



## MEMORANDUM

**To:** Mayor and City Council

**From:** Noel Bernal, Deputy City Manager via Christel Pettinos, City Secretary

**Date:** June 12, 2018

**Reference:** Consider approval of a Resolution suspending the July 5, 2018 effective date of Texas-New Mexico Power Company's (TNMP's) requested rate change to permit the City time to study the request and to establish reasonable rates; approving cooperation with other TNMP cities; hiring Lloyd Gosselink Attorneys and Consulting Services to negotiate with the company and direct any necessary litigation and appeals; and authorizing the Mayor to sign.

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### Introduction:

Texas-New Mexico Power Company (TNMP or the Company) filed an application on May 30, 2018 with cities retaining original jurisdiction seeking to increase system-wide transmission and distribution rates by \$33.3 million. The Company asks the City to approve a 23.4% increase in residential rates and a 11.8% increase in street lighting rates. Monthly rates would increase by approximately \$12.21 for an average residential customer.

The resolution suspends the July 5, 2018 effective date of the Company's rate increase for the maximum period permitted by law to allow the City, working in conjunction with other cities served by TNMP, to evaluate the filing, determine whether the filing complies with law, and if lawful, to determine what further strategy, including settlement, to pursue.

The law provides that a rate request made by an electric utility cannot become effective until at least 35 days following the filing of the application to change rates. The law permits the City to suspend the rate change for 90 days after the date the rate change would otherwise be effective. **If the City fails to take some action regarding the filing before the effective date, TNMP's rate request is deemed approved.**

**Analysis:**

The City of Coppell is a member of a coalition of cities known alternatively as the Cities Served by TNMP and the Gulf Coast Coalition of Cities (TNMP Cities). The Coalition has been in existence since the early 1990s. TNMP Cities have been the primary public interest advocate before the Public Utility Commission, the Courts, and the Legislature on electric utility regulation matters for over 20 years. The TNMP Service Area includes Coppell residents and businesses north of SH 121.

**Explanation of “Be It Resolved” Paragraphs:**

Section 1. The city is authorized to suspend the rate change for 90 days after the date that the rate change would otherwise be effective for any legitimate purpose. Time to study and investigate the application is always a legitimate purpose. Please note that the resolution refers to the suspension period as “the maximum period allowed by law” rather than ending by a specific date. This is because the Company controls the effective date and can extend the deadline for final city action to increase the time that the City retains jurisdiction if necessary to reach settlement on the case. If the suspension period is not otherwise extended by the Company, the City must take final action on TNMP’s request to raise rates by October 3, 2018.

Section 2. This provision authorizes the City to participate in a coalition of cities served by TNMP in order to more efficiently represent the interests of the City and their citizens.

Section 3. This provision authorizes the hiring of Lloyd Gosselink and consultants to represent the City in this matter. It also provides authority for the attorneys and consultants to act on behalf of the City at the local level in settlement discussions, in preparation of a rate ordinance, on appeal of the rate ordinance to the PUC, and on appeal to the Courts. Negotiating clout and efficiency are enhanced by the City cooperation in a common review and common purpose. Additionally, rate case expenses are minimized when cities hire one set of attorneys and experts who work under the guidance and control of the cities.

Section 4. The Company will reimburse the cities for their reasonable rate case expenses. Legal counsel and consultants approved by the TNMP Cities will submit monthly invoices that will be forwarded to TNMP for reimbursement. No individual city incurs liability for payment of rate case expenses by adopting a suspension resolution.

Section 5. This section merely recites that the resolution was passed at a meeting that was open to the public and that the consideration of the Resolution was properly noticed.

Section 6. This section provides that both TNMP’s counsel and counsel for the cities will be notified of the City’s action by sending a copy of the approved and signed resolution to certain designated individuals.

**Legal Review:**

The agenda item was submitted by Thomas Brocato, Attorney with Lloyd Gosselink Rochelle & Townsend, P.C.

**Fiscal Impact:**

**Recommendation:**

Approval recommended.