



City of Grand Island

Tuesday, September 27, 2011

Council Session

Item G11

#2011-264 - Approving Support Nebraska Challenge to EPA Cross State Air Pollution Rule

Staff Contact: Tim Luchsinger

Council Agenda Memo

From: Timothy Luchsinger, Utilities Director

Meeting: September 27, 2011

Subject: Nebraska Challenge to Cross State Air Pollution Rule

Item #'s: G-11

Presenter(s): Timothy Luchsinger, Utilities Director

Background

In 2005, the Environmental Protection Agency issued the Clean Air Interstate Rule (CAIR), which imposed reductions in sulfur dioxide (SO₂) and nitrogen oxides (NO_x) in twenty-five states in the eastern half of the country. This rule was later found by a court ruling to have flaws and sent back to the EPA for review, but left in place the CAIR requirements on a temporary basis.

In 2010, EPA proposed the Cross State Transport Rule (CSAPR) to replace CAIR, which added Nebraska and Texas to the original twenty-five states. The proposed rule reduced NO_x emissions for Nebraska electric generating units by about 9.4% on an annual basis, which was felt to be an attainable number without significant impact on generation by the State's electric utilities and the Nebraska Department of Environmental Quality. Many utilities determined that this amount of reduction could be achieved by changes in operations and would not require plant capital modifications.

On July 6, 2011, EPA issued the final CSAPR that required a reduction 46% lower than previously proposed for Nebraska NO_x emissions with compliance effective January 1, 2012. Utilities Department staff has estimated that it will take approximately \$4 million in capital modifications for the Platte Generating Station to reduce NO_x emissions to the final CSAPR emission levels allocated for Grand Island with a minimum twelve months for procurement and installation of the equipment.

The traditional approach for projects of this scope would involve an in-depth engineering analysis of solutions by Department engineering staff or consultants with separate specifications issued for bids to equipment suppliers and installation contractors. The expedited procurement that will be needed to complete the project in one year will require a "turn-key" approach, which will assign a greater responsibility of design to an equipment contractor, who is also responsible for installation. This type of approach can

have undesired implications on the final cost and finished product of the project. In addition, the Department has budgeted an additional \$1.3 million for additional generation at the Burdick Station using natural gas to offset less generating capacity at Platte until the new emission control equipment can be installed.

Discussion

The Nebraska Attorney General opposes the implementation schedule of the CSAPR and is considering litigation to stay its implementation. The Attorney General's position is based on the new rule having a direct and negative impact on the electric ratepayers of Nebraska and it may cause them irreparable harm. As a result of Nebraska being a public power state, the electric ratepayers are also the owners of the utilities, and they will either be forced to raise rates or reduce cash reserves because of the adverse consequences of the new rule.

This position has the support of the electric generating utilities in Nebraska. The Utilities Department recommends that the City also indicate support for the Attorney General's efforts to delay implementation of the CSAPR through passage of a resolution.

Alternatives

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

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

Recommendation

City Administration recommends that the Council approve the resolution supporting a stay of implementation of the Cross State Air Pollution Rule.

Sample Motion

Move to approve the resolution supporting a stay of the Cross State Air Pollution Rule.

RESOLUTION 2011-264

WHEREAS, on July 6th, 2011, the Environmental Protection Agency issued the final Cross State Air Pollution Rule setting air emission levels for Nebraska electric generating utilities; and

WHEREAS, this final rule placed unforeseen limits of sulfur dioxides and nitrogen oxides in an unreasonable timeframe upon Nebraska electric utilities including the City of Grand Island; and

WHEREAS, this rule will cause a direct and immediate negative impact with possible irreparable harm upon the citizens and businesses who are the ratepayers of the City of Grand Island and the State of Nebraska; and

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that it supports a challenge of the Cross State Air Pollution Rule and that a stay should be granted to allow further review to consider the impact of this rule on the State of Nebraska.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, September 27, 2011.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk