GG
4/10/14
Item No. 20

AN ORDINANCE 2014-04-10-0232

APPROVING A SECOND AMENDMENT TO THE COMPETITIVE MATTERS MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY AND CPS ENERGY AS AUTHORIZED BY ORDINANCE NO. 99907 ON OCTOBER 21, 2004 ALLOWING FURTHER PRICING FLEXIBILTY TO CPS ENERGY IN PURSUING CERTAIN WHOLESALE OFF-SYSTEM SALES.

* * * *

WHEREAS, pursuant to Chapter 1502 of the Texas Government Code, the City Council, acting in its regulatory capacity, has original jurisdiction over the retail and wholesale rates of CPS Energy; and

WHEREAS, the City Charter created the position of Supervisor of Public Utilities authorized to oversee the activities of CPS Energy and to gather and analyze information necessary for the City Council to establish fair and reasonable rates; and

WHEREAS, CPS Energy operates a combined electric and gas utility system on behalf of the City of San Antonio through the CPS Energy Board of Trustees; and

WHEREAS, on or about April 10, 2012, CPS Energy closed a transaction with Tenaska Capital Management, LLC on the purchase of the Rio Nogales power plant, an 800 megawatt (MW) combined-cycle natural gas plant located in Seguin, Texas; and

WHEREAS, the purchase of the Rio Nogales power plant will allow CPS Energy to virtually replace the output of the 870 MW J.T. Deely coal power plant, which is scheduled to be decommissioned in 2018; and

WHEREAS, until such time that the J.T. Deely power plant is decommissioned, CPS Energy intends to use a portion of the energy output of the Rio Nogales power plant and sell the remainder in the Texas competitive wholesale electric power market; and

WHEREAS, on October 21, 2004, the City Council passed Ordinance No. 99907 approving a Competitive Matter Memorandum of Understanding (MOU) between the City and CPS Energy, which authorized CPS Energy to exercise pricing flexibility in wholesale off-system sales pursuant to a competitively sensitive formula outlined in the MOU; and

WHEREAS, on June 7, 2012, the City Council passed Ordinance No. 2012—06-07-0410 approving Amendment No. 1 to the MOU in order to achieve greater pricing flexibility over wholesale off-system sales from the Rio Nogales power plant while attempting to maintain rate neutrality; and

WHEREAS, CPS Energy and the City have reached agreement on a second amendment (2nd Amendment) to the MOU to allow additional time for the Rio Nogales power plant to be incrementally incorporated in the utility's rate base, and for any annual city payment associated with this 2nd Amendment to occur upon completion of the CPS Energy fiscal year; and

WHEREAS, the Supervisor of Public Utilities concurs with the CPS Energy proposed 2nd Amendment to the MOU, which is attached under seal to this Ordinance as Exhibit A; and

WHEREAS, the MOU and the proposed 2nd Amendment to the MOU are competitive matters subject to protection from public disclosure pursuant to Section 552.133 of the Texas Public Information Act (Chapter 552 of the Texas Government Code); and

WHEREAS, on April 2, 2014, the City Council met in executive session to discuss the proposed 2nd Amendment to the MOU after determining by a unanimous vote that the subject matter of the amendment is an appropriate competitive matter in accordance with Section 551.086 of the Texas Open Meetings Act (Chapter 551 of the Texas Government Code); and

WHEREAS, as a competitive matter, the 2nd Amendment to the MOU is competitively sensitive information the disclosure of which would confer an unfair advantage upon actual and prospective competitors of CPS Energy in the wholesale electric market; and

WHEREAS, this Ordinance shall remain on file for public access at the City Clerk's Office, however, the 2nd Amendment to the MOU shall not be attached under seal and shall remain confidential; and **NOW THEREFORE:**

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

SECTION 1. Amendment No. 2 to the Competitive Matter Memorandum of Understanding between the City and CPS Energy is designed to grant additional time for the Rio Nogales power plant to be incrementally incorporated in the utility's rate base, and to authorize any annual city payment associated with the 2nd Amendment to occur upon completion of the CPS Energy fiscal year. The City Manager or Supervisor of Public Utilities is authorized to execute the 2nd Amendment. The 2nd Amendment shall be executed in triplicate originals and each original shall be clearly marked "Confidential – Competitively Sensitive Information" and maintained by the Supervisor of Public Utilities, CPS Energy, and in the City Clerk's executive session files.

SECTION 2. The 2nd Amendment shall be attached to this Ordinance as Exhibit A and shall remain under seal with instructions to the City Clerk not to release the 2nd Amendment to public.

SECTION 3. This Ordinance shall become effective immediately upon passage by eight (8) votes of the City Council and if passed upon fewer than eight (8) votes after the tenth (10th) day after passage thereof.

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PASSED AND APPROVED, this 10th day of April, 2014.

M A Y O R
for Julián Castro

ATTEST:

Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:

Robert F. Greenblum, City Attorney

Agenda Item:	**20 (in consent vote: 4, 5, 6, 7, 8, 9, 12, 15, 16, 18, 19, 20, 21, 22, 23, 24, 26, 27)**
Date:	04/10/2014
Time:	09:31:12 AM
Vote Type:	Motion to Approve
Description:	An Ordinance approving an amendment to the Competitive Matter Memorandum of Understanding between the City and CPS Energy as authorized by Ordinance No. 99907 on October 21, 2004, allowing further pricing flexibility to CPS Energy in pursuing certain wholesale off-system sales. [Ben Gorzell, Chief Financial Officer; Troy Elliott, Director, Finance]
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor	x					
Diego Bernal	District 1		x			x	
Ivy R. Taylor	District 2		x				
Rebecca Viagran	District 3		x				x
Rey Saldaña	District 4		x				
Shirley Gonzales	District 5		x				
Ray Lopez	District 6		x				
Cris Medina	District 7		x				
Ron Nirenberg	District 8		x				
Joe Krier	District 9		x				
Michael Gallagher	District 10		x				