

Legislation Text

File #: 24-453, **Version:** 1

PRESENTER:

Valeria M. Acevedo, City Attorney

SUBJECT:

Approval of a resolution suspending for 45 days the effective date of the gas utility rate increases proposed by Universal Natural Gas, LLC d/b/a Universal Natural Gas, Inc. in its application filed with the Texas Railroad Commission on or about March 1, 2024; and authorizing representation by Herrera Law & Associates, PLLC in connection with this rate application.

DEPARTMENT: City Attorney’s Office

COUNCIL DISTRICTS IMPACTED: UniGas customers

BACKGROUND INFORMATION:

UNIGAS’ “GRIP” APPLICATION

On or about March 1, 2024, UniGas filed for an increase in gas utility rates under the Gas Reliability Infrastructure Program (“GRIP”) (Utilities Code § 104.301). Then on March 27, 2024 UniGas filed an amended application. See amended filing attached to the agenda report. UniGas’ application, when approved by the Railroad Commission, will result in an increase in the monthly customer charges as shown below:

Rate Schedule	Current Customer Charge	Proposed 2024 Interim Rate Adjustment	Adjusted Charge	Increase Per Bill
Unincorporated and Municipally-Incorporated Customers				
Residential (RES)	\$34.81 per customer per month	\$8.54 per customer per month	\$43.35 per customer per month	\$8.54
Small Commercial (COMM)	\$111.97 per customer per month	\$50.81 per customer per month	\$162.78 per customer per month	\$50.81
Large Commercial (COMM)	\$1,236.46 per customer per month	\$783.16 per customer per month	\$2,019.62 per customer per month	\$783.16

Note that UniGas refers to its application as its “2023” interim adjustment because the increase in rates UniGas presents in its application is based on capital expenditures it made from January 1, 2023 through December 31, 2023.

“GRIP” RATE APPLICATIONS

Under section 104.301 of the Gas Utility Regulatory Act (GURA), a gas utility is allowed to request increases in its rates to recover a return on investments it makes between rate cases. This section of GURA is commonly referred to as the “GRIP” statute (the “Gas Reliability Infrastructure Program”). The statutory term for “GRIP” filings is an interim rate adjustment (“IRA”).

The Supreme Court of Texas concluded that a filing made under the GRIP statute permitted gas utilities the opportunity to recover a return on capital expenditures made during the interim period between rate cases by applying for interim rate adjustment and that proceedings under the GRIP statute did not contemplate either adjudicative hearings or substantive review of utilities' filings for interim rate adjustments. Instead, the GRIP statute provides for a *ministerial* review of the utility’s filings to ensure compliance with the GRIP statute and the Railroad Commission’s rules, and that it is within the Railroad Commission’s authority to preclude cities from intervening and obtaining a hearing before the Railroad Commission. In turn, under the GRIP statute, the Railroad Commission conducts only a ministerial review of a utility’s application to increase rates. Consequently, any meaningful review of the expenditures related to a utility’s GRIP application are not undertaken until the utility’s next general rate case. A utility may file five GRIP applications between rate cases.

REVIEW AND ACTION RECOMMENDED

Although the City’s ability to review and effectuate a change in UniGas requested increase is limited, the City should exercise due diligence with regard to rate increases by monopoly utilities who operate within its boundaries, including increases requested under the GRIP statute to ensure compliance with the requirements of that law.

To exercise its due diligence, it is necessary to suspend UniGas proposed effective date of May 11, 2024, for forty-five days, so that the City can evaluate whether the data and calculations in UniGas’ rate application are correctly done, and whether UniGas’ application otherwise conforms to the requirements of the GRIP statute.

Therefore, the City’s Special Counsel, the law firm of Herrera Law & Associates, PLLC (through Alfred R. Herrera), who has represented the City in reviewing applications to change rates submitted by investor-owned gas utilities in prior rate proceedings, recommends that the City adopt a resolution suspending UniGas’ proposed effective date for 45 days. Assuming a proposed effective date of May 11, 2024, UniGas’ proposed effective date is suspended until June 25, 2024.

The City must take action to suspend UniGas’ proposed effective date by no later than May 11, 2024.

ISSUE:

Action needed to suspend rate increase for 45 days as allowed by state law which would result in the proposed rate increases cannot go into effect prior to June 25, 2024.

FISCAL IMPACT:

No fiscal impact to the City; however, the rate increases affect UniGas customers residing in the city.

RECOMMENDATION:

Staff and special counsel recommend that the City adopt a resolution suspending the effective date of the proposed interim rate increases for 45 days.