



City of San Antonio

Agenda Memorandum

File Number:

Agenda Item Number: 21

Agenda Date: August 18, 2022

In Control: City Council A Session

DEPARTMENT: Finance Department

DEPARTMENT HEAD: Troy Elliott

COUNCIL DISTRICTS IMPACTED: Citywide

SUBJECT:

CPS Energy requests authorization to satisfy the Internal Revenue Service's (IRS) "Intent to Issue" authorization requirement pursuant to the applicable IRS revenue procedures as a condition precedent to receive a final Favorable Private Letter Ruling to prospectively issue Tax-Exempt bonds.

SUMMARY:

CPS Energy requests approval by the City Council (the "Council") of the City of San Antonio, Texas (the "City") of an Ordinance evidencing the Intent to Issue bonds for a final Private Letter Ruling (PLR) submitted to the IRS. CPS Energy is seeking a ruling from the IRS to issue any future Winter Storm Uri financings as Tax-Exempt. The IRS requests an Intent to Issue Authorization for the receipt of a final ruling. The authorization demonstrates to the IRS an intent to issue debt when and if needed but requires an additional ordinance to be adopted by City Council confirming the terms and provisions of any future bonds reflecting the contents of a favorable PLR. The action CPS Energy is seeking is an IRS required step to potentially receive Tax-Exempt treatment representing the lowest cost of debt available, when or if additional Winter Storm Uri debt is required. Securing an IRS ruling that CPS Energy may issue Tax-Exempt debt can potentially save customers millions of dollars in avoided interest costs.

BACKGROUND INFORMATION:

Private Letter Ruling, “Intent to Issue” Authorization – CPS Energy is seeking a ruling from the IRS to issue a portion of any future Winter Storm Uri financings as Tax-Exempt. A PLR request was submitted to the IRS in May 2022 and, as part of the review process, the IRS requires an Intent to Issue Authorization as evidence of an affirmation that CPS Energy intends to utilize long term financings related to such costs. Upon favorable ruling from the IRS, CPS Energy will have bond structuring flexibility to issue Tax-Exempt debt at the lowest possible financing cost.

CPS Energy’s Bond Counsel has engaged with the IRS agents on CPS Energy’s behalf in the process to secure a ruling to be able to issue Tax-Exempt financings for future Winter Storm Uri debt. Financings qualified as Tax-Exempt are normally limited to Capital expenses; fuel expenses or “working capital” are generally issued as Taxable. Due to certain IRS statutes and regulations some “extraordinary costs”, such as those incurred during Winter Storm Uri, are permitted to be financed as Tax-Exempt. CPS Energy is demonstrating its position and tax analyses to the IRS that it meets these specific requirements in an effort to have the ability to issue Tax-Exempt obligations prospectively.

INTENT TO ISSUE ORDINANCE:

The “Intent to Issue” Ordinance satisfies the federal tax law requirements to complete a submission to the IRS for the receipt of a PLR. The PLR is delivered in the form of a written statement from the IRS issued to a taxpayer, such as the City, establishing with certainty the federal tax consequences of a particular transaction (in this case, the financing of any Winter Storm Uri costs). A favorable PLR is binding on the IRS and would be the authority to prospectively issue Tax-Exempt bonds.

Procedures Applicable

If approved, the Ordinance will be submitted to the IRS for review. CPS Energy’s Bond Counsel will interface directly with the IRS to demonstrate the legal position that the Winter Storm Uri costs meet the federal tax law requirements to issue Tax-Exempt debt. CPS Energy expects to receive a final decision approximately six months after the application is complete.

OBLIGATIONS’ COMBINED TRANSACTION SCHEDULE:

Date	Action
August 18, 2022:	Approve Intent to Issue Ordinance
August 2022:	Submit ordinance to the IRS for review
February 2023:	Expected receipt of IRS decision

ISSUE:

CPS Energy requests authorization intended to serve as an “Intent to Issue” authorization to meet an Internal Revenue Service (IRS) requirement as a condition precedent to receive a final

Favorable Private Letter Ruling. Future Council approval would be required to issue debt under this structure.

ALTERNATIVES:

The City could postpone authorizing the Ordinance for the IRS PLR; however, the City would be required to issue any Winter Storm debt as Taxable obligations (which have a higher interest rate than Tax-Exempt obligations). With this approval, CPS Energy, in consultation with its Co-Financial Advisors, will have the opportunity to generate savings for customers by obtaining flexibility in bond structuring at the Tax-Exempt lower cost of debt.

FISCAL IMPACT:

Approval of the Ordinance will have no financial impact on the City.

RECOMMENDATION:

The CPS Energy Board of Trustees and City Staff recommend approvals of the Ordinance.