



City of Palo Alto

City Council Staff Report

(ID # 10403)

Report Type: Consent Calendar

Meeting Date: 6/3/2019

Council Priority: Fiscal Sustainability

Summary Title: Gas Statute of Limitations Ordinance

Title: SECOND READING: Adoption of an Ordinance Amending Title 12 of the Palo Alto Municipal Code to Set a 120 Day Statute of Limitations for Challenges to the City's Gas Rates (FIRST READING: May 20, 2019 PASSED 7-0)

From: City Manager

Lead Department: Utilities

This ordinance was first heard by the City Council on May 20, 2019 where it passed 7-0 without any changes. It is now before the Council for the second reading.

Attachments:

- Attachment A: ORDINANCE Gas Rate Challenges

Not Yet Approved
Ordinance No. _____

Ordinance of the Council of the City of Palo Alto Adding Section 12.20.030
(Statute of Limitations for Challenges to Gas Rates) to Chapter 12.20 (Utility
Rules and Regulations) of the Palo Alto Municipal Code to Set a 120-Day
Statute of Limitations for Challenges to Gas Rates

The Council of the City of Palo Alto ORDAINS as follows:

SECTION 1. Findings and Declarations. The City Council finds and declares as follows:

A. A statute of limitations for challenges to gas rates and charges aims to balance the interests of the City of Palo Alto (“City”) with the interests of City of Palo Alto Utilities Customers (“Customers”), by allowing Customers to bring challenges to gas rates and charges within a reasonable, but limited, period of time.

B. Without a statute of limitations, Customers may argue that they are able to request a refund years after a charge has been collected, making it difficult for the City of Palo Alto Utilities Department to maintain the stable budget necessary to operate effectively, while keeping rates as low as possible.

C. By establishing a reasonable period of time beyond which the City will not face exposure to challenges to the validity of gas rates or charges, a statute of limitations minimizes the fiscal uncertainty that results when there is no clearly established closure on such challenges, and provides clear guidance to customers considering a challenge.

D. The California State Legislature enacted a similar 120-day statute of limitations for challenges to electric rates or charges in 2000, which is codified in Public Utilities Code Section 10004.5. This rule applies to electric rate challenges in Palo Alto.

E. The California State Legislature did not enact a similar statute of limitations for challenges to gas rates or charges, because there are only a few municipal gas utilities in the State. As one of the few municipal gas utilities in the State of California, it is incumbent upon the City of Palo Alto to enact its own statute of limitations for challenges to gas rates or charges, which reflects the same public policy concerns underlying Public Utilities Code Section 10004.5.

SECTION 2. Section 12.20.030 (Statute of Limitations for Challenges to Gas Rates) of Chapter 12.20 (Utility Rules and Regulations) is hereby added to read as follows:

12.20.030 Statute of Limitations for Challenges to Gas Rates.

Any judicial action or proceeding against the City, to attack, review, set aside, void, or annul an ordinance, resolution, or motion fixing or changing a rate or charge for a gas commodity or a gas service furnished by City and adopted on or after June 1, 2019, shall be commenced within 120 days of the effective date of that ordinance, resolution, or motion.

Not Yet Approved

SECTION 3. If any section, subsection, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion or sections of the ordinance. The Council hereby declares that it should have adopted the ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 4. The Council finds that the adoption of this ordinance setting a statute of limitations for challenges to gas rates does not meet the definition of a project under Public Resources Code section 21065, therefore California Environmental Quality Act (“CEQA”) review is not required.

SECTION 5. This ordinance shall be effective on the thirty-first day after the date of its adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

City Clerk

Mayor

APPROVED AS TO FORM:

APPROVED:

Assistant City Attorney

City Manager

General Manager, Utilities