

THIS IS A PROPOSED DRAFT AND WILL BE REPLACED BY THE FINAL, SIGNED ORDINANCE OR RESOLUTION ADOPTED BY THE CITY COUNCIL.

**A RESOLUTION
IN SUPPORT OF PROTECTING CPS ENERGY'S CUSTOMERS FROM
EXCESSIVE CHARGES FOR ELECTRICITY AND FUEL**

* * * * *

WHEREAS, February's record-setting, sub-freezing temperatures, ice and snow during the February 2021 Winter Storm Uri Event sent demand for electricity soaring across the State, causing the near-collapse of the Texas power grid, and plunging more than 4 million homes and businesses into darkness for days; and

WHEREAS, on February 12, 2021 (before ERCOT began sending instructions to the utilities to begin forced power outages) Governor Greg Abbott issued a declaration of a State of Disaster for all counties in Texas; and

WHEREAS, what occurred was a massive, systemic market failure at the state level in which the Electric Reliability Council of Texas ("ERCOT") and market regulators let all of Texas down; and

WHEREAS, ERCOT oversaw the complete and catastrophic failure of the Texas energy market during the winter storm, underscored immediately after the event when seven members of ERCOT's Board resigned, and shortly after that, ERCOT's CEO was constructively terminated; and

WHEREAS, the Public Utility Commission of Texas ("PUCT"), the state commission that oversees ERCOT, failed to step in in a timely way to correct the problem, resulting in at least \$16 billion in electricity overcharges, underscored by the resignation of two members of the three-member PUCT; and

WHEREAS, during the storm, ERCOT-determined electricity prices spiked by about 30,000 percent, and natural gas fuel prices increased by as much as 16,000 percent; and

WHEREAS, the financial impacts of ERCOT's failures during Winter Storm Uri are now coming to light, with ERCOT running up \$20 billion in charges for 5 days of energy supply due to its lack of oversight and preparedness; and

WHEREAS, ERCOT's failure to manage the impact of Winter Storm Uri on the Texas electrical grid and inexcusable delays in correcting errors, coupled with what clearly appears to be excessive charges for fuel, during a declared disaster, have resulted in a high degree of uncertainty in the Texas energy market; and

WHEREAS, during the declared disaster, certain participants in the natural gas industry engaged in price gouging, gross overcharging, potential market manipulation, as well as other unlawful activity, in a state where 52 percent of the electricity generated was from natural gas, versus only 39 percent in the rest of the country;

WHEREAS, these failures resulted in one of the largest illegal wealth transfers in the history of Texas; and

WHEREAS, on March 12, 2021, CPS Energy sued ERCOT, for among other things, breach of contract, negligence, and violation of the Texas Constitution, and has petitioned the Court for a Temporary Injunction to prevent ERCOT from charging illegitimate and unlawful prices for electricity.

NOW THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

Section 1. That this Council supports the development and implementation of a multifaceted plan for CPS Energy and City of San Antonio to effectively protect greater San Antonio citizens from the financial impacts of the systemic failure of the ERCOT market and the outrageous and unlawful costs associated with Winter Storm Uri. The plan's goal will be to protect CPS Energy's customers from unlawful, unconscionable or illegitimate electric and natural gas prices.

Section 2. That the City Council supports CPS Energy's prudent business practice to pay lawful and legitimate business costs.

Section 3. That the City Council supports the lawsuit filed by CPS Energy against ERCOT as a key strategy in protecting San Antonio's CPS Energy customers, from unfairly bearing the burden from a systemic failure caused by ERCOT and its regulators.

Section 4. Precautionary actions taken by Council to augment CPS Energy's liquidity are aimed at facilitating only the payment of lawful, legitimate charges for electricity and natural gas fuel. The Council supports CPS Energy continued commitment to pay legitimate, lawful charges.

Section 5. That this Council shall review and thoughtfully consider additional measures and tools to help protect San Antonio's CPS Energy customers and put CPS Energy in a position to deliver affordable energy service to its customers.

Section 6. That this Council will continue to direct City Staff to work with and cooperate with CPS Energy on implementation of the plan to protect San Antonio's CPS Energy customers from unlawful, unconscionable or illegitimate charges.

Section 7. That this Council will continue to work with its State delegation on advancing legislation that will comprehensively resolve the illegitimate, unconscionable or unlawful charges for electricity and fuel during Winter Storm Uri and that will make needed reforms to the structure and management of the Texas electrical grid.

Section 8. Be it further resolved that regular updates be provided to the community on these efforts to protect San Antonio's CPS Energy customers.

PASSED AND APPROVED this 18TH day of March 2021.

M A Y O R
Ron Nirenberg

ATTEST:

APPROVED AS TO FORM:

Tina J. Flores, City Clerk

Andrew Segovia, City Attorney