

Mayor and Council Communication

DATE: 05/23/23

M&C FILE NUMBER: M&C 23-0423

LOG NAME: 21SIENERGY RATE

SUBJECT

(ALL) Adopt an Ordinance Suspending Rate Increases Proposed by SiEnergy, LP., and Retention of Legal Counsel and Consultants to Evaluate the Proposed Rates

RECOMMENDATION:

It is recommended that the City Council:

1. Adopt the attached ordinance which suspends the implementation of the rate increases filed with the City of Fort Worth by SiEnergy, LP., on May 5, 2023; and
 2. Authorizes the City Manager or his designee to cooperate with other cities served by SiEnergy, LP., to hire direct legal counsel (Lloyd Gosselink Rochelle & Townsend, P.C.) and to evaluate the proposed rates.
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DISCUSSION:

The purpose of this Mayor and Council Communication (M&C) is to act to suspend the implementation of the proposed rate increases filed by SiEnergy, LP. (SiEnergy or Company). On May 5, 2023, SiEnergy, pursuant to Subchapter C of Chapter 104 of the Gas Utility Regulatory Act, filed its Statement of Intent to change gas rates at the Railroad Commission of Texas (RRC) and in all municipalities exercising original jurisdiction within its service area. The proposed effective date for the new rates is June 9, 2023.

SiEnergy is seeking an increase of \$9.69 million on a systemwide basis, which results in \$2.67 million revenue increase in the incorporated areas or a 47.3% increase over current adjusted revenues, excluding gas costs. Because the proposed rates will increase the SiEnergy's total aggregate revenues by more than 2.5%, the proposed rate increase constitutes a "major change" in rates as that term is defined by Texas Utilities Code § 104.101. In addition, the Company requests (1) approval of new depreciation rates for its distribution and general plant; (2) authorization to amortize its acquisition adjustment over a 6-year period; (3) a determination that the Company's invested capital placed into service between October 1, 2017 through March 31, 2023 was prudent, necessary and reasonably incurred; (4) a determination that the expenses recorded for Winter Storm Uri and Covid-19 in the regulatory asset accounts authorized by the Commission are reasonable, accurate, and eligible for recovery; and (5) all reasonable rate case expenses incurred in connection with the Statement of Intent filing are authorized for recovery by the Company.

Under state law, the City has original jurisdiction over the rates, operations, and services of any gas utility operating in the City. The City's Charter grants the City Council the power by ordinance to fix and regulate the rates of all public utilities in the City. If the City fails to take some action regarding the filing before the effective date of June 9, 2023, SiEnergy's rate request is deemed approved. To have sufficient time to analyze the rate filing, the City is allowed to suspend the proposed rate change for up to 90 days after the date the rate change would otherwise be effective. During the suspension period, the gas utility's current rates will continue in effect.

The attached ordinance suspends the June 9, 2023 effective date of SiEnergy's rate increase for the maximum period permitted by law and allows the City to cooperate with other cities served by SiEnergy to hire and direct legal counsel (Lloyd Gosselink Rochelle & Townsend, P.C.) and consultants, negotiate with SiEnergy, make recommendations to the City regarding reasonable rates and to direct any necessary administrative proceedings or court litigation associated with an appeal of a rate ordinance and the rate case filed with the City or Railroad Commission. Because this is a rate-making proceeding, SiEnergy will reimburse the cities for legal and consulting costs.

This will serve ALL COUNCIL DISTRICTS.

A Form 1295 is not required because: This M&C does not request approval of a contract with a business entity.

FISCAL INFORMATION / CERTIFICATION:

The Director of Finance certifies that approval of these recommendations will have no material effect on City funds.

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