



City of Grand Island

Tuesday, April 13, 2004

Council Session

Item G11

**#2004-75 - Approving Waiver of Annual Report from
NorthWestern**

Staff Contact: Doug Walker

Council Agenda Memo

From: Douglas R. Walker, City Attorney

Meeting: April 13, 2004

Subject: Approving Resolution Waiving the Annual Report from
Northwestern Public Services

Item #'s: G-11

Presenter(s): Douglas R. Walker, City Attorney

Background

On August 14, 2001, the City Council Island passed Ordinance No. 8687, which approved an agreement with Northwestern Public Services for retail natural gas to be supplied to the city. As part of that agreement, there were provisions for the filing of financial information on or before April 30th of each year so that the city could ascertain whether the rates charged by Northwestern Public Services are reasonable. Northwestern Public Service has filed a Chapter 11 bankruptcy and the current financial data may change dramatically depending on whether or not the U.S. Bankruptcy Court approves the settlement proposed by Northwestern Public Services.

Discussion

Ordinance No. 8687 made a provision that Northwestern Public Service would file financial information with the city on or before April 30th of each calendar year so that city officials could ascertain whether or not the return on investment that Northwestern was receiving justified the rates that were being charged. Since this ordinance has been approved, if Northwestern has not requested an annual rate increase, further action has not been taken to implement a full review of the annual financial information provided by Northwestern Public Services. Northwestern Public Services is not requesting a rate increase and they have committed to city officials that they do not plan to seek a rate increase any time prior to April 2005. Since no rate increase is being requested and since Northwestern's bankruptcy case has a pending settlement proposal, which if accepted by the U.S. Bankruptcy Court could dramatically change the financial status of the company, the usual review of financial information for Northwestern would be difficult and the financial information provided may not accomplish the usual objective of providing reliable data on which to review the status of the company's gas rates. Because of these factors, the resolution has been prepared to permit Northwestern Public Services to

continue with the same gas rates for another year without filing the usual financial information with the city.

Alternatives

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Approve the resolution giving Northwestern permission not to file the usual financial information.
2. Disapprove or /Deny the resolution and require Northwestern Public Services to file financial information with the City of Grand Island.
3. Modify the resolution to meet the wishes of the Council
4. Table the issue

Recommendation

City Administration recommends that the Council approve the resolution giving Northwestern Public Services permission not to file financial information with the City of Grand Island.

Sample Motion

Approve the resolution authorizing Northwestern Public Services not to file financial information.

RESOLUTION 2004-75

WHEREAS, on August 14, 2001, by Ordinance No. 8687, the City Council of the City of Grand Island, Nebraska, approved increased rates and other provisions concerning natural gas service at retail in the City by NorthWestern Corporation and its operating utility division ("NorthWestern"), as part of the City's acceptance of a rate settlement by and between Northwestern and the Cities of Grand Island, Kearney and North Platte, and the Village of Alda; and

WHEREAS, such Ordinance provided that NorthWestern would file information with the City, on or before April 30th of each calendar year, as of the prior year, consistent with certain terms and conditions of the Ordinance, pursuant to the rate of return realignment mechanism of the Ordinance; and

WHEREAS, on September 14, 2003, NorthWestern filed a voluntary petition under Chapter 11 of the United States Bankruptcy Code with the United States Bankruptcy Court for the District of Delaware, seeking a reorganization for NorthWestern, and on March 12, 2004, NorthWestern filed a Plan of Reorganization and Disclosure Statement with the Bankruptcy Court; and

WHEREAS, such Plan of Reorganization will not be confirmed nor consummated by the Bankruptcy Court for several months, and the City and NorthWestern believe that it would be extremely difficult to prepare and to review the information that NorthWestern would be required to prepare and submit pursuant to the rate of return realignment mechanism provisions of Ordinance No. 8687 while the bankruptcy matter is pending and until the Plan of Reorganization is implemented and NorthWestern emerges from bankruptcy; and

WHEREAS, NorthWestern has represented to the City that it does not plan to seek to increase rates for natural gas in the City prior to April 2005.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that:

1. The April 30, 2004 rate of return realignment mechanism information filing requirement for NorthWestern under Section 3 of Ordinance No. 8687 is hereby waived.
2. All other provisions of Ordinance No 8687, including rate of return realignment mechanism information filing requirements for years subsequent to 2004, are hereby reaffirmed.

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Adopted by the City Council of the City of Grand Island, Nebraska, April 13, 2004.

RaNae Edwards, City Clerk

Approved as to Form	☐ _____
April 8, 2004	☐ City Attorney