Agenda Report

October 28, 2024

TO: Honorable Mayor and City Council

THROUGH: Municipal Services Committee (10/22/2024)

FROM: Water and Power Department

SUBJECT: **DIRECT THE CITY ATTORNEY TO PREPARE AN ORDINANCE AMENDING PASADENA MUNICIPAL CODE CHAPTER 13.04 TO REMOVE DIRECT ACCESS PROVISIONS AND RELATED TARIFFS, AND AMENDING LONG-TERM CONTRACT PROVISIONS**

RECOMMENDATION:

It is recommended that the City Council:

1) Find that the proposed actions are exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Section 15061(b)(3) (Common Sense Exemption); and

2) Direct the City Attorney to prepare an ordinance and return within 60 days, amending the Pasadena Municipal Code ("PMC") Chapter 13.04, the light and power rate ordinance to:

    a. Remove Sections 13.04.095 – Direct access service, 13.04.096 – Direct access transition charge, 13.04.097 – Direct access service charge; and

    b. Amend PMC Section 13.04.075 – Long-term contracts, to remove equity adjustments and associated provisions.

BACKGROUND:

In August 2024, Pasadena Water and Power ("PWP") initiated an electric rate study to review current rates and explore potential future designs. The goal is to ultimately provide recommendations to the City Council that will ensure revenue adequacy, fair and equitable allocation of costs, while balancing customer affordability and impacts to customers. The first step involved reviewing the current language in the rates ordinance.

As a result, multiple provisions within the PMC, Title 13, Utilities and Sewers, were identified to be outdated, obsolete or do not align with current industry best practice. These provisions include Sections 13.04.095, 13.04.096, and 13.04.097 – Direct Access Service, and Section 13.04.075 – Long-term contracts. Staff recommends removing or amending provisions to prevent confusion during future electric rate study phases and to simplify future ordinance changes during the rate study.

Direct Access Service (Sections 13.04.095, 13.04.096, and 13.04.097)

Direct access service allows retail customers to purchase their electricity directly from a third-party provider called an Electric Service Provider ("ESP"), instead of from a regulated electric utility, such as PWP. Under this service option, PWP would continue to deliver the electricity through its transmission and distribution network, regardless of which electric supplier the customer chooses.

In response to California's electricity sector deregulation starting in 1996, Section 13.04.095 – Direct Access Service and the associated Sections 13.04.096 – Direct Access transition charge and 13.04.097 – Direct Access Service charge were adopted and added to the PMC in early 2000. These provisions within the PMC outline the energy and service charges associated with the direct access service. Customers would receive a bill for energy from their chosen electric service provider and a bill for distribution services from PWP, including charges outlined in the rate tariff.

Since the code adoption in 2000, there have been several statutes that have affected Investor Owned Utilities ("IOUs"). While these changes in legislation impacted the IOUs, who are beholden to the rules of the California Public Utilities Commission ("CPUC"), PWP did not adjust or amend the direct access service during this time. Many Publicly Owned Utilities ("POUs") similar to PWP have since closed or removed direct access from their rate tariffs. Eliminating direct access service enables POUs to stabilize their customer base and ensure consistent recovery of power costs, reducing the risk of rate shocks caused by sales volatility and enhancing the utility's creditworthiness.

Although the option for direct access service is available under current regulations, PWP has not received any applications for enrollment. Additionally, offering direct access limits PWP's ability to control the type of energy resources used by electric service providers, which may not align with the City Council's policy goal of achieving 100% carbon-free energy for Pasadena. As a result, PWP staff recommends eliminating the direct access provision.

Long-term Contracts (Section 13.04.075)

When Section 13.04.075 – Long-term contracts was first codified it offered a contract between PWP and eligible customers served at 100 kW or higher for a minimum term of four years to receive a voltage discount, or equity adjustment, for maintaining either a minimum load or load factor for a minimum term of five years. PWP recommends retaining the beneficial aspects of the long-term contracts PMC, particularly the contract options for large, stable customers that provide system-wide benefits. However, PWP proposes removing sections of the ordinance with outdated or unclear tariff language that may lead to unintended subsidies.

PWP recommends keeping the general intent of the section, specifically related to remaining open to working directly with customers with high load factors. A high load factor profile is desirable to PWP because it makes a portion of energy demand predictable; minimizing some volatility in power supply planning. Load factor is a measure of the utilization rate or efficiency of electrical energy usage. Load factor is measured by the ratio of the highest actual kilowatt ("kW") demand during the billing period to the maximum theoretical kilowatt hour ("kWh") used if demand remained constant for the entire billing period. High load factor occurs when energy demand remains constant or nearly constant throughout the billing period.

However, PWP recommends eliminating prescriptive provisions related to equity adjustments and discounts that are no longer relevant. In 1999, following California's energy restructuring initiative, PWP completed an electric cost-of-service study and rate design and developed a restructured and unbundled electric rate structure. The rate restructure eliminated subsidies between customer groups allowing cost allocations to be based on cost to serve each customer group. As a result of the Long-term contract provision being superseded by the rate restructuring and current rates, equity adjustments may lead to inequities across existing customer classes and potential for direct customer subsidization, which is inconsistent with California Proposition 26. Currently, there are no PWP customers enrolled in this program.

It is recommended that the Long-term contract section of the PMC, be amended to provide flexible solutions to optimize electricity generation and demand volatility due to the rise of intermittent generation and the expected shutdown or repurposing of conventional generation assets. Potential Long-term contract arrangements may allow PWP to achieve sustainability goals and overcome future demand volatility with increased intermittent, distributed resource penetration by changing customer consumption behavior, such as shifting consumption away from peak periods or dispatching energy from battery storage when it is most valuable.

COUNCIL POLICY CONSIDERATION:

The recommendations are consistent with the City Council's goals to maintain fiscal responsibility and stability; improve, maintain, and enhance public facilities and infrastructure; and increase conservation and sustainability.

ENVIRONMENTAL ANALYSIS:

The proposed amendments of the PMC have been determined to be exempt from the CEQA pursuant to State CEQA Guidelines Section 15061(b)(3), the common sense exemption (formerly the "general rule") that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The proposed amendments of the PMC are limited to the provisions for agreements between PWP and customers for types of service and associated fees. Such PMC amendments would not result in any direct or indirect changes to the physical environment. Thus, these actions do not have the potential for causing a significant effect on the environment and are therefore exempt from CEQA per Section 15061(b)(3) (common sense exemption).

FISCAL IMPACT:

There is no fiscal impact for the action requested. There is no impact to the General Fund.

Respectfully submitted,

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