

**RESOLUTION NO. 020821C**

**RESOLUTION BY THE CITY OF ABERNATHY, TEXAS (“CITY”) APPROVING THE SURCHARGE RELATED TO DOCKET NO. 49831 SUBMITTED BY SOUTHWESTERN PUBLIC SERVICE COMPANY ON ABOUT DECEMBER 18, 2020; AUTHORIZING PARTICIPATION IN A COALITION OF SIMILARLY SITUATED CITIES KNOWN AS THE ALLIANCE OF XCEL MUNICIPALITIES; AUTHORIZING PARTICIPATION IN RELATED RATE PROCEEDINGS; REQUIRING THE REIMBURSEMENT OF MUNICIPAL RATE CASE EXPENSES; AUTHORIZING THE RETENTION OF SPECIAL COUNSEL; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; AND MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT**

**WHEREAS**, on about December 18, 2020, Southwestern Public Service Company, LLC (“SPS”) filed an application for authority to implement a surcharge in the amount of about \$71.5 million related to the rates agreed to and approved by the Public Utility Commission of Texas (“PUCT”) in Docket No. 49831 (SPS’s 2019 general rate case); and

**WHEREAS**, SPS’s application to approve a surcharge is in accord with the agreement the parties, including the Alliance of Xcel Municipalities (“AXM”), reached in Docket No. 46936 (SPS’s 2017 “Wind-Farm Case”) in which the PUCT approved SPS’s request to allow it to construct and operate the Hale and Sagamore wind facilities; and

**WHEREAS**, in the Wind-Farm Case the parties agreed that in SPS’s then-next general rate case, SPS could seek to implement the rates finally approved in that general rate case such that those rates would relate back to the 35<sup>th</sup> day after it filed its general rate case; and

**WHEREAS**, that general rate case is Docket No. 49831, SPS’s 2019 rate case, and the 35<sup>th</sup> day after filing in Docket No. 49831, is September 12, 2019; and

**WHEREAS**, the rates the PUCT ultimately approved in Docket No. 49831 have an effective date of August 31, 2020, thus making the period over which the surcharge is calculated, the period from September 12, 2019 through August 31, 2020; and

**WHEREAS**, SPS proposes to implement the surcharge over a one-year period from April 1, 2021 through March 31, 2022; and

**WHEREAS**, AXM’s Special Counsel and rate experts engaged on behalf of AXM have reviewed SPS’s application to implement an surcharge and have confirmed that SPS correctly calculated the surcharge and that its method for implementing the surcharge is mathematically correct and consistent with AXM’s prior agreement with SPS; 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**, in order to maximize the efficient use of resources and expertise in reviewing SPS’s request it is prudent to coordinate the City’s efforts with a coalition of similarly situated municipalities; and

**WHEREAS**, the City, in matters regarding SPS’s rates, services, and operations has in the past joined with other local regulatory authorities in the Alliance of Xcel Municipalities (“AXM”) of cities and hereby continues its participation in AXM; and

**WHEREAS**, SPS simultaneously filed its application to implement a surcharge with the Public Utility Commission of Texas, and therefore the decision of the Public Utility Commission of Texas could affect SPS’s proposed surcharge, and thus impact the rates charged within the City, and in order for the City’s participation to be meaningful it is important that the City promptly intervene in such proceeding at the Public Utility Commission of Texas.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CITY OF ABERNATHY, TEXAS THAT:**

**Section 1.** The findings set out in the preamble are in all things approved and incorporated herein as if fully set forth.

**Section 2.** The City **APPROVES** SPS’s application filed on about December 18, 2020, to implement a net surcharge in the amount not to exceed \$71,546,546, including interest in the amount of \$1,604,142, and directs SPS to refund to ratepayers any over-recovery that may occur above the \$71,546,546.

**Section 3.** The City authorizes intervention in proceedings related to SPS's application before the Public Utility Commission of Texas and related proceedings in courts of law as part of the coalition of cities known as the Alliance of Xcel Municipalities.

**Section 4.** The City hereby directs SPS to reimburse the City's rate case expenses, as part of the Alliance of Xcel Municipalities, and that it do so on a monthly basis and within 30 days after submission of the City's invoices related to proceedings involving SPS before the City, the Public Utility Commission of Texas, or any court of law.

**Section 5.** Subject to the right to terminate employment at any time, the City retains and authorizes the law firm of Herrera Law & Associates, PLLC to act as Special Counsel with regard to rate proceedings involving SPS before the City, the Public Utility Commission of Texas, or any court of law and to retain such experts as may be reasonably necessary for review of SPS's surcharge application subject to approval by the City.

**Section 6.** The City, through its participation in the Alliance of Xcel Municipalities, shall review the invoices of the lawyers and rate experts for reasonableness before submitting the invoices to SPS for reimbursement.

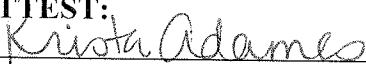
**Section 7.** A copy of this resolution shall be sent to SPS's local representative and to Mr. Alfred R. Herrera, Herrera Law & Associates, PLLC, 4524 Burnet Road, Austin, Texas 78756.

**Section 8.** The meeting at which this resolution was approved was in all things conducted in compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

**Section 9.** This resolution shall become effective from and after its passage.

**PASSED AND APPROVED** this 8th day of February 2021.

  
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Mayor

**ATTEST:**  
  
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City Secretary