



**Franchise Agreement
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION**

AGENDA ITEM NO.: 9
AGENDA DATE: Thu 11/04/2004
PAGE: 1 of 2

SUBJECT: Consider a resolution authorizing the City Manager to approve or deny a surcharge application filed by Texas Gas Service (TGS) to recover utility relocation costs.

AMOUNT & SOURCE OF FUNDING: N/A

FISCAL NOTE: There is no unanticipated fiscal impact. A fiscal note is not required.

REQUESTING Financial and **DIRECTOR'S**
DEPARTMENT: Administrative Services - **AUTHORIZATION:** Vickie Schubert
Telecommunications and
Regulatory Affairs

FOR MORE INFORMATION CONTACT: Rondella Hawkins, Manager, 974-2422

PRIOR COUNCIL ACTION:

BOARD AND COMMISSION ACTION:

On October 14, 2004, Texas Gas Service (TGS) filed its application with the City of Austin to recover \$1.9 million in relocation costs for 33 projects (27 City of Austin projects and 6 Texas Department of Transportation projects). Section 104.112 of the Texas Utilities Code allows a gas utility to recover utility relocation costs associated with construction or improvement projects of a governmental entity through a customer surcharge. This provision requires the City to grant or deny the application no later than the 35th day after filing, which is November 18, 2004.

Denial of the application must be based on the finding that:

1. the relocation was not necessary or required;
2. the costs of the relocation were excessive or not supported;
3. the utility did not pursue reimbursement from the entity requiring the relocation, if applicable;
4. the surcharge is unduly discriminatory among customers or classes of customers located in the service area; or
5. the period over which the relocation costs are designed to be recovered is less than one or more than three years.

If the City fails to make a decision before the deadline, the application is deemed approved. The Office of Telecommunications and Regulatory Affairs is reviewing the application to determine the reasonableness of the application cost request.

State law also states that typical rate case requirements, such as statement of intent filing and public hearings, do not apply to a relocation cost proceeding. Moreover, this same provision requires the governing body to "administratively grant or deny the application." This provision allows the Council to delegate decision-making authority over this particular proceeding, unlike any other rate case matter.

RCA Serial#: 6782 Date: 11/04/04 Original: Yes

Published:

Disposition:

Adjusted version published:



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Because of the short deadline established by state law and the sheer magnitude of the filing, staff recommends that Council delegate decision making authority over this matter to the City Manager. The delegation applies to this proceeding only and does not apply to future relocation cost filings made by the gas utility.

RESOLUTION NO. 041104-

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

The City Council approves a resolution authorizing the City Manager to approve or deny a surcharge application filed by Texas Gas Service (TGS) to recover utility relocation costs.

ADOPTED: _____ November 4 _____, 2004

ATTEST: _____

Shirley A. Brown
City Clerk