

**City Attorney/Chief Legal Officer Briefing
2015 Wind Power Tariff Rate Hearing
January 13, 2015**

(This document contains the legal briefing and instructions that will be provided to City Council by the City Attorney's Office – Utilities Division to start the Rate Hearing on January 13, 2015.)

The City Council's authority to establish rates, charges, and regulations for utility services is contained within the Colorado Constitution, Colorado Statutes, the Colorado Springs City Charter, the City Code, and the City Council's Rules and Procedures.

RATE-SETTING STANDARDS

Article 20 of the Colorado Constitution provides the City Council with the authority to establish electric rates, charges, and regulations. Article 6 of the City Charter provides authority to operate the electric system.

The power to establish tariffs for electric service provided inside municipal limits lies exclusively with the City Council. City Code § 12.1.107(E) directs the City Council to establish rates for electric service that are just, reasonable, sufficient, and not unduly discriminatory. Under Colorado Revised Statute § 40-3.5-102, the City Council's rate-setting decisions for electric customers outside of municipal limits are not subject to prior review by the Colorado Public Utilities Commission if the rates and charges are identical to those imposed on municipal residents. Typically, rates are considered just and reasonable if the rates balance:

- 1) The utility's interest in the recovery of legitimately incurred costs and a reasonable return on its investment dedicated to utility service; and
- 2) The customers' interest in being assessed charges that approximate the costs associated with the provision of utility service.

Rates will not be found to unjustly discriminate among customers provided that there is a rational basis underlying any differences in charges between customers and customer classes.

QUASI-JUDICIAL ROLE

Part 4 of the Rules and Procedures of City Council, together with § 12.1.107 of the City Code, set forth the process that governs the City Council's hearing today. In setting rates, charges, and regulations for electric service, City Council is acting in a quasi-judicial role. Unlike actions taken in your legislative role, such as adoption of an ordinance, your decision to establish rates must be based on the record before you. The written materials you have received, as well as the oral presentations and testimony at this public hearing, will constitute the record of the proceeding.

Today, you will hear the 2015 Wind Power Tariff rate case, which involves a tariff proposal for electric service that will reinstate the prior Wind Power Tariff with revised rates.

CITY ATTORNEY/CHIEF LEGAL OFFICER EX PARTE POLL

At this point in the proceedings, if City Council members have received any Ex Parte communications, I would ask that you indicate those communications for the record.

SUSPENSION OF PART 4 (1) (C) OF THE RULES AND PROCEDURES OF CITY COUNCIL

I would now request that the City Council move to suspend Part 4 (1) (c) of the Rules and Procedures of City Council, Post-Hearing Procedures, for this rate hearing, which will dispense with the need for a decision and order and which will allow the City Council to immediately consider the tariff proposal and revisions at the conclusion of this public hearing for a January 14, 2015 implementation.

UTILITIES' PRESENTATION BEGINS