



# City of Grand Island

Tuesday, November 22, 2011

Council Session

## Item G4

**#2011-345 - Approving Amendment to Arch Coal Contract for 2012**

Staff Contact: Tim Luchsinger

# Council Agenda Memo

**From:** Timothy Luchsinger, Utilities Director

**Meeting:** November 22, 2011

**Subject:** Amendment to 2012 Coal Supply Agreement with Arch Coal Company

**Item #'s:** G-4

**Presenter(s):** Timothy Luchsinger, Utilities Director

## Background

The City currently has two one-year coal supply contracts with Arch Coal Sales for the years 2011 and 2012. Included in the contracts are provisions for adjusting the price of the coal based on its sulfur content. The sulfur content of the coal directly influences the amount of sulfur dioxide in the emissions from the plant during the combustion process. For every ton of sulfur dioxide emitted, a generating unit must have an allowance, which has a value established by commodity markets and can be bought or sold by industry users or other interested groups. The sulfur price adjustment provision in the contracts are based on the market price of the allowances and provides an incentive for the coal supplier to deliver lower sulfur coal, while protecting the City against higher sulfur coal, by accounting for the cost of allowances. The Environmental Protection Agency published a new regulation on July 7, 2011, the Cross State Air Pollution Rule, which will replace the current Clean Air Interstate Rule on January 1, 2012. Current allowance pricing is based on allowances allocated by the CAIR, which becomes obsolete January 1<sup>st</sup> and superseded by CSAPR allowances.

## Discussion

References to CAIR allowance market pricing in the coal supply contract for 2012 will need to be amended to language referencing the CSAPR allowance market indices. Arch Coal has provided an amendment to the 2012 Coal Supply Agreement reflecting this change in market indices. Utilities and Legal Departments have reviewed this amendment and recommend its execution by the City.

## **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 execution of the amendment to the 2012 Arch Coal Supply Agreement revising the sulfur price adjustment index calculation.

## **Sample Motion**

Move to approve the execution of the amendment to the 2012 Arch Coal Supply Agreement revising the sulfur price adjustment index calculation.



## ARCH COAL SALES

**JENNIFER J. HERNER**  
Vice President  
Marketing Administration

**Via Electronic Mail** (giudadmin@grand-island.com)

October 17, 2011

Mr. Tim Luchsinger  
Utilities Director  
City of Grand Island, Nebraska  
100 East First Street  
Grand Island, Nebraska 68801

Re: 2012 Coal Supply Agreement dated November 23, 2010 (Arch Ref MO3360)

Dear Tim,

As you know, the EPA published its newest SO<sub>2</sub> regulation, the Cross State Air Pollution Rule or CSAPR, to the Federal Register on July 7, effectively replacing the existing CAIR allowance system starting in 2012. To that end, contracts that extend beyond 2011 and still refer to CAIR or emissions allowances will need to be addressed to account for the new regulation / valuation. The above contracts between us fall into this category:

Arch proposes that the following language replace the existing SO<sub>2</sub> language in its entirety effective January 1, 2012:

“If the actual SO<sub>2</sub> lbs/MMBtu on an as-received basis of any Shipment accepted by Buyer is other than the Standard SO<sub>2</sub> lbs/MMBtu, an adjustment shall be calculated based on each Shipment as follows:

**$$\frac{((\text{Basis SO}_2 \text{ lbs/MMBtu} - \text{Actual Shipment SO}_2 \text{ lbs./MMBtu}) \times \text{Actual Shipment Btu/lb} \times \text{SO}_2 \text{ Price})}{1,000,000}$$**

Where SO<sub>2</sub> Price is the previous month's daily average price under the Price column for Cross-State Air Pollution Rule (“CSAPR”) allowances as published in Argus Air Daily published by Argus Media Ltd. or any successor publication as follows.

- If the destination is in SO<sub>2</sub> Group 1 of CSAPR, the price published for Group 1 SO<sub>2</sub> Allowances

Mr. Tim Luchsinger  
City of Grand Island, Nebraska  
Page 2 of 2

- If the destination is in SO2 Group 2 of CSAPR, the price published for Group 2 SO2 Allowances
- If the destination is not in either SO2 Group 1 or Group 2, or is unstated, the average of the prices for both Group 1 SO2 Allowances and Group 2 SO2 Allowances.

In the event the information contained in Air Daily is no longer published or a change in the methodology, law, regulations or industry standards has occurred that will materially alter the information, a substitute calculation shall be mutually agreed to by the Parties to as closely as possible reflect the value of SO2 allowances (or similar allowances pursuant to any such modification or replacement or successor rules or laws) required to emit one ton of SO2.”

In order to expedite the process, if you agree with the above language, you may simply sign below, and this signed letter will serve as your amendment.

However, we recognize that every company is working through its own compliance solutions. Should you wish to discuss alternatives, please contact your sales representative as soon as possible.

Thank you in advance for your assistance in this matter.

Best regards,



Jenny Herner

**Agreed to on this \_\_\_ day of \_\_\_\_\_, 2011.**

**CITY OF GRAND ISLAND, NEBRASKA**

\_\_\_\_\_  
Signature

Name \_\_\_\_\_

Title \_\_\_\_\_

RESOLUTION 2011-345

WHEREAS, on November 23, 2010, City Council approved an Agreement with Arch Coal Sales Company with sales offices in St. Louis, Missouri, to provide coal for the Platte Generating Station through December 31, 2012 ; and

WHEREAS, on July 7, 2011, the Environmental Protection Agency (EPA) issued the Cross State Air Pollution Rule (or CSAPR), effectively replacing the existing CAIR allowance system in 2012; and

WHEREAS, Agreements that extend beyond 2011 and still refer to CAIR or emissions allowances need to be addressed to account for the new regulation/valuation.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, the Amendment to the 2012 Coal Supply Agreement, dated November 23, 2010, is hereby approved, and the Utilities Director is authorized to sign the amendment on behalf of the City of Grand Island.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, November 22, 2011.

---

Jay Vavricek, Mayor

Attest:

---

RaNae Edwards, City Clerk

Approved as to Form	☐ _____
November 16, 2011	☐ City Attorney