

City of Brownsville – City Attorney’s Office:

PUBLIC HEARING and Action on
FIRST READING on
ORDINANCE 2022-1702-A, to
amend previously adopted
Ordinance No. 2022-1702;
specifically establishing the full
rollback rate (returning retail energy
and demand charges to Oct. 1 2013
rates) be effective December 13,
2022, instead of May 3, 2023.
(Mayor T. Mendez/ Commissioner
De los Santos)



Proposal: Advance of Final Rollback

April 19, 2022:

BPUB's Study on Rates presented to City Commission
Recommendation to Rollback 22% (2013 Standards).

- 11% on May 3, 2022
- Another 11% on May 3, 2023

Proposal Submitted by Mayor Mendez/Commissioner De los Santos

Authority: City Charter, Sections 1(a) and 4(b):

- If BPUB provides a recommendation on rates/fees, then the City Commission may approve or deny it.
- BPUB did not recommend anything over 22%. City Commission is limited to that recommendation.
- BPUB did give the City an option to roll out the 22%, either immediately, 6 months or over 2-3 years.

***No further action needed by BPUB to advance Final Rollback since it was already approved.**

Can the City Reduce Rates Further?

Section 1(a):

Section 1. - Management.

(a) There is hereby created and established as a separate and distinct agency of the City of Brownsville, Texas, a Board to be known as the "Public Utilities Board of the City of Brownsville, Texas." Said Board is hereinafter referred to as the "Utilities Board," or, more simply, the "Board." Except as otherwise provided in this article, the Utilities Board shall have absolute and compete authority and power with reference to the control, management and operation of the power and light, water and sewage systems owned by the City of Brownsville, Texas, and the expenditure and application of the revenues of the systems, subject to the provisions contained herein, all of which shall be binding upon and shall govern the Utilities Board.

Section 4(b):

(b) The board periodically shall review the rates, fees and charges for services rendered by the utilities system, with due consideration being accorded to the terms, covenants and conditions contained in any contract of the city or the board relating to the utilities system or ordinance authorizing the issuance of any utility system revenue bonds, and in the event such review reflects a necessity for the adjustment, either by an increase or a reduction of such rates, fees and charges, then the board shall submit to the city commission a report of the review and the basis upon which the proposed adjustment is predicated, accompanied by a written request for approval and adoption of the rates, fees and charges recommended by the board. If the city commission approves the adjustment thus recommended it shall pass an appropriate ordinance placing such rates, fees and charges in effect.

Can the City Further Regulate BPUB?

In addition to Section 1(a) and Section 4(b), Section 1(g) states:

(g) The Board shall elect one of its members as chairman, and one as vice-chairman, and shall appoint a secretary and treasurer, or a secretary-treasurer, who may, but need not be, a member or members of the Board. The Board may adopt such rules for the orderly handling of its affairs as it may see fit, and may manage and conduct the affairs of the systems with the same freedom and in the same manner ordinarily employed by the board of directors of a private corporation operating properties of a similar nature.

Two Main Powers Provided to the City under its Charter (LIMITED):

***Section 4(c): Appointment of BPUB Members.**

***Section 1(e): Removal of 1 BPUB Member every 12 months.**

Can the City Further Regulate BPUB?

Section 1(e): Removal of 1 BPUB Member every 12 months.

(e) Removal of Board Member. The City Commission may remove only one member of the Board in any twelve month period of time and may do so only upon a unanimous vote of the entire City Commission. Any vote for removal of a Board Member of PUB will be by roll call, with each member of the City Commission being required to verbally state that member's individual vote on the record.

Can the City Further Regulate BPUB?

Charter precludes City Commission from Removing Officers/Employees (Sections 1(a) and (h)):

(h) The Board shall appoint and employ all officers and employees which it may deem desirable, including a general manager of the system and an attorney or attorneys. No officer or employee of the Board may be employed who shall be related within the second degree of consanguinity or affinity to any member of the Board.

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Can the City Engage State/Federal Agencies to Assist?

- Prior to the public release (10/5) of the Audit Report, City Attorney shared the report with federal agents to ensure that the release would not jeopardize any federal investigations.
- Federal Agents did not have any issues with the release of the Audit Report.
- City Attorney's Office has connected CRI with the federal agency and instructed CRI to provide them with any documents they might request.
- Only state and federal agencies have the jurisdiction to assert any charges against any of those involved.
- City has and will continue cooperating with all investigating authorities.

Mid/Long Term Solutions for the City:

- **Charter Election:**
Texas Constitution
Art. XI, Section 5: ...
“No city charter shall be altered, amended or repealed oftener than every two years.
- **Earliest Charter Election may occur May 2023.**

Sec. 5. CITIES OF MORE THAN 5,000 POPULATION: ADOPTION OR AMENDMENT OF CHARTERS; TAXES; DEBT RESTRICTIONS. (a) Cities having more than five thousand (5000) inhabitants may, by a majority vote of the qualified voters of said city, at an election held for that purpose, adopt or amend their charters. If the number of inhabitants of cities that have adopted or amended their charters under this section is reduced to five thousand (5000) or fewer, the cities still may amend their charters by a majority vote of the qualified voters of said city at an election held for that purpose. The adoption or amendment of charters is subject to such limitations as may be prescribed by the Legislature, and no charter or any ordinance passed under said charter shall contain any provision inconsistent with the Constitution of the State, or of the general laws enacted by the Legislature of this State. Said cities may levy, assess and collect such taxes as may be authorized by law or by their charters; but no tax for any purpose shall ever be lawful for any one year, which shall exceed two and one-half per cent. of the taxable property of such city, and no debt shall ever be created by any city, unless at the same time provision be made to assess and collect annually a sufficient sum to pay the interest thereon and creating a sinking fund of at least two per cent. thereon, except as provided by Subsection (b). Furthermore, no city charter shall be altered, amended or repealed oftener than every two years.

Legal Options available Today:

- Approve Advance of Rollback Date, without approval from BPUB.
- Give staff direction to bring back information as it relates to initiating Charter Election May 2023 or later.

QUESTIONS?