

UTILITY COMMITTEE MINUTES

November 28, 2001

The Utility Committee of the City of Mesa met in the lower level meeting room of the Council Chambers, 57 East 1st Street, on November 28, 2001 at 4:00 p.m.

COMMITTEE PRESENT

Mike Whalen, Chairman
Bill Jaffa
Claudia Walters

COUNCIL PRESENT

None

OFFICERS PRESENT

Mike Hutchinson
Debbie Spinner

1. Discuss and consider revised revenue-neutral electric rate structure to comply with electric deregulation.

Utilities Manager Dave Plumb addressed the Committee and provided an historical overview regarding this agenda item. He stated that effective January 1, 2002, the City of Mesa electric utility service territory will be open to competition and noted that there are numerous requirements the City must concurrently meet in connection with deregulation. He reported that a recent study was conducted to determine an appropriate rate structure which complies with State law and meets the City's needs with respect to reflecting current costs, being compatible with the City's new Customer Information System and providing consistent revenue generation.

Mr. Plumb referred to a series of Electric Rate Schedules that were displayed in the Council Chambers and provided to the Committeemembers including: 1) Residential Service-Standard Offer (No. E1.1); 2) Residential Service-Direct Access (No. E1.5); 3) Commercial Service-Standard Offer (No. E3.1); and 4) Commercial Service-Direct Access (No. E3.5) (See Attachment). He reported that the significant change associated with the proposed rate structure is that charges are broken down into several categories; that the Customer Charge includes Billing/Collection, Metering, and Meter Reading charges; and that the Energy Charge includes Generation and Distribution charges.

He also commented on the other various charges and explained what they represent. He added that the proposed schedules reflect a level rate structure with no increases or decreases in overall revenue to the City. Mr. Plumb stated that the Direct Access Schedules are identical to the Standard Offer Schedules and explained that State law requires both schedules. He further explained that in conjunction with the Direct Access Schedule, Generation can be secured from a competitor.

Discussion ensued regarding the costs that are included in the Generation category under Energy Charge; the fact that the City owns a number of 69kV sub-transmission lines which are considered distribution assets; the fact that deregulation is considered an unfunded government mandate; the fact that Energy Charges are increased during May through September; and the appropriate

Schedules that apply to various governmental entities.

Mr. Plumb reported that any future rate increases will require a lengthier approval process and he explained that although the Council has the authority to increase/decrease rates, deregulation mandates dictate that rates must be published in an unbundled manner.

Further discussion ensued regarding the historical deregulation process in Arizona.

It was moved by Committeemember Walters, seconded by Committeemember Jaffa, to recommend to the Council that the revised revenue-neutral electric rate structure, to comply with electric deregulation, be approved.

Carried unanimously.

2. Discuss and consider revised electric rate rules and regulations to comply with electric deregulation.

Mr. Plumb addressed the Committee regarding this agenda item and introduced Utilities Attorney Karen Nally and Power Resources Coordinator Cliff Cauthen. Mr. Plumb reported that Ms. Nally and Mr. Cauthen spent a significant amount of time composing the proposed *City of Mesa Rules and Regulations*, *City of Mesa Code of Conduct*, *Terms and Conditions for Standard Offer and Direct Access Services* (Schedule ETC-SO) and *Terms and Conditions for Direct Access Services* (Schedule TC-DA). He noted that comparable documents from the Arizona Corporation Commission, Arizona Public Service, Tucson Electric Power and Salt River Project were reviewed as part of the process.

Mr. Plumb outlined and commented on the seven sections of the *City of Mesa Rules and Regulations*, including: 1) Definitions; 2) General Provisions; 3) Provisions of Service; 4) Monetary Provisions; 5) Construction; 6) Liability and Responsibility; and 7) Mesa's Direct Access Program.

Committeemember Jaffa voiced concerns regarding the absence of a schedule of fees/costs in the *Rules and Regulations*.

In response to Committeemember Jaffa's concerns, Mr. Plumb explained that all fees and costs referred to in the *Rules and Regulations* are contained in a separate fee schedule that is adopted by the Council. Mr. Plumb stated that staff would, however, amend the *Rules and Regulations* to reference the separate fee schedule where appropriate.

Mr. Plumb commented on the regulations that pertain to the selection of an alternate Energy Service Provider (ESP) and the switching charges that the City is authorized to charge and will charge to customers and ESPs.

Mr. Plumb stated that it is the consensus of staff that the *Rules and Regulations* are very comprehensive and provide a good basis for the City's dealings with customers and potential ESPs.

In response to concerns voiced by Committeemember Jaffa regarding the absence of customer remedies for non-conformance in the *Rules and Regulations*, Ms. Nally stated that the document contains standard contract language and commented on litigation remedies available to customers.

Mr. Plumb referred to and commented on the *City of Mesa Code of Conduct* and outlined the five policy categories that govern that Code. Mr. Plumb explained that if the City elects to enter into competition outside of Mesa's service territory, State law requires the adoption of a Code of Conduct and he noted that this document also applies to the City's conduct with existing customers.

Mr. Plumb outlined the numerous provisions contained in the *Terms and Conditions for Standard Offer and Direct Access Services* (Schedule ETC-SO). He noted that this schedule contains the general terms and conditions for both Standard Offer and Direct Access Service including the establishment of service.

In response to questions from Committeemember Walters regarding documents that would be provided to residential customers wishing to select an alternate ESP and efforts made by staff to simplify documents, Mr. Cauthen stated that the *Terms and Conditions for Standard Offer and Direct Access Services* would be one of the many documents and forms provided to customers who wish to select an alternate ESP.

Ms. Nally stated that because it will not be cost effective for the average City of Mesa residential electric customer to switch to an alternate ESP, staff does not anticipate a significant number of residential service changes. She added that staff does anticipate that the larger commercial/industrial customers will choose to switch to an alternate ESP and that those types of customers will be familiar with deregulation laws, rules and regulations and should not have difficulty understanding the various documents, including the Schedules. She further stated that there are numerous charges and fees that are assessed in connection with switching ESPs and that it will be incumbent upon the customer to understand what is involved.

Mr. Plumb stated that the City will have brochures available to customers which explain deregulation and competition and also a list of ESPs that are authorized to provide service within the Mesa service area.

Mr. Plumb outlined and commented on the *Terms and Conditions for Direct Access Services* (Schedule TC-DA).

In response to a question from Committeemember Jaffa regarding the remedy of an ESP for non-payment of a bill, Mr. Plumb explained that the ESP's remedy is to cancel its contract with the customer and return the customer to Standard Offer service with the City. He noted that the City would not disconnect a customer for non-payment of an ESP's bill.

In response to concerns stated by Committeemember Jaffa regarding the importance of maintaining good relationships with ESPs, Mr. Plumb advised that although the various contract terms and conditions are based on the minimum requirements of the City, staff endeavors to maintain excellent working relationships with all utility providers, customers and other entities in the community.

Chairman Whalen and Committeemember Jaffa voiced appreciation to staff for their efforts in this matter.

It was moved by Committeemember Jaffa, seconded by Committeemember Walters, to recommend to the Council that the revised electric rate *Rules and Regulations*, the *Code of Conduct*, the *Terms and Conditions for Standard Offer and Direct Access Services* (Schedule ETC-SO) and *Terms and Conditions for Direct Access Services* (Schedule TC-DA), be approved.

Carried unanimously.

3. Hear an update on arsenic standards for drinking water.

Assistant Utilities Manager Bill Haney and Water Quality Supervisor Alan Martindale addressed the Committee regarding this agenda item. Mr. Haney reported that arsenic is a common geological chemical found in the western United States, especially in the southwestern region.

Mr. Haney provided an overview of the national arsenic regulatory process, including the fact that the maximum contaminant level (MCL) for arsenic was originally set at 50 parts per billion (ppb) in 1942 by the United States Public Health Service; that when the Safe Drinking Water Act was reauthorized in 1986, one of the provisions of the reauthorization was that certain limits be reevaluated every few years; and the fact that the Environmental Protection Agency (EPA) established a limit of 10 ppb in January 2001 following a study by the EPA Science Advisory Board. Mr. Haney noted that the study conducted by the Science Advisory Board was based primarily on Taiwanese data and not based upon any records relative to arsenic poisoning or cancer issues in the United States. Mr. Haney further reported that although the EPA published a delay notice in March 2001 regarding the 10 ppb MCL limit, it recently announced the intent to maintain the 10 ppb MCL in a final ruling expected in February 2002. Mr. Haney noted that although there is a slight chance that the EPA will set the MCL at 20 ppb, in the event EPA's final ruling is for 10 ppb, the mandatory compliance date will be January 2006.

Mr. Haney commented on the arsenic MCL debate and the studies conducted by the Science Advisory Board and said that although a study conducted in Utah does not support lowering the MCL to 10 ppb, the Science Advisory Board has ignored the Utah study and relied upon data from Taiwan, Chile and Argentina.

Mr. Haney discussed requirements associated with the pending final ruling and the expected impacts to the City in connection with complying with a 10 ppb MCL, including: 1) the rule will require arsenic monitoring at each point of entry into the City's distribution system, including 38 wells and two water treatment plants; 2) that sources over 10 ppb will have to be blended, treated or abandoned; 3) that public notification must be made in the City's annual Consumer Confidence Report regarding any sources which exceed 5 ppb; 4) that staff anticipates that approximately 14 of the City's wells will be impacted by the 10 ppb MCL; 5) that staff suggests implementing some type of treatment technique for sources which exceed 25% of the 10 ppb MCL; 6) that staff estimates that the initial infrastructure costs will be between \$33 million and \$35 million and that annual operating costs are estimated at approximately \$100,000 per year; and 7) that the reason operating costs are low compared to infrastructure costs is because the affected wells are only used approximately one month out of the year.

Mr. Haney also commented on the possibility that the EPA will consider waste material produced through arsenic treatment a hazardous material, which would require the City to implement additional measures in order to dispose of the waste material.

Mr. Haney discussed efforts that have been initiated by the City to oppose the EPA's final ruling of 10 ppb, which include association with the Western Coalition of Arid States to actively lobby the EPA to reconsider a 20 ppb MCL, based on the absence of scientific data to warrant a 10 ppb standard.

Discussion ensued regarding the primary proponents of a reduced arsenic standard; scare tactics that are being utilized by proponents; the fact that emotionalism is prevailing over common sense and economics in the arsenic debate thus far; the fact that Texas, Nebraska and New Mexico have filed litigation in this matter and that further litigation is expected to be filed regardless of the EPA's final ruling.

Mr. Haney reported that data published to date indicates that there are no risks associated with a 20 ppb MCL and he noted that when arsenic does produce health effects, they are chronic rather than acute and associated with continuous consumption over a long period of time. He further reported that there is regional consensus to adjust standards of the final ruling for water sources that are not utilized on a continuous basis, and he noted that this provision would impact Mesa and may even result in full compliance. He said that the City is actively supporting this provision.

Committeemembers Walters and Jaffa indicated support for the City's efforts in this matter.

In response to a question from Committeemember Jaffa, Mr. Haney confirmed that Arizona's congressional representatives are aware of the City's position and concerns relative to this issue.

In response to a question from Chairman Whalen regarding the historic level of arsenic in the City's Falcon Field 4 Well Site, as provided in the *Arsenic Evaluation for City of Mesa Wells* (See Attachment 2), Mr. Martindale advised that many factors affect mineral content in a well and that the primary reason for higher arsenic levels at this well is unknown. He also commented on the fact that water that is pumped from lower levels generally contains a lower mineral content.

Discussion ensued regarding the fact that levels of arsenic in the Valley range from 50 ppb to non-detect levels; and the fact that geological formations significantly affect arsenic levels.

In response to a question from Committeemember Walters regarding fines associated with not complying with arsenic standards, Mr. Haney reported that current fines under the EPA's Safe Drinking Water Act are \$25,000 per day, per site.

Chairman Whalen thanked staff for the update.

4. Hear and consider a request from representatives of Mesa Valley Housing Associates Limited Partnership regarding payment of impact fees as a condition of providing utility services.

Chairman Whalen stated that this item has been removed from the agenda.

5. Adjournment.

Without objection, the Utility Committee Meeting adjourned at 5:38 p.m.

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Utility Committee Meeting of the City of Mesa, Arizona, held on the 28th day of November 2001. I further certify that the meeting was duly called and held and that a quorum was present.

BARBARA JONES, CITY CLERK

Attachments
pjt