or retaining certain new and existing gas sales, the MOU, which describes the flexibility being provided to CPS Energy, shall remain confidential pursuant to §552.133 of the Texas Public Information Act (Chapter 552 of the Tex. Govt. Code). Also, upon a good faith determination by the City Council that the subject matter of the MOU is an appropriate competitive matter, the details of the MOU shall be outlined for City Council in executive session pursuant to §551.086 of the Texas Open Meeting Act (Chapter 551 of the Tex. Govt. Code). The subject has already been identified as a competitive activity pursuant to CPS Energy's Competitive Matters Resolution, and the details of that activity, if disclosed, would confer an advantage upon actual and prospective competitors of CPS Energy. The City Clerk shall maintain a certified executive session agenda or tape recording that includes the substantive details of the MOU that will be presented in executive session. After the briefing in executive session, City Council will vote on the MOU in the public forum. If the ordinance authorizing the MOU is passed, then the ordinance shall remain on file for public access in the City Clerk's office; however, the MOU shall not be attached to the ordinance. The MOU shall remain confidential and be maintained by the appropriate City and CPS Energy staff.

**FISCAL IMPACT**

The implementation of pricing flexibility for certain gas sales is anticipated to have an overall positive impact on revenues for CPS Energy and the City.

**COORDINATION**

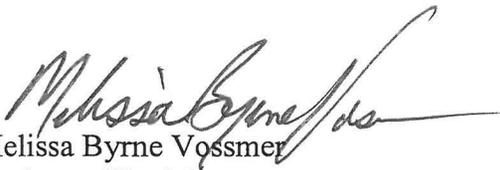
This item has been reviewed by the Public Utilities Department, the City Attorney's Office and CPS Energy.



Andrew Martin  
City Attorney



Ben Gorzell Jr., CPA  
Director, Public Utilities Department



Melissa Byrne Vossmer  
Assistant City Manager



J. Rolando Bono  
Interim City Manager