

April 5, 2021

On this the 5th day of April, 2021 at 5:15 p.m., the City Commission of the City of Hereford, Texas, convened in a special session in the Commission Chamber in City Hall, the meeting being open to the public and notice of said meeting having been given as prescribed by Chapter 551 of the Government Code, with the following members being present and in attendance, to-wit:

Tom Simons, Mayor  
 Angie Alonzo, Commissioner Place Two  
 Mark Collier, Commissioner, Place Four  
 Cathy Bunch, Commissioner Place Five  
 Steve Bartels, City Manager  
 Suzanne Finch, City Secretary  
 Audie Sciumbato, City Attorney

Absent: Jose A. Garza, Commissioner Place One  
 Clint Savoini, Commissioner Place Three  
 Rocky Bhakta, Commissioner Place Six

No one was in attendance from the media to witness the proceedings.

Also, in attendance were HEDC Executive Director Wade Hawkins and Officer Carlos Luna.

Mayor Simons voiced the invocation and then called upon Commissioner Bunch to lead the Pledge of Allegiance to the United States flag. He called the meeting to order, welcomed those in attendance, and introduced each item on the agenda.

**REGULAR HEARINGS:**

**ITEM 1 – Consider approval of minutes for the March 15th, 2021 Regular Meeting.**

Commissioner Collier made the motion to approve the minutes as corrected. Commissioner Alonzo seconded the motion and it passed with the unanimous vote of the Commission.

**ITEM 2 – Consider approval of Resolution No. 04.05.21 suspending Southwestern Public Service Company’s proposed effective date in connection with its Statement of Intent submitted on about February 8, 2021; approving temporary 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 and participation in related rate proceedings; authorizing the hiring of attorneys and consultants; requiring reimbursement of reasonable legal and consultant expenses; requiring proof of notice; finding that the meeting complies with the Open Meetings Act; making other findings and provisions related to the subject; and declaring an effective date.**

## RESOLUTION NO. 04.05.21

A RESOLUTION BY THE CITY OF HEREFORD, TEXAS ("CITY") SUSPENDING SOUTHWESTERN PUBLIC SERVICE COMPANY'S PROPOSED EFFECTIVE DATE IN CONNECTION WITH ITS STATEMENT OF INTENT SUBMITTED ON ABOUT FEBRUARY 8, 2021; APPROVING TEMPORARY 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 AND PARTICIPATION IN RELATED RATE PROCEEDINGS; AUTHORIZING THE HIRING OF ATTORNEYS AND CONSULTANTS; REQUIRING REIMBURSEMENT OF REASONABLE LEGAL AND CONSULTANT EXPENSES; REQUIRING PROOF OF NOTICE; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE

WHEREAS, Southwestern Public Service Company ("SPS") filed a Statement of Intent with the City and with the Public Utility Commission of Texas ("PUCT") on or about February 8, 2021, to increase its base-rate revenue requirement for its Texas retail service area by approximately \$143.3 million, which is an increase in base revenue of about 23%; 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

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 rate request consists of a voluminous amount of information including SPS's rate-filing package, pre-filed direct testimony, exhibits, schedules, and workpapers; and

WHEREAS, SPS proposed March 15, 2021 as the effective date for its requested increase in rates, which is the 35<sup>th</sup> day after the date SPS submitted its application; and

WHEREAS, it is not possible for the City to complete its review of SPS's filing within 35 days; and

WHEREAS, the City will need an adequate amount of time to review and evaluate SPS's rate application to enable the City to adopt a final decision as a local regulatory authority with regard to SPS's requested rate increase; and

WHEREAS, SPS filed its Statement of Intent to raise rates with the City and with the Public Utility Commission of Texas on the same date, February 8, 2021 and it is important to intervene in the PUCT proceeding because the PUCT's decisions could impact rates within the City; and

WHEREAS, consistent with the settlement the PUCT approved in Docket No. 46936 regarding SPS's acquisition of the Hale and Sagamore wind-generation facilities, SPS in this application requests that its current rates be established as temporary rates as of March 15, 2021, which is the 35th day after the date SPS filed its application to increase rates ("Temporary Rate

Date"), and that the final rates set in this case be applied to usage on and after the Temporary Rate Date, subject to refund or surcharge to the extent final rates differ from SPS's current rates.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION FOR THE CITY OF HEREFORD, TEXAS THAT:**

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

**Section 2.** Consistent with PURA § 36.108(a)(1) and § 36.112(d), SPS's proposed effective date of March 15, 2021 to increase base rates, is hereby suspended one hundred and thirty-five (135) days, or at least until July 29, 2021.

**Section 3.** The statutory suspension period will be extended automatically day for day should SPS extend its proposed effective date, and may be further extended if SPS does not provide timely, meaningful, and proper public notice of its request to increase rates, or if its rate-filing package is materially deficient.

**Section 4.** SPS's request that its current rates be declared Temporary Rates as of March 15, 2021, is hereby **APPROVED**, subject to refund or surcharge to the extent the final approved rates differ from SPS's current rates.

**Section 5.** The City authorizes intervention in proceedings related to SPS's Statement of Intent before the Public Utility Commission of Texas and any related proceedings, including proceedings in any courts of law.

**Section 6.** 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 the Steering Committee of AXM is to provide direction and guidance to Special Counsel representing said cities.

**Section 7.** The City 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 8.** 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 9.** 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 10.** Not later than seven days after SPS has completed publication of notice of its proposed increase in rates, SPS shall notify AXM that it has completed notice by providing proof of notice to AXM's Special Counsel, Herrera Law & Associates, PLLC, and such proof shall be in the form of an affidavit from a representative from SPS that has personal knowledge

that SPS has published notice; such affidavit shall include a copy of notice SPS published.

**Section 11.** The City Secretary or other appropriate city official shall provide a copy of this Resolution to Mr. Alfred R. Herrera, Herrera Law & Associates, PLLC, 4524 Burnet Road, Austin, Texas 78756, and as a courtesy, provide SPS a copy of this Resolution by sending a copy of the Resolution to William A. Grant, Regional Vice President, Regulatory and Strategic Planning, and Jeremiah W. Cunningham, Rate Case Manager, Southwestern Public Service Company, 790 S. Buchanan St. Amarillo, Texas 79101.

**Section 12.** 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 13.** To the extent any Resolution previously adopted by the City Commission is inconsistent with this Resolution, it is hereby superseded.

**Section 14.** The findings set out in the preamble are in all things hereby approved.

**Section 15.** This Resolution shall become effective from and after its passage.

**PASSED AND APPROVED this 5th day of April 2021.**

/s/ Tom Simons  
TOM SIMONS, MAYOR

**ATTEST:**

/s/Suzanne Finch  
SUZANNE FINCH, CITY SECRETARY

Mayor Simons read the caption and called upon City Manager Bartels to comment on this item.

City Manager Bartels stated this is a suspension and the Alliance of Xcel Municipalities will come back with a negotiated rate at some point. The Commission discussed the role of AXM and cities in the setting of rates.

Commissioner Collier made the motion to approve Resolution No. 04.05.21. Commissioner Bunch seconded the motion and it passed with the unanimous vote of the Commission.

**ITEM 3 – Announcements and comments from Mayor and City Commissioners.**

Mayor Simons noted the Department of Public Safety arranged for the Matt Myrick Memorial Highway Dedication Ceremony to be held at the Civic Center rather than the Hereford Municipal Airport so they did not have to worry about inclement weather.

He also thanked Mayor Pro Tem Bunch for filling in for him at the last meeting.

**ITEM 4 – Announcements and comments from City Staff.**

City Manager Bartels stated the Matt Myrick dedication will be a neat deal and encouraged everyone to attend.

City Manager Bartels reported on the recent Hereford Municipal Airport Advisory Board meetings; he stated their main concerns are the leases need updating and the hangars need improving/replacing. He is working with the city engineers to look at our options and he will at some point come back to the City Commission and ask for their approval to submit a Letter of Interest to the Aviation Division of Texas Department of Transportation.

City Manager Bartels reported on the wellfield: Deaf Smith Electric is preparing to start on the power poles; working on fencing; and Ag Electric will wire the power to the wells.

He also noted we will be starting on the lift station soon and will begin the progress meetings possibly as early as tomorrow.

City Manager Bartels thanked the Commission for their attendance at this special meeting.

**ITEM 5 – Public Comments.**

Mayor Simons reported on the progress of some of the projects at the pro shop: counters, carpet, and paint.

City Manager Bartels noted we are getting closer to being through; we still lack the window frames/glass and granite counter top.

They discussed giving the outside of the pro shop a facelift this Spring.

There being no further business before the Commission, the meeting was adjourned at approximately 5:32 p. m.