

~~CONSENT AGENDA~~  
~~ITEM NO~~ **29**

**CITY OF SAN ANTONIO**  
**Interdepartmental Correspondence**

**TO:** Mayor and City Council

**FROM:** Andrew Martin, City Attorney and Ben Gorzell Jr., CPA, Public Utilities Supervisor

**THROUGH:** J. Rolando Bono, Interim City Manager

**COPIES:** Melissa Byrne Vossmer, Assistant City Manager; File

**SUBJECT:** Ordinance Authorizing Competitive Matter MOU w/ CPS

**DATE:** October 21, 2004

**SUMMARY AND RECOMMENDATION**

This ordinance will authorize a Competitive Matter Memorandum of Understanding (MOU) between the City and City Public Service (CPS) to allow CPS greater flexibility in pursuing wholesale off-system sales. Staff recommends approval of this ordinance.

**BACKGROUND INFORMATION**

On September 30, 2004, pursuant to Ordinance No. 99823, the City approved modifications to CPS' electric rate schedules. Those adjustments to the electric rate schedules were a necessary component in the exercise of CPS' Right of First Refusal related to the purchase of an additional 12% ownership interest in the South Texas Project (STP) nuclear power plant. As a result of that purchase, CPS will have the opportunity to sell excess energy to wholesale off-system customers. The Electric Reliability Council of Texas (ERCOT) wholesale electric market is a competitive market. This market offers opportunities to CPS to maximize its electric power generation assets by making sales of excess energy to off-system wholesale customers.

**POLICY ANALYSIS**

The ordinance and MOU are necessary to place CPS in a more competitive position when pursuing wholesale off-system sales. The sale of excess energy is expected to have a positive impact on the CPS system and its customers by generating additional revenue for the system.

In order to preserve CPS' competitive position in seeking wholesale off-system sales, the MOU, which describes the flexibility being provided to CPS, shall remain confidential pursuant to §552.133 of the Texas Public Information Act (Chapter 552 of the Tex. Govt. Code). Also, upon a good faith determination by the City Council that the subject matter of the MOU is an appropriate competitive matter, the details of the MOU shall be outlined for City Council in executive session pursuant to §551.086 of the Texas Open Meeting Act (Chapter 551 of the Tex. Govt. Code). The subject has already been identified as a competitive activity pursuant to CPS' Competitive Matters Resolution, and the details of that activity, if disclosed, would confer an advantage upon actual and prospective competitors of CPS. The City Clerk shall maintain a certified executive session agenda or tape recording that includes the substantive details of the MOU that will be presented in executive session. After the briefing in executive session, City Council will vote on the MOU in the public forum. If the ordinance authorizing the MOU is passed, then the ordinance shall remain on file for public access in the City Clerk's office; however, the MOU shall not be attached to the ordinance. The MOU shall remain confidential and be maintained by the appropriate City and CPS staff.

**FISCAL IMPACT**

The additional flexibility in the pursuit of wholesale off-system sales is anticipated to generate additional revenue for CPS and the City.

**COORDINATION**

This item has been reviewed by the Public Utilities Division, the City Attorney's Office and City Public Service.

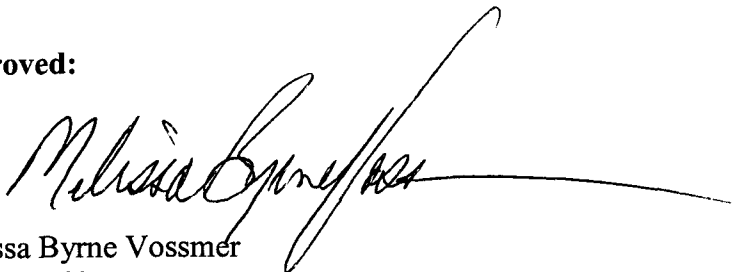


Andrew Martin  
City Attorney



Ben Gorzell Jr., CPA  
Supervisor of Public Utilities

**Approved:**



Melissa Byrne Vossmer  
Assistant City Manager



J. Rolando Bono  
Interim City Manager