CITY OF FULSHEAR, TEXAS

ORDINANCE 91-791

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS, ADOPTING REGULATIONS RELATING TO THE ACCESS BY THE PUBLIC TO INFORMATION CITY RECORDS; PROVIDING FOR THE DUTIES AND RESPONSIBILITIES OF THE RECORDS MANAGEMENT OFFICER; PROVIDING PROCEDURES FOR THE APPLICATION FOR PUBLIC INFORMATION; PROVIDING FOR REQUESTING ATTORNEY GENERAL OPINIONS; PROVIDING FOR A WRIT OF MANDAMUS; PROVIDING FOR THE COST OF COPIES AND CHARGES FOR ACCESS TO PUBLIC RECORDS OR CASH PREPAYMENT; PROVIDING THAT REQUESTS REQUIRING MORE THAN TEN (10) HOURS TO PRODUCE SHALL BE FORWARDED TO THE CITY COUNCIL; PROVIDING A PENALTY NOT TO EXCEED THE SUM OF TWO HUNDRED DOLLARS (200.00) FOR EACH OFFENSE AND A SEPARATE OFFENSE SHALL BE DEEMED COMMITTED UPON EACH DAY DURING OR ON WHICH A VIOLATION OCCURS; PROVIDING FOR THE INTERPRETATION OF THIS ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, it is the fundamental philosophy of the American Constitutional form of representation that goverment is the servant of the people and not the master of them.

WHEREAS, the people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know, rather, the people insist on remaining informed so that they may retain control over the instruments they have created.

WHEREAS, it is the policy of the City that all persons are, unless otherwise expressly provided by law, at all times entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees.

WHEREAS, the City recognizes that the citizens of the City have a right to expect, and the City has the obligation to foster, efficient and cost-effective government and recognizing the central importance of records in the lives of all citizens.

WHEREAS, it is the policy of the City of Fulshear to provide suitable copies of the public records within a reasonable period of time after the date copies are requested.

WHEREAS, due to the increase cost of labor and materials it is necessary for the City to charge a fee for access to public records maintained by the City.

WHEREAS, the fee charged to a person requesting public records shall be reasonable and not excessive and the City shall make every effort to charge a fee that matches the actual cost of providing the records.

WHEREAS, the Legislature of the State of Texas has adopted House Bill 1285, Subtitle C, Title 6, Local Government Code, Records Provisions Applying to More than One Type of Local Government.

WHEREAS, efficient management of records is necessary to the effective and economic operation of the City and mandatory to comply with the provisions as adopted by the Legislature of the State of Texas.

WHEREAS, the preservation of records of permanent value is necessary to provide the people of the City with resources concerning their history and to document their rights of citizenship and property.

WHEREAS, the establishment of uniform standards and procedures for the maintenance, preservation, microfilming, public access and disposition of records is necessary to fulfill these important public purposes.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS.

Section 1. Definitions. For the purpose of this ordinance the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

a. "CITY" shall mean the CITY OF FULSHEAR, TEXAS.

b. "Custodian of records", "Records Management Officer" and "Officer of Public Information: shall mean the City Secretary of the CITY OF FULSHEAR, TEXAS.

c. "Essential Record" shall mean any City record necessary to the resumption or continuation of City operations in an emergency or disaster, to the re-creation of the legal and financial status of the City or to the protection and fulfillment of obligations to the City.

c. "Governing body" shall mean the City Council of the CITY OF FULSHEAR, TEXAS.

d. "City record" shall mean any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by the City or any of its officers or employees pursuant to law, including an ordinance, or in the transaction of public business. The term <u>does not include</u>:

(1) extra identical copies of documents created only for convenience of reference or research by officers or employees of the

(2) Notes, journals, diaries, and similar documents created by an officer or employee of the for the officer's or employee's personal convenience.

(3) Blank forms.

(4) Stocks of publications.

(5) Library and museum materials acquired solely for the purposes of reference or display.

(6) Copies of documents in any media furnished to members of the public to which they are entitled under Chapter 424, Acts of the 63rd Legislature, Regular Session 1973 (Article 6252-17a), Vernon's Civil Statutes, or other state law.

e. "Office" shall mean any office, department, division, program, commission, bureau, board, committee, or similar entity of the City.

f. "Permanent record" or "record of permanent value" shall mean any City record for which the retention period on a records retention schedule issued by the Texas State Library and Archives Commission is given as permanent.

g. "Records control schedule" shall mean a document prepared by or under the authority of the Records Management Officer listing the records maintained by the City, their retention periods, and other records disposition information that the records management program of the City may require.

h. "Records management" shall mean the application of management techniques to the creation, use, maintenance, retention, preservation, and disposal of records for the purpose of reducing the costs and improving the efficiency of recordkeeping. The term includes the development of records control schedules, the management of filing and information retrieval systems, the protection of essential and permanent records, the economical and space-effective storage of inactive records, control over the creation and distribution of forms, reports, and correspondence, and the management of micrographics and electronic and other records storage systems.

i. "Records retention schedule" shall mean a document issued by the Texas State Library and Archives Commission under authority of Subchapter J, Chapter 411, Government Code, establishing mandatory retention periods for local government (City) records.

j. "Retention period" shall mean the minimum time that must pass after the creation, recording, or receipt of a record, or the fulfillment of certain actions

associated with a record, before it is eligible for destruction.

k. "Commission" shall mean the Texas State Library and Archives Commission.

l. "Director and librarian" shall mean the executive and administrative officer of the Texas State Library and Archives Commission.

Section 2. Record Books. If a state law relating to the keeping of records by an officer or employee of the City requires the record to be kept in a "book", "record book", or "well-bound book," or contains similar requirements that a record be maintained in bound paper form, the record whose creation is called for in the provision may be maintained on microfilm or stored electronically in accordance with the requirements of Subtitle C, Title 6, Local Government Code, Chapters 204 and 205 and rules adopted under those chapters unless the law specifically prohibits those methods.

Section 3. Declaration of Records as Public Property; Access. City records created or received in the transaction of official business or the creation or maintenance of which were paid for by public funds are declared to be public property and are subject to Subtitle C, Title 6, Local Government Code and Subchapter J, Chapter 441, Government Code.

A City officer or employee does not have, by virtue of the officer's or employee's position, any personal or property right to a City record even though the officer or employee developed or compiled it.

Section 4. Records to be Delivered to Successor in Office. The custodian of City records shall, at the expiration of the custodian's appointment, deliver to the custodian's successor, if there is one, all Town records in custody. If there is no successor, the governing body shall determine which officer of the City shall have custody.

Section 5. Destruction of Records. City records may be destroyed if:

a. The records is listed on a records control schedule accepted for filing by the director and librarian as provided by Subtitle C, Title 6, Local Government Code, Section 203.041 and either its retention period has expired or it has been microfilmed or stored

electronically in accordance with the requirements of Subtitle C, Title 6, Local Government Code, Sections 204 and 205.

b. The record appears on a list of obsolete records approved by the director and librarian as provided by Subtitle C, Title 6, Local Government Code, Section 203.044; or

c. A destruction request if filed with and approved by the director and librarian as provided by Section 203.045 of Subtitle C, Title 6, Local Government Code for a record not listed on an approved control schedule.

The following records may be destroyed without meeting the conditions of Section 5a, 5b or 5c:

(1) Records the destruction or obliteration of which is directed by an expunction order issued by a district court pursuant to state law; and

(2) Records defined as exempt from scheduling or filing requirements by rules adopted by the Texas State Library and Archives Commission.

Section 6. Litigation and Open Records Requests. Regardless of any other provision of this ordinance or rules adopted under it, a City record the subject matter of which is known by the custodian to be in litigation may not be destroyed until the litigation is settled.

Regardless of any other provisions of this ordinance or rules adopted under it, a City record subject to a request under Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Vernon's Texas Civil Statutes), may not be destroyed until the request is resolved.

Section 7. Method of Destruction. A City record may be destroyed by burning, shredding, pulping, or burial in a landfill or by sale or donation for recycling purposes except as provided below.

Records to which public access is restricted under Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Vernon's Texas Civil Statutes), or other state law may be destroyed only by burning, pulping, or shredding.

Should the City sell or donate records for recycling purposes, a procedure shall be established ensuring that the records are rendered unrecognizable as City records by the recycler.

The director and librarian may approve other methods of destruction that render the records unrecognizable as City records.

Section 8. Alienation of Records Prohibited. A City records may not be sold or donated (except for the purposes of recycling), loaned, transferred, or otherwise passed out of the custody of the City to any private college or university, private museum or library, private organization of any type, or an individual, except with the consent of the director and librarian and at the expiration of its retention period under the City records control schedule.

The above paragraph does not apply to the City temporarily transferring to a person for the purposes of microfilming, duplicating, converting to electronic media, restoring or similar records management and preservation procedures if the transfer is authorized by the Records Management Officer.

Section 9. Right of Recovery. The City may demand and receive from any person any City record in private possession created or received by the City the removal of which was not authorized by law. Recovery under this section shall be pursuant to Subtitle C, Title 6, Local Government Code, Chapter 201, Section 202.005.

Section 10. Destruction of Nonrecord Material. Material that is not included in the definition of a City record and is described by Subtitle C, Title 6, Local Government Code, Chapter 201, Section 201.003(8) (A), (B) or (C) may be disposed of at the discretion of the custodian or the creator of the document, as applicable, subject to any policies developed by the City regarding the destruction.

Extra identical copies of a City record to which public access is restricted under Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Vernon's Texas Civil Statutes), or other state law may be destroyed only by burning, pulping or shredding.

Section 11. Personal Liability. The custodian of City records, records management officer, or other officer or employee of the Town may not be held personally liable for the destruction

of a City record if the destruction is in compliance with this ordinance and state law.

Section 12. Penalty: Destruction or Alienation of Record. An officer or employee of the City commits an offense if the officer or employee knowingly or intentionally violates this ordinance or state law or rules adopted under it by destroying or alienating a City record in contravention of this section, or by intentionally failing to deliver records to a successor in office as provided by Section 8.

Any person violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not to exceed the sum of Two Hundred Dollars ($200.00) for each offense and a separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

Section 13. Penalty: Possession of Record by Private Entity. A private college or university, a private museum or library, a private organization of any other type, or an individual commits an offense if the entity knowingly or intentionally acquires or possesses a City record.

Any person violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not to exceed the sum of Two Hundred Dollars ($200.00) for each offense and a separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

It is a defense to prosection under this section that a private college, university, museum or library, by agreement with the commission under Subchapter J, Chapter 441, Government Code, provides physical housing for a local government record the title to which has been vested in the commission.

Section 14. Duties and Responsibilities of Governing Body. The governing body of the City shall:

a. Establish, promote and support an active and continuing program for efficient and economical management of all Town records.

b. Cause policies and procedures to be developed for the administration of the program under the direction of the Records Management Officer.

c. Facilitate the creation and maintenance of City records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the City and designed to furnish the information necessary to protect the legal and financial rights of the City, the state and persons affected by the activities of the

d. Facilitate the identification and preservation of City records of permanent value.

e. Facilitate the identification and protection of essential City records.

f. Cooperate with the commission in its conduct of statewide records management surveys.

Section 15. Duties and Responsibilities of Records Management Officer. The Records Management Officer of Record shall:

a. Carry out the policies and procedures established by the City for the efficient and economical management of records and in carrying out the requirements of Subtitle C, Title 6, Local Government Code.

b. Adequately document the transaction of City business and the services, programs and duties for which the custodian and the custodian's staff are responsible.

c. Maintain the records in the Record Management Officer's care and carry out their preservation, microfilming, destruction or other disposition only in accordance with the policies and procedures of the City's records management program and the requirements of Subtitle C, Title 6, Local Government Code and rules adopted under it.

d. Plan, formulate and prescribe basic files management and records disposition policies, systems, standards and procedures.

e. Prepare records retention and disposition schedules in cooperation with department heads for all City offices and departments, define and identify vital and permanent records, and establish retention schedules for all records. Retention shall be no shorter than

desired by the originating office, but shall be as long as deemed necessary by either the Records Management Officer, the City Attorney or the City Finance Officer.

f. Review schedules annually and update or amend as needed.

g. Coordinate the citywide files management and records disposition programs and report annually to the City Council on program effectiveness in each City department.

h. Provide records management advise and assistance to all City offices and departments, by preparation of manuals of procedure and policies and by on-site consultation.

i. Develop, disseminate and coordinate files maintenance and records disposition procedures, including but not limited to those prescribed by this ordinance, to meet the current and long-term information needs of the

j. Train departmental Records Assistants and other personnel in the fundamentals of records management and their duties in the records management program.

k. Ensure that the maintenance, preservation, microphotography, destruction or other disposition of records is carried out in accordance with the policies and procedures of the City's records management program and the requirements of Subtitle C, Title 6, Local Government Code.

l. Design and manage the operations of a Records Center for the low cost storage of inactive records and as a facility for a centralized micrographics program.

m. Establish and monitor compliance with standards for filing and storage equipment and supplies in all City offices and departments and report to the Mayor failure of any officer or department to comply with standards. Keep careful records of savings in equipment, supplies and staff costs realized by each department of the City through implementation of the records management program.

n. Develop a citywide forms design and control system.

o. Establish in cooperation with other responsible City officials a disaster plan for each City office and department to insured maximum availability of records for re-establishing operations quickly and with minimum disruption and expense.

p. Develop procedures to insure the permanent preservation of the historically valuable records of the City.

q. Protect privacy and assure availability of public information from records stored in records center; bring to the attention of the Mayor any office not in compliance with laws or ordinances regarding public access to information or protection of privacy.

r. Prepare and file with the director and librarian the records control schedules and amended schedules required by Section 203.041 and the list obsolete records as provided by Section 203.044 of Subtitle C, Title 6, Local Government Code

s. Prepare authorization to destroy records not on an approved control schedule, requests to destroy the originals of permanent records that have been microfilmed and electronic storage authorization requests.

t. Disseminate to the City Council information concerning state laws, administrative rules and policies of the government relating to City records.

Section 16. Responsibilities of City Department Heads. All office and department heads are responsible for the implementation and operation of effective files operations, records transfers and dispositions, and other activities in accordance with the provisions of this ordinance within their areas of responsibility. They shall designate a Records Assistant within their offices and provide the Records Management Officer the names of such designees and of all file stations and files clerks under their supervision. Persons designated as Records Assistants shall report directly to the head of their department on matters relating to the records management program and should have full access to all files in their department.

Section 17. Responsibilities of Records Assistants. The Records Assistant in each office and department is responsible for providing coordination between the Records Management Officer

and personnel in his or her office to ensure that provisions of this ordinance are complied with. This responsibility shall include overseeing the application of records schedules within the office or department.

Section 18. City Offices to Use Records Control Schedules. All City offices and departments shall adopt records control schedules and destroy, transfer, or otherwise dispose of records only according to such schedules.

Section 19. Designation of Records Management Officer. The City Secretary shall serve as the Records Management Officer. The name of the Records Management Officer shall be entered upon the minutes of the City Council meeting at which this ordinance is passed and approved. The name and office of the Records Management Officer shall be filed by the Records Management Officer with the director and librarian within 30 days after the date of the designation.

Section 20. Records Management Program Established. A Records Management Program is hereby established in compliance with Subtitle C, Title 6, Local Government Code, to be administered by the Records Management Ordinance. The current policies and procedures of the City of Fulshear Records Program shall remain in full force and effect, except where inconsistent with this ordinance and the laws of the State of Texas.

The Records Management Officer is hereby directed to file a certified copy of this ordinance with the director and librarian within 30 days of its passage. Any amendments to the ordinance or Records Management Program, following the adoption and filing of this ordinance, shall be filed with the director and librarian within 30 days of such amendment.

Section 21. Preparation and Filing of Records Control Schedules. The Records Management Officer shall prepare and file with the director and librarian a records control schedule listing the following records and establishing a retention period for each as provided by state law:

a. All records created or received by the City.

b. Any record no longer created or received by the City that is still in its possession and for which the retention period on a records retention schedule issued by the commission has not expired.

c. Any record no longer created or received by the City that is still in its possession and for which the retention period on a records retention schedule issued by the commission has expired but which will not be destroyed as provided by Initial Destruction of Obsolete Records, Section 22 of this ordinance.

At the discretion of the Records Management Officer the records control schedule may also list and provide retention periods for material that is excluded from the definition of City records and exempted records described in Destruction of Records, Section 5 of this ordinance.

The Records Management Officer shall review the records control schedules of the City and prepare amendments to the schedules as needed to reflect new records created or received by the Town or revisions to retention periods established in a records retention schedule issued by the commission. Amendments to records control schedules shall be filed with the director and librarian in the same manner as the original schedules.

The records schedules or amendments shall be submitted by the Records Management Officer to the City Finance Officer and City Attorney, who shall notify the Records Management Officer within ten (10) working days of their approval or of any objection to a retention period. At the expiration of the ten (10) day period, if no objection has been submitted, the records control schedule shall be adopted and shall have full force as sufficient authorization for filing of such retention control schedule with the director and librarian. If objection is made, the Records Management Officer shall determine a retention period satisfactory to the office or department concerned and resubmit to the Finance Officer and to the City Attorney.

When a records retention and disposition schedule is adopted and accepted by the director and librarian, it shall thenceforth constitute full authority to destroy, transfer, microphotograph, or take other actions, and the City Council hereby directs that such action be taken by the Records Management Officer or under his/her supervision. The Records Manager shall comply with state law, no further notice to the City Council or other City offices shall be required.

Section 22. Initial Destruction of Obsolete Records. In preparing a records control schedule as required by Section 21 of this ordinance, the Records Management Officer may list separately those obsolete records no longer created or received by the City whose retention periods on the records retention

schedule issued by the commission have expired and that the City wishes to destroy. Prior to submission of the list to the director and librarian the list shall be presented to the City Finance Officer and City Attorney who shall give notice within 10 working days of any records they believe should not be destroyed, and such records shall be retained for a period suggested by either.

The lists of obsolete records to be destroyed must be reviewed or approved in the same manner as records control schedules must be reviewed or approved.

The lists shall be submitted to the director and librarian for approval. If the director and librarian approve the list, the records may be destroyed. If the director and librarian or the designee of the director and librarian disapproves the list, the reasons and shall be stated in writing and the records must be retained by the City or transferred to the custody of the commission.

Section 23. Destruction of Unscheduled Records. Before the filing of a records control schedule with the commission, the City shall destroy records only with the prior approval of the director and librarian.

After the filing of a records control schedule as provided by Section 20 of this ordinance, a record that does not appear on a records control schedule or amended schedule accepted for filing may be destroyed only with the prior approval of the director and librarian.

Requests for authorization to destroy unscheduled records shall be submitted by the Records Management Officer or under the officer's direction. If the director and librarian approves the request, the records listed on it may be destroyed. Should the request not be approved the direction of the director and librarian on further retention shall be followed.

Section 24. Recordkeeping Requirements. The Records Management Officer shall keep accurate lists of records destroyed, their volume, and other information of records management activities.

Section 25. Care of Records of Permanent Value. The shall follow the rules as provided by the commission upon their adoption or amendment.

Section 26. Microfilming of Records. Authorization, as provided by state law, allows that any City record may be maintained on microfilm in addition to or instead of paper or other media. The City shall microfilm records pursuant to the laws of the State of Texas and the rules of the commission as adopted and amended. The records to be microfilm shall be determined by the Records Management Office in cooperation with offices and department heads.

Microfilm shall mean roll microfilm, microfiche and all other formats produced by any method of microphotography or other means of miniaturization on film. Microfilming shall mean the method, procedures and processes used to produce roll microfilm, microfiche or other microphotographic formats.

Section 27. Destruction of Original Records. Destruction of original records, that have been microfilmed, shall be in compliance with state laws. A list of originals of microfilmed records destroyed shall be filed with the Records Management Officer and the microfilmed record shall be retained until the expiration of the retention period for the original record.

Section 28. Destruction of Permanent Records. An original of a permanent record shall not be destroyed until a destruction authorization request has been submitted to and approved by the director and librarian. Such request shall certify that the microfilm of the record meets the standards and rules as adopted by the commission. All other requirements for requesting the destruction of permanent records shall be in accordance with state law.

Section 29. Electronic Storage of Records. Pursuant to state law, the City is authorized to store data electronically in addition to or instead of source documents in paper or other media. The City may utilize electronic storage in compliance with state laws. Such utilization of electronic storage shall meet the standards and rules as adopted by the commission. No data shall be stored electronically if it has a retention period of more than 10 year, unless the commission shall adopt rules and standards for such storage.

Electronic storage shall mean the maintenance of City record data in the form of digital electronic signals on a computer hard disk, magnetic tape, optical disk or similar machine-readable medium. City record data shall mean the information that by law, regulation, rule of court, ordinance, or administrative procedure in the City comprises a City record as defined by Section 1 of this ordinance. Source document shall mean the

record from which the City record data is obtained for electronic storage. The term does not include backup copies of the data in any media generated from electronic storage.

Section 30. Denial of Access Prohibited. A person under contract or agreement with the City to create, file, or store record data electronically or to provide services, equipment, or the means for the creation, filing, or storage, may not, under any circumstances, refuse to provide record data to the City in a timely manner in a format accessible and usable by the

Section 31. Open Records. All information collected, assembled, or maintained by or for the City, except in those situations where the City does not have either a right of access to or ownership of the information, pursuant to law or ordinance or in connection with the transaction of official business is public information and available to the public during normal business hours of the

Section 32. Nonpublic Information. Information not available to the public are:

a. Information deemed confidential by law, either Constitutional, statutory, or by judicial decision.

b. Information in personnel files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; provided, however, that all information in personnel files of an individual employee within the City is to be made available to that individual employee or his designated representative as is public information under state law.

c. Information relating to litigation of a criminal or civil nature and settlement negotiations, to which the state or political subdivision is, or may be, a party, or to which an officer or employee of the state or political subdivision, as a consequence of his office or employment, is or may be a party, that the attorney general or the respective attorneys of the various political subdivisions has determined should be withheld from public inspection.

d. Information which, if released, would give advantage to competitors or bidders.

e. Information pertaining to the location of real or personal property for public purposes prior to public announcement of the project, and information pertaining to appraisals or purchase price of real or personal property for public purposes prior to the formal award of contracts therefor.

f. Drafts and working papers involved in the preparation of proposed legislation.

g. Matters in which the duty of the Attorney General of Texas or an attorney of a political subdivision, to his client, pursuant to the Rules and Canons of Ethics of the State Bar of Texas are prohibited from disclosure, or which by order of a court are prohibited from disclosure.

h. Records of law enforcement agencies and prosecutors that deal with the detection, investigation, and prosecution of crime and the internal records and notations of such law enforcement agencies and prosecutors which are maintained for internal use in matters relating to law enforcement and prosecution.

i. Private correspondence and communications of an elected office holder relating to matters the disclosure of which would constitute an invasion of privacy.

j. Trade secrets and commercial or financial information obtained from a person and privileged or confidential by statute or judicial decision.

k. Inter-agency or intra-agency memorandums or letters which would not be available by law to a party in litigation with the agency.

m. Information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions, and/or securities, as that term is defined in the Texas Securities Act.

n. The home addresses and home telephone numbers of each official and employee of a governmental body except as otherwise provided by Section A of the Open Records Act, and of peace officers as defined by Article 2.12,

Code of Criminal Procedure, 1965, as amended, or by Section 51.212, Texas Education Code.

o. Information contained on or derived from triplicate prescription forms filed with the Department of Public Safety pursuant to Section 3.09 of the Texas Controlled Substances Act, as amended (Article 4476-15, Vernon's Texas Civil Statutes).

p. Photographs that depict a peace officer as defined by Article 2.12, Code of Criminal Procedure, or a security officer commissioned under Section 51.212, Education Code, the release of which would endanger the life or physical safety of the officer unless:

(1) The officer is under indictment or charged with an offense by information; or

(2) The officer is a party in a fire or police civil service hearing or a case in arbitration; or

(3) The photograph is introduced as evidence in a judicial proceeding.

q. Rare books and original manuscripts which were not created or maintained in the conduct of official business of a governmental body and which are held by any private or public archival and manuscript repository for the purposes of historical research.

r. Oral history interviews, personal papers, unpublished letters, and organizational records of nongovernmental entities, which were not created or maintained in the conduct of official business of a governmental body and which are held by any private or public archival and manuscript repository for the purposes of historical research, to the extent that the archival and manuscript repository and the donor of the interviews, papers, letters, and records may agree to limit disclosure of the item.

s. Curriculum objectives and test items developed by educational institutions that are funded wholly or in part by state revenue and test items developed by licensing agencies or governmental bodies.

The officer for public records may in any instance within his discretion make public any information protected under the

exceptions contained Section 3, Subsection (a) of the Open Records Act, that is not deemed confidential by law. A photograph exempt from disclosure under Subsection (a)(19) of the Open Records Act may also be made public, but only if the peace officer or security officer gives written consent to the disclosure.

Section 33. Special Right of Access to Confidential Information. A person or the authorized representative of a person has, beyond the right of the general public, a special right of access to and to copies of any records held by a governmental body that contain information relating to the person that is protected from public disclosure by laws intended to protect that person's privacy. The fact that the information is deemed confidential by privacy principles under state law does not grant the City the right to deny access to the person or the person's representative, to whom the information relates. However, laws and provisions of the law, other than ones intended to protect that person's privacy interest, may still form the basis for denial of access to the person or the person's representative to whom the information relates.

Consent for the release of information excepted from disclosure to the general public but available to a specific person must be in writing and signed by the specific person or the person's authorized representative. A person under 18 years of age may consent to the release of information under this section only with the additional written authorization of the person's parent or guardian. A person who has been adjudicated incompetent to manage the person's personal affairs or for whom an attorney ad litem has been appointed may consent to the release of information under this section only by the written authorization of the designated legal guardian or attorney ad litem.

A release of information pursuant to this section is not a prohibited release of information to the public under the Open Records Act.

A person who receives information obtained under this section may disclose the information to others only to the extent consistent with the authorized purposes for which consent to release the information was obtained.

If the City determines that information covered by a special right of access under this section is excepted from disclosure under any other exceptions under the Open Records Act, the City shall, before disclosing the information, submit a written

request for a decision to the attorney general (See Section 35 of this ordinance). If a decision is not so requested, the town shall release the information to the person with a special right of access under this section within 10 day of received the request for information.

Section 34. Application for Public Information. On application for public information to the officer for public records by any person, the officer of public records shall promptly produce such information for inspection or duplication, or both, in the offices of the City. If the information is in active use or in storage and therefore, not available at the time a person ask to examine it, the officer for public records shall certify this fact in writing to the applicant and set a date and hour within a reasonable time when the records will be available for the exercise of the right. Nothing shall authorize any person to remove original copies of public records from the offices of the City.

The officer of public information shall extend the initial examination period by an additional 10 days if, within the initial period, the person requesting the information files with the officer of public records a written request for additional time. The officer for public records shall extend an additional examination period by another 10 days if, within the additional period, the person requesting the information files with the officer for public records a written request for more additional time.

The time during which a person may examine information may be interrupted by the officer for public records if the information is needed for use by the governmental body. The period of interruption is not considered to be a part of the time during which the person may examine the information.

All persons requesting information from the Records Management Officer shall supply proper identification and describe with specifity those documents being requested.

Section 35. Officer for Public Records. The City Secretary shall be the officer for public records.

Each department head shall be an agent of the officer for public records for the purposes of complying with the ordinance. If shall be the duty of the officer for public records, to see that the public records are made available for public inspection and copying; that the records are carefully protected from deterioration, alteration,

mutilation, loss or unlawful removal; and that public records are repaired, renovated, or rebound when necessary to maintain them properly. When records are no longer currently in use, it shall be within the discretion of the City to determine a period of time for which said records will be preserved subject to state laws governing the destruction and other disposition of state and local government records.

Neither the officer of public records nor his agent shall make any inquiry of any person who applies for inspection or copying of public records beyond the purpose of establishing proper identification and the public records being requested or establishing whether the officer for public records is authorized under Section 31 of this ordinance to refuse to honor the request for the records. The officer form public records or his agent shall give, grant, and extend to the person requesting public records all reasonable comfort and facility for the full exercise of the right granted.

The officer for public record or the officer's agent shall treat each request for information uniformly without regard to the position or occupation of the person making the request or the person on whose behalf the request is made or because the individual is a member of the media.

Section 36. Attorney General Opinions. If the City receives a written request for information which it considers within one of the exceptions stated in Section 31 of this ordinance, but there have been no previous determination that it falls within one of the exceptions, the governmental body within a reasonable time, no later than 10 calendar days, after receiving a written request must request a decision from the attorney general to determine whether the information is within that exception. If a decision is not so requested, the information shall be presumed to be public information.

The attorney general shall forthwith render a decision, consistent with standards of due process, to determine whether the requested information is a public record or within one of the above stated exceptions. The specific information requested shall be supplied to the attorney general but shall not be disclosed to the public or the requesting party until a final determination has been may by the attorney general or, if suit is filed under the provisions of the law, until a final decision has been made by the court with jurisdiction over the suit. In a suit filed under the Open Records Act, the court may order that the information at issue be discovered only pursuant to a protective order until a final determination is made. If the

wishes to withhold information, it must submit written comments setting forth the reasons why the information should be withheld. Any member of the public may submit written comments setting forth the reasons why the information should or should not be released. The attorney general shall issue a written opinion based upon the determination made on the request.

In cases in which a third party's privacy or property interests may be implicated, including but not limited to Subdivisions (1); (4); (10), and (14) of Subsection (a) of Section 3 of the Open Records Act, the City may decline to release the information in order to request an attorney general opinion. A person whose interests may be implicated or any other person may submit in writing to the attorney general the person's reasons for withholding or releasing the information. In such cases, the City may, but is not required to, submit its reasons why the information should or should not be withheld.

Section 37. Writ of Mandamus. If the City refuses to request an attorney general's decision as provided by state law, or to supply public information or information which the attorney general has determined to be a public record, the person requesting the information or the attorney general may seek a writ of mandamus compelling the City to make the information available for public inspection.

Section 38. Cost of Copies and Charges for Access to Public Records. It shall be the policy of the City of Fulshear to provide suitable copies of all public records within a reasonable period of time after the date the copies are requested, at a reasonable cost.

Section 39. Cost of Noncertified Photographic Reproductions. The cost to any person requesting noncertified photographic reproductions of public records comprised of pages up to legal size shall not be excessive. The State Purchasing and General Services Commission shall from time to time determine guidelines on the actual cost of standard size reproductions and shall periodically publish these cost figures for use by the City in determining charges to be made pursuant to this Ordinance. The cost of obtaining a standard or legal size photographic reproduction shall be in an amount that reasonably includes all costs related to reproducing the record, including the costs of materials, labor and overhead unless the request is for 50 pages or less of readily available information.

Section 40. Cost of Records - Any other Form. Charges made for access to public records comprised in any form other than up

to standard sized pages or in computer record banks, microfilm records, or other similar record keeping systems, shall be set upon consultation between the officer for public records and the State Purchasing and General Services Commission, giving due consideration to the expenses involved in providing the public records making every effort to match the charges with the actual cost of providing the records. The costs of providing the record shall be in an amount that reasonably includes all costs related to providing the record, including costs of materials, labor and overhead.

Section 41. Waiver or Reduction of Fees. Public records shall be furnished without charge or at reduced charge if the Council determines that waived or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

Section 42. Failure to Provide Copies. If the City refuses or fails to provide copies of public records at the actual cost of reproducing the records, a person who overpays shall be entitled to recover three times the amount of the overcharge, provided, however, that the City did not act in good faith in computing the costs.

Section 43. Charges for Services. For the services listed below expended in locating or making available records or copies thereof, the following charges shall be assessed:

A. Copies.

a.1 For photographic office machine copies of pages up to and including legal size (8 1/2 x 14 inches)

(a.) For 50 pages or less of readily available information, the charge shall be $.10 per page.

(b.) For more than 50 pages of readily available information, the charge shall be $.85 for the first page and $.15 for each additional page.

(c.) For any quantity of information deemed to be not readily available, the actual charge shall be the combined components of $.70 for the first page and $.15 for each page thereafter, plus actual labor costs incurred by the City in providing the requested information. The City's actual labor costs

of locating and preparing the information will be computed by multiplying the amount of time actually spent in these activities times the salary rate of the employee performing the activity.

(d.) For copies of nonstandard sized pages of records in computer banks, on microfilm, or in other similar record keeping systems the charge of copies will be determined by written consultation directed to the Material Management Section of the Centralized Services Division of the State Purchasing and General Services Commission. The charges will include, but are not limited to, labor hours and rates, computer time and rates, costs for materials such as computer tapes, paper, fiche, cassettes, and printer supplies and applied overhead by component and application base.

a.2 No charge shall be made for one copy of any public record requested from:

(a) State agencies by members of the legislature in the performance of their duties.

(b) Local governments by members of the staff in the performance of their duties.

b. Certification - For certification of true copies the charge shall be $5.00.

c. Attestation - For attestation under the seal of the City of Fulshear the charge shall be $5.00.

d. The City of Fulshear shall add postal related expenses which may be necessary to transmit the reproduced documents to the requesting party to the charges pursuant to this subsection.

e. The City of Fulshear shall add sales tax to each reproduction after the first reproduction and

to any copies which are preprinted for the specific purpose of resale to the public.

f. No more than ten (10) copies shall be supplies for any request.

g. Bond for Payment of Costs for Preparation of Public Records or Cash Prepayment. A bond for payment of costs for the preparation of such public records, or a prepayment in cash of the anticipated costs for the preparation of such records, may be required by the officer for public records or the officer's agent as a condition precedent to the preparation of such record where the record is unduly costly and its reproduction would cause undue hardship to the department or agency if the costs were not paid.

h. Requests requiring more than ten (10) hours to produce. If the public records officer determines that a request will require more than ten (10) employee hours to produce, he/she shall forward said request to the City Council which shall determine the best method said records may be inspected and/or reproduced giving due regard to ensuring that the public records are produces efficiently, safely and without undue delay.

Section 44. Penalty. Any person who wilfully destroys mutilates, removes without permission as provided herein, or alters public records shall be guilty of a misdemeanor and upon conviction shall be fined in a sum not the exceed Two Hundred Dollars ($200.00) for each offense and a separate offense shall be deemed committed upon each day during or on which violation occurs. This penalty provision shall not preclude the City from its other remedies available at law.

Section 45. Interpretation of this Ordinance. This ordinance does not prohibit the City from voluntarily making part or all of its records available to the public, unless expressly prohibited by law; provided that such records shall then be available to any person.

This ordinance does not authorize the withholding of

information or limit the availability of public records to the public, except as expressly so provided.

This ordinance does not give authority to withhold information from individual members or committees of the Legislature of the State of Texas to use for legislative purposes.

Nothing in this ordinance shall be construed to entitle any person, as of right, to any services, materials or the disclosure of any record to which such person is not entitled under the Open Records Act.

Section 46. Severability Clause. If any section, paragraph, sentence, clause, phrase, or word in this ordinance, or application thereof by any person or circumstances is held invalid in any Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance; and the City Council hereby declares it would have passed such remaining portions of the ordinance despite such invalidity, which remaining porions shall remain in full force and effect.

Section 47. Repealer Clause. All ordinances or parts of ordinances of the City of Fulshear , Texas, in conflict with or inconsistent with this ordinance are repealed, ~~to the extent of the conflict or inconsistency including but not limited to Ordinance Nos. 55-87, No. 46-87 and No. 02-88 which are repealed in their entirety.~~

Section 48. Emergency and Effective Date. The fact that the present ordinances and regulations of the City of Fulshear , Texas are inadequate to properly safeguard the health, safety, morals, peace and general welfare of the inhabitants of the City, creates an emergency for the immediate preservation of the public business, property health, safety and general welfare on the public which requires that this ordinance become effective from and after the date of its passage and it is accordingly so ordained.

PASSED AND APPROVED on this the _17th_ day of __JANUARY_____, 1991.

THE CITY OF FULSHEAR, TEXAS

By _____
MAYOR

ATTEST:

_____
City Secretary

VOTING:

P. PRESLEY	YES	J. LIEM	YES
V. RANDLE	YES	T. HARKNESS	YES
N. BANKS	YES		

ORDINANCE NUMBER 91-792

17-4136 Order of Election (186)
Prescribed by Secretary of State
Sections 3.006, 83.010, 85.004, 85.007, V.T.C.A., Election Code

HART GRAPHICS, Austin

ORDER OF ELECTION

An election is hereby ordered to be held on MAY 04, 1991 (date) for the purpose of:

electing three ALDERMEN (COUNCIL MEMBERS), each for a two year term. Said election shall be held at the following place in the City of Fulshear, Texas, and the following named persons are hereby appointed officers for said election:

In Election Precinct # 4006, at Fulshear City Hall, 30603 F.M. 1093, in Fulshear, Texas, with Carolyn H. Smith, as Presiding Judge, and Sethora West as Alternate Presiding Judge, and said Presiding Judge shall appoint the necessary clerk to assist her which shall not exceed one clerk. The hourly rate of pay shall be $5.00 and shall not exceed fourteen (14) hours for each election officer.

Absentee voting by personal appearance will be conducted each weekday at

FULSHEAR CITY HALL, 30603 F.M. 1093, FULSHEAR, TEXAS 77441,
(location)

between the hours of 9:00 a.m. and 5:00 p.m. beginning on APRIL 15, 1991 (date)

and ending on APRIL 30, 1991 (date).

Additional absentee voting will be held as follows: NONE

Location	Date	Hours

Applications for ballot by mail shall be mailed to:

CAROLYN H. SMITH, CITY OF FULSHEAR
(Name of Absentee Voting Clerk)
P.O. BOX 279
(Address)
FULSHEAR, TX. 77441
(City) (Zip Code)

Applications for ballots by mail must be received no later than the close of business on

APRIL 26, 1991 (date).

Issued this the 07th day of FEBRUARY, 19 91.

Signature of Presiding Officer, MAYOR

ATTEST:

Carolyn H. Smith, City Secy-Treas.

VOTING: P.Presley YES, N. Banks YES, T. Harkness YES, V. Randle YES, J. Liem YES.

ORDEN DE ELECCION

Por la presente se ordena que se llevará a cabo una elección el 04 de mayo 1991 *(fecha)* *con el propósito de:* tres concejales. Dicha eleccion se llevara a cabo en los siquientes lugares de votacion en dicha ciudad: el Precinto Electoral Num. 4006 en el Edificio, Fulshear City Hall. Los sitios de votacion arriba designados para dicha eleccion se mantendran abiertos en el mencionado dia de elecciones de las 7:00 a.m. a las 7:00 p.m.

La votación en ausencia en persona se llevará a cabo de lunes a viernes en
FULSHEAR CITY HALL, 30603 F.M. 1093, FULSHEAR, TEXAS,
(sitio)
entre las 9:00 a.m. *de la mañana y las* 5:00 p.m. *de la tarde empezando el* 15 de abril, 1991 *(fecha)*
y terminando el 30 de abril, 1991 *(fecha)*.

La votación en ausencia además se llevará a cabo de tal manera: NONE

Sitio	*Fecha*	*Horas*

Las solicitudes para boletas que se votarán en ausencia por correo deberán enviarse a:
CAROLYN H. SMITH, CITY OF FULSHEAR
(Nombre del Secretario de la Votación En Ausencia)
P.O. BOX 279
(Dirección)
FULSHEAR, TX. 77441
(Ciudad) *(Zona Postal)*

Las solicitudes para boletas que se votarán en ausencia por correo deberán recibirse para el fin de las horas de negocio el 30 de abril, 1991 *(fecha)*.

Emitida este día 07th *de* februaro, *19* 91.

Carolyn Smith
Firma del Oficial Que Preside, ALCALDE

City of FULSHEAR Ordinance No. 91-793

AN ORDINANCE RELATING TO RATES TO BE CHARGED BY HOUSTON LIGHTING AND POWER COMPANY FOR ELECTRIC UTILITY SERVICE WITHIN THE CORPORATE LIMITS OF THE CITY OF FULSHEAR, TEXAS; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; PROVIDING FOR A REPEALER AND FOR SEVERABILITY AND DECLARING AN EMERGENCY.

* * * *

WHEREAS, on November 9, 1990, Houston Lighting & Power Company, (the "Company") filed with the City of Fulshear a Statement of Intent and Petition of Authority to Change Rates relating to electric utility service, and proper notice thereof was duly given; and

WHEREAS, by Ordinance No. 91-790, the City Council suspended the effective date of such proposed rate increase for Step One until March 18, 1991 and Council suspended the effective date of the proposed rate increase for Step Two until October 31, 1991; and

WHEREAS, the City Council, having considered the Company's rate increase at a public hearing for which proper notice was duly given, finds that such request is excessive; and

WHEREAS, the City Council having original jurisdiction over the matter finds that a lesser increase in rates should be prescribed for the Company; NOW THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR

Section 1. The City Council of the City of Fulshear hereby finds the requested rate of the Company to be excessive and unreasonable.

Section 2. The City Council hereby approves and adopts the rates, adjustments, and determinations set out in Exhibit "A", attached hereto and incorporated herein for all purposes.

Section 3. The City has original jurisdiction over this case pursuant to Section 43 of the Public Utility Regulatory Act.

Section 4. The City Council hereby determines, prescribes, establishes and authorizes the increased rates for sale or supply of electric service by the Company within the corporate limits of the City of Fulshear as set out in this ordinance. Such increased rates shall become effective as to each customer on or no later than the thirtieth day after the date of final passage of this ordinance. The Company shall be authorized to collect such rates until such time as they may be changed, modified, amended or withdrawn in accordance with applicable statutes and ordinances.

Section 5. The City Council hereby authorizes and directs the City Secretary to serve the Company with a certified copy of this ordinance with is the final determination and order of the City.

Section 6. The Company shall, within ten days following the final passage and approval of this Ordinance and thereafter whenever required by applicable statutes and ordinances and whenever requested by the City, file a complete schedule of rates and tariffs with the City setting forth all of the Company's rates and charges for utility service then in effect. The City is

authorized to review, approve and require revisions to the tariff if it determines it not to be in accordance with this ordinance.

Section 7. Nothing contained in this Ordinance shall be construed now or hereafter as limiting or modifying, in any manner, the right and power of the City under the law to regulate the rates and charges of the Company.

Section 8. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict only.

Section 9. In the event that the Company appeals from this order setting electric rates for the Company, the City Council hereby authorizes the City Attorney or his designees to represent the City and its citizens in any and all matters in connection with such appeal and to take any and all actions necessary and incidental thereto and to the resolution of the matters subject to such appeal, all as may be in the best interests of the City.

Section 10. If any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to by unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to the other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any portion hereof, and all provisions of this Ordinance are declared to be severable for this purpose.

Section 11. The City Council officially finds, determines, recites and declares that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by the Open Meetings Law, TEX.REV.CIV.STAT.ANN art.6252-17 (Vernon Supp. 1990); and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter thereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

Section 12. There exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor; however, in the event that the Mayor fails to sign this Ordinance within five days after its passage and adoption, it shall take effect ~~in accordance with Article ____, Section ____, _____ City Charter.~~

PASSED AND ADOPTED this 07th day of MARCH, 1991.

APPROVED this 07th day of MARCH, 1991.

ATTEST:

City Secretary

Mayor of the City of FULSHEAR

VOTING: P.Presley Yes, T.Harkness Absent, V. Randle Yes, N.Banks Yes
J.Liem Yes

ATTACHMENT A

Recommendation of
the Regulatory Affairs Division
on the
Petition of
Houston Lighting & Power Company
for Authority to Change Rates

JANUARY 23, 1991

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I. EXECUTIVE SUMMARY

On November 9, 1990 Houston Lighting and Power Company (HL&P) filed with the City of Houston a Petition for Authority to Change Rates and a Statement of Intent. The Petition and Statement were filed simultaneously with the Public Utility Commission of Texas (PUC) in Docket No. 9850 to seek a system-wide rate increase. The rate increase proposed by HL&P reflects the inclusion in rates of the remainder of the South Texas Nuclear Project (STP) as well as increased operating costs related to non-nuclear operations. HL&P proposed a two-step consecutive increase in annual revenues (Step 2 and Step 3).

In Step 2, HL&P requested an annual increase of $397 million, or 11.6%, over revenues at current rates. Of the requested increase for Step 2 $225 million, or 6.6%, is attributable to the inclusion in rates of additional costs related to the South Texas Nuclear Project, as provided for in the previous docket. This represents 57% of the requested increase. Of the requested Step 2 increase $111 million, or 3.2%, is comprised of increased operating costs related to non-nuclear operations. This represents 28% of the requested increase. The remaining $61 million, or 1.8%, of the requested Step 2 increase is attributable to projected increases in fuel costs, franchise costs and other revenues. This represents 15% of the requested increase.

In Step 3, HL&P requested an annual increase of $155 million, or 4.1%, over revenues at current rates. All of the requested increase for Step 3 is attributable to the inclusion in rates of the remainder of costs related to the South Texas Nuclear Project, as provided for in the previous docket.

On August 29, 1990 City Council authorized execution of contracts with two public utility consulting firms. These consultants, together with staff members of the Regulatory Affairs Division, conducted a thorough review of the rate change application and the books and records of the utility.

Based upon the findings of this review, it is recommended that City Council deny HL&P's requested rate increase for Step 2 as excessive and authorize the appropriate rate increase level for the Utility as follows:

1) an increase over revenues at current rates of $193 million, or 5.6 %, attributable to the inclusion in rates of additional costs related to the South Texas Nuclear Project as provided for in the previous docket,
2) a decrease to revenues at current rates of $24 million, or 0.7%, attributable to costs related to non-nuclear operations and
3) an increase over revenues at current rates of $7 million, or 0.2%, attributable to fuel cost, franchise costs and other revenues.

In summary, it is recommended that City Council authorize in Step 2 an increase of $176 million, or 5.1%, over revenues at current rates.

Additionally, based upon the findings of this review, it is recommended that City Council authorize in Step 3 an increase over revenues at current rates of $147 million, or 4.1%, attributable to the inclusion in rates of the remainder of costs related to the South Texas Nuclear Project, as provided for in the previous docket.

A brief outline of other major components of the recommendation is set forth below, a full discussion of which can be found in the body of the Recommendation.

Reductions to HL&P's Request for Increased Costs Related to STP

The Final Order issued by the PUC in Docket No. 6668 on June 20, 1990 established the amount of the South Texas Nuclear Project that HL&P would be allowed to recover in its rates. The Final Order in Docket No. 8425 provided for a three-step rate moderation plan under which HL&P was to phase into its rates the approved plant costs related to STP Unit #1. That order also provided that the rate moderation plan under which HL&P was to phase into its rates the approved costs related to STP Unit #2 should be determined in this proceeding. Additionally, that order approved deferred accounting treatment for certain costs related to STP that were not reflected in HL&P's rates.

Our review of STP-related costs focused on the amount of the deferral balances and the overall requested level of current operating expenses for the STP plant. It is recommended that HL&P's requested annual revenue requirement for Step 2 be reduced as follows (in millions):

Reduction in Return and Related Taxes	$12.6
Adjustment to STP O&M Expenses	8.5
Elimination of Litigation Costs	5.0
Deferral Adjustment	3.3
Reduction in Nuclear Fuel Inventory	2.9
	$32.3

Further, it is recommended that HL&P's requested annual revenue requirement for Step 3 be reduced by $8 million, primarily due to a reduction in return and related taxes.

Reductions to HL&P's Request for Increased Costs Related to Non-nuclear Operations, Fuel Costs, Franchise Costs and Other Revenues

It is recommended that HL&P's requested annual non-nuclear revenue requirement for Step 2 be reduced as follows (in millions):

Fuel	$48.3
Reduction in Return and Related Taxes	23.2
Limestone & Parish O&M Expense	21.3
Elimination of Trinity Mine from Rate Base	16.4
Elimination of Malakoff Plant from Rate Base	12.6
Salaries, Wages & Benefits Expense	12.1
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Adjustment to Lead Days in Working Cash	5.4
Franchise Requirements	5.3
Other	9.6
	$189.0

Rate Design

Application of rate design to the recommended revenue requirement results in increases to typical residential bills at the 1000 KWH usage level for Step 2 of 1.24% and 4.53% for Step 3. These increases are computed by averaging residential bills for 12 months and are shown for other KWH usage levels in Schedule V of the Recommendation.

Franchise Fee Allocation

Currently HL&P recovers its franchise fee expense directly from customers located within the city limits of the city charging the fee. Since City franchises provide system-wide benefits to HL&P, the customers within the city limits should not bear the entire expense.

Accordingly, It is recommended that franchise fees be allocated to all customers within a given customer class whether they are located inside or outside city limits.

STP Performance Standards

It is recommended that performance standards be adopted for STP. If properly designed, performance standards can provide incentives for improved performance at STP which would benefit both the Company and the ratepayers, while at the same time providing insurance to ratepayers in the event that the plant does not perform well. The proposed program is described in more detail in the body of the Recommendation.

Project SHARE

It is recommended that the City support the Commission's position relating to Project SHARE as set forth in the Final Order in Docket No. 8425. However, due to the uncertainty concerning how the additional matching contributions were intended to be funded, it is recommended that HL&P's request for recovery from ratepayers of the $1.1 million in additional matching funds be disallowed.

Procedural Information

Public meetings were held on November 27 and 29, 1990 and on December 11, 1990 to hear public comment on HL&P's request. Transcripts of these meetings are included in the record of this proceeding.

Interventions filed by the Texas State Attorney General's Office, The Metropolitan Organization, and Texas Industrial Energy Consumers were approved by City Council on January 9, 1991. Statements of Position were filed by these intervenors and are included in the record of this proceeding.

A draft of the Recommendation of the Regulatory Affairs Division was received by all intervenors. A formal meeting was held on January 22, 1991 to hear comments from intervenors and other ratepayers on the draft Recommendation.

To allow sufficient input and review it is recommended that, after the Public Hearing and initial questions, Council delay action for one week.

As stated previously in communications with Council, the City's testimony in the proceeding before the PUC must be filed no later than February 5, 1991.

II. REVENUE REQUIREMENT: STEP 2

Based upon a rate base of $6,778 million, a rate of return of 10.47% and the cost of service adjustments discussed below, the total revenue requirement for HL&P has been determined to be $3,592 million, as shown on Exhibit I. When compared to the adjusted test year revenues at current rates in the amount of $3,416 million, a revenue increase for Step 2 of $176 million, or 5.1%, is recommended. A breakdown of this revenue increase between base rate revenues and fuel charge revenues is shown on Exhibit III.

A. COST OF SERVICE (excluding fuel)

1. OPERATION AND MAINTENANCE EXPENSES

a. Salaries and Wages $7.4 million

HL&P has requested an increase of $31.2 million for 1990 merit increases. It is recommended that this request be reduced by $7.4 million to reflect October 1990 salary and wage levels for operations other than STP, Parish and Limestone plants (adjustments for which are incorporated elsewhere in this recommendation). Use of current data results in a recommendation which reflects known and measurable merit increases. Overtime and expense percentages were also reviewed for reasonableness. The overtime rate experienced during the twelve months ended October 31, 1990 and the October 1990 percentages of labor charged to expense were found to be representative of expected levels.

b. Employee Benefits $4.8 million

HL&P has requested an increase of $25.6 million for employee benefits. It is recommended that this request be reduced by $4.8 million to recognize a lower level of medical expense payments than that requested by HL&P and utilization of the current percentage by which costs are expensed.

c. Limestone O&M Expense $12.3 million

HL&P has requested $43.9 million for non-fuel O&M for its two lignite-fired Limestone generating units. This level of expense is significantly higher than the average O&M expenditures for other comparable lignite-fired power plants in the United States. Limestone O&M expenses are approximately double the O&M expenses of Southwestern Electric Power Company's Pirkey and Dolet Hills power plants, which are approximately the same

design, size and age of Limestone and burn very similar quality fuel.

Several differences exist between Limestone and the two plants which legitimately could contribute to higher O&M costs at Limestone. However, after adjustments are made to account for the differences, Limestone O&M expenses remain significantly higher than the two plants. The major reason for this variance appears to be the excessive staffing level at Limestone, which is over double the level of Pirkey and Dolet Hills.

HL&P has not provided sufficient explanation for the extreme variances between the O&M expenses and staffing levels at Limestone and Pirkey. Therefore, it is recommended that HL&P's request for Limestone O&M be reduced by $12.3 million (28%) to reflect an expenditure level similar to that at Pirkey, adjusted to account for known differences between the two plants which legitimately impact O&M costs.

d. W.A. Parish O&M Expense $9.0 million

HL&P has requested $45.6 million for non-fuel O&M for its four coal-fired W.A. Parish generating units. This level of expense is significantly higher than the O&M expenditures for other comparable sub-bituminous coal-fired power plants in the United States and is the highest of any coal plant in Texas.

The high level of O&M expense at Parish appears to be related to high staffing levels, relatively high labor wage scales and questionable charges from HL&P's Central Maintenance organization.

HL&P has not provided sufficient explanation for the higher level of O&M expenditures at Parish. Therefore, it is recommended that HL&P's request for Parish O&M be reduced by $9.0 million (19.6%) to reflect a level of expenditures similar to that at West Texas Utilities' Oklaunion power plant, which recorded the second highest O&M expense among the Texas coal-fired power plants.

e. STP O&M Expense $8.3 million

HL&P has requested a $10.6 million (17.5%) increase for its 30.8% share of non-fuel O&M expense for the South Texas Project (STP). This request is based upon the Company's projection that total 1991 STP O&M expense will be $232 million. It is recommended that the Company's request be reduced by $8.3 million to annualize the plant refueling outage expense and to more reasonably reflect the actual level of expenditures being recorded at the plant.

One of the largest single components of the Company's STP O&M request is $9.2 million for its share of two scheduled 1991 refueling outages. However, HL&P plans to convert from a 12 month to an 18 month refueling outage cycle during 1991. As a result, STP will have two refueling outages every 18 months, or 1.33 outages per year. Therefore, it is recommended that HL&P's STP O&M request be reduced by $3.1 million to reflect annualized refueling outage expense of appropriately $6.1 million per year.

HL&P's requested STP O&M expense has also been adjusted to reflect actual expenditures at the plant as well as HL&P's most recent expense projections. Since STP Unit 2 was operational for only 9 months out of the test year, HL&P annualized the level of expenses incurred in that period. However, more recent data on HL&P's 1991 budget for STP has been made available subsequent to the filing which does not support the magnitude of HL&P's annualization adjustment. It is recommended that HL&P's request be based upon a total O&M level of $205 million, which results in a reduction of $5.2 million to STP non-outage O&M requested by HL&P.

f. Trinity Mine Lease Payments $7.5 million

HL&P incurs approximately $7.5 million on an annual basis in order to maintain lignite leases for its Trinity Mine. HL&P plans to use the lignite produced at Trinity Mine to provide fuel for its proposed Malakoff generating plant. The Malakoff plant is not currently under construction and HL&P estimates that once construction has begun, it will take approximately seven years to complete the plant. A utility is allowed to recover operation and maintenance expenses incurred in furnishing normal utility service and in maintaining plant used by and useful to the utility in providing such service to the public. It is recommended that an adjustment be made to remove this expenditure from recoverable operation and maintenance expenses because it was not incurred in furnishing normal utility service or in maintaining plant used by or useful to the utility in providing such service. This expenditure will not meet the requirements for an allowable expenditure until the Malakoff plant is completed and in service.

g. Amortization Expense $1.137 Millon

It is recommended that HL&P's requested Amortization Expense be adjusted as follows:

i) HL&P has requested recovery of Docket No. 8425 rate case expenses totalling $3,460,000. However, if HL&P is allowed to include the total amount in rates at this time, these costs will have been recovered completely at the end of the first year these rates are

in effect. HL&P will be over-recovering these costs if these rates remain in effect for longer than one year. Therefore, it is recommended that this cost be amortized over a two-year period, which represents a reasonable time frame within which these rates will be in effect. This adjustment reduces HL&P's request by $1,437,000.

ii) It is recommended that Docket No. 6668 rate case expenses requested in HL&P's filing be reduced by $19,000 to reflect amounts which should not have been included in the amount allowed to be amortized.

iii) As a result of removal of the City of Austin litigation cost from the Rate Base, it is recommended that the amortization period for these expenses be reduced from 40 years to 10 years to allow proper consideration for the time value of money. This recommended change results in an increase in the requested amortization of $2,693,000.

iv) It is recommended that Annual Amortization of short-term deferrals for STP be reduced by $103,000 due to an adjustment in the amount to be amortized.

h. Decommissioning Expense $2.76 million

HL&P is required by the Nuclear Regulatory Commission (NRC) to establish a fund to be used for dismantling (or decommissioning) the South Texas Nuclear Project when it is no longer used to provide service. The NRC requires that money be accumulated in an external fund to assure that funds will be available to decommission the plant at the end of its useful life. The NRC rule specifies a minimum amount of $279.3 million (in 1990 dollars) that must be accumulated in the required decommissioning fund for STP. However, HL&P has estimated that the required decommissioning fund for STP should accumulate more than $517 million.

Incorporated in HL&P's estimate of the cost of decommissioning are funds which it states are necessary to restore the site to the condition that existed prior to the construction of the plant. This is called restoring the site to the "green field" condition. Restoration to the green field condition exceeds the NRC's requirements for nuclear power plant decommissioning and in reality is unlikely to happen. Given the existing infrastructure of structures, roads, switchyards, transmission lines and cooling water, along with the projected needs for electrical generation, it is highly likely that HL&P will continue to use the STP site for electrical generation once STP has been decom-

missioned to the level required to meet NRC requirements. HL&P's estimate includes a cost of $122.9 million beyond the cost necessary to meet NRC requirements. It is recommended that annual decommissioning expense be reduced by approximately $1.68 million.

HL&P's estimate also includes a contingency allowance of 25%. According to HL&P, this contingency is intended to "allow for the costs of unforeseeable program problems where the occurrence, duration, and severity cannot be accurately predicted and have not been included in the basic estimate". Due to the large magnitude of the decommissioning estimate, a 25% contingency is a very large sum of money to be collected for unknown and undetermined activities. For STP Units 1 and 2 the recommended contingency is more than $78.8 million. This magnitude of contingency allowance is unreasonable and should not be included in the decommissioning estimate. It is recommended that HL&P's requested decommissioning expense associated with this contingency allowance be reduced by $1.08 million.

i. Rate Case Expenses $1.7 million

To present this current rate case, HL&P has requested $3.5 million. HL&P has requested that this amount be recovered each year from the ratepayers. Since it is unlikely that HL&P would file another rate case within a year amortization of these costs over two years is more appropriate. A two-year amortization of these costs reduces rate case expenses by $1.7 million.

j. Project SHARE $1.1 million

HL&P has requested recovery from ratepayers of $1.1 million of contributions it expects to make to Project SHARE pursuant to the proposal filed with the PUC in August 1990. It is recommended that the City support the Commission's position relating to Project SHARE as established in Docket No. 8425. The Commission supported an expansion of Company contributions to the SHARE Program in the amount of $1.1 million and encouraged HL&P to provide an opportunity for greater participation in the program by its commercial and industrial customers. However, the Commission did not determine how the additional matching contributions were to be funded. Due to this uncertainty, it is recommended that HL&P's request for recovery from ratepayers of the $1.1 million in additional matching funds be disallowed.

k. Postage $0.8 million

HL&P has requested an $815,000 adjustment due to anticipated increases

in postage rates. Neither the effective date of this increase nor the amount of the postal increase are known at this time. Accordingly, it is recommended that HL&P's adjustment be disallowed.

l. Property Insurance Reserve $0.2 million

In accordance with prior revenue determinations, an amount should be included for anticipated property losses. After examining the latest data available, it is recommended that this adjustment be reduced by $0.2 million.

m. Advertising and Contribution Expense $1.6 million

Section 23.21 (b) of the PUC Substantive Rules allows HL&P to include advertising and contribution expenses in the determination of the revenue requirement. Although HL&P has requested less than the maximum amount allowed by this rule, it is recommended that $1.6 million be removed because this advertising is directed toward greater usage of electricity and image building, which is prohibited under that rule. Similarly, it is recommended that $5,000 of contributions be disallowed under PUC Substantive Rule 23.21 because of the nature of such contributions.

n. Revenue Related O&M Expense $12.2 million

It is recommended that factoring cost and uncollectible expenses be adjusted to reflect HL&P's current level of expense. Additionally, it is recommended that HL&P's requested level of franchise fees be reduced as a result of other recommended adjustments.

o. UFI Costs $1.6 million

It is recommended that the amount related to UFI, HL&P's fuel affiliate, be reduced by $1.6 million. This decrease in allowed expenses is related to the lower rate of return that is allowed upon the equity portion of the return.

2. DEPRECIATION EXPENSE $8.4 million

HL&P has requested $317.7 million for depreciation expense. The Company's request is based upon an updated depreciation study which includes changes in HL&P's plant retirement dates. It is recommended that two adjustments be made to HL&P's request. HL&P's requested depreciation should be reduced by $2.0 million to reflect the recommended disallowance of HL&P's $67.9 million investment for the Bertron Cycling Project. It is further recommended that HL&P's depreciation rates be based upon the same plant retirement dates that were used

in Docket 8425, since HL&P has provided no evidence to support its revised retirement dates. This change results in a $6.4 million reduction to HL&P's request.

3. TAXES OTHER THAN INCOME TAXES

a. Ad Valorem Taxes $.4 million

It is recommended that Ad Valorem Taxes be adjusted to recognize the plant in service adjustment and the 1990 effective tax rates.

b. Payroll Taxes $1.5 million

It is recommended that HL&P's request be reduced by $1.5 million to reflect the recommended level of salaries and wages.

c. Revenue Related Taxes $2.8 million

It is recommended that revenue-related taxes be reduced to reflect other cost of service adjustments.

4. FEDERAL INCOME TAXES $25.2 million

The PUC rules require that federal income taxes be computed upon a normalized basis. By computing the taxes using this method, the requested federal income taxes were reduced by $25.2 million. This reduction is caused by the changes in the allowed rate of return, depreciation rates and invested capital.

5. RETURN ON INVESTMENT $66.3 million

The company requests an overall rate of return of 10.79%, which incorporates a return on equity of 13.25%. However, a return on equity of 12.5 % with an overall rate of return of 10.47% is more appropriate under current market conditions.

The return that HL&P should be allowed to earn on its investment has been calculated by multiplying its Weighted Average Cost of Capital by the value of its Rate Base. The cost of debt and preferred stock used to determine the Weighted Average Cost of Capital reflect actual costs associated with outstanding debt and preferred stock issues.

HL&P's cost of equity capital was derived by examining the cost of capital for groups of publicly traded electric utilities which exhibit operating and financial risks comparable to that of HL&P. Cost of equity estimates for these groups were obtained using the discounted cash flow methodology. Also, estimates of the cost

of equity were obtained using the risk premium methodology. Both methods support the use of a 12.5% cost of equity. It is recommended that the amount of Return on Investment requested by HL&P be reduced by $23.5 million as a result of a reduction in the requested cost of equity capital.

Additionally, it is recommended that the amount of Return on Investment requested by HL&P be reduced by $42.8 million related to recommended reductions in Rate Base as discussed below.

B. RATE BASE

1. MALAKOFF $92.9 million

HL&P's Malakoff plant is a lignite-fired generating plant which HL&P forecasts will use lignite produced at the Trinity Mine for fuel. HL&P estimates that it will begin construction on Malakoff this year and that it will take approximately seven years to complete the plant. A utility is allowed to recover expenses incurred for plant used by and useful to the utility in providing service to the public. HL&P has requested that the amount invested in Malakoff to date, which relates primarily to engineering work performed on the anticipated plant, be considered Plant Held for Future Use (PHFU) and has included it in Rate Base. Since Malakoff is not currently used and useful and will be construction work in progress in the near future, it is recommended that it be removed from Rate Base.

2. TRINITY MINE $138.2 million

HL&P purchased Trinity Mine after the end of the test year from its subsidiary, UFI, and plans to use the lignite produced there to fuel the proposed Malakoff plant discussed above. HL&P has requested that Trinity Mine be included in Rate Base. It is recommended that the total investment of $138.2 million be removed from Rate Base since Trinity Mine is not currently being used to provide electric service to HL&P's customers, and since the PUC staff has not yet completed the study to determine the reasonableness of the expenditures on Trinity Mine which was ordered by the Commission in Docket No. 8425.

3. DEFERRED FEDERAL INCOME TAXES $17.9 million

It is recommended Deferred taxes of $16.6 million relating to the Trinity Mine adjustment described above be removed from Rate Base. Also, it is recommended that an additional $1.3 million related to the recommended adjustment to STP short-term deferral balances be removed.

4. CASH WORKING CAPITAL $39.7 million

This recommended adjustment is related to the lower recommended revenue requirement and change in methodology. The City views Federal Income Taxes as an annual expense in the lead/lag calculation for computing cash working capital, as did the PUC staff in the last docket, and has adopted that methodology for the current case.

5. **MATERIALS AND SUPPLIES** $19.7 million

During the test year, HL&P returned to inventory $19.7 million of spare parts which had been recognized previously as expenses. It is recommended that materials and supplies be adjusted to recognize this additional cost-free capital.

6. **CITY OF AUSTIN LITIGATION COSTS** $36.2 million

Recently, a case brought against HL&P by the City of Austin, one of the partners in STP, was disposed in favor of HL&P at the district court level. HL&P has requested the inclusion of approximately $36.2 million in Rate Base and requested a 40 year amortization of this amount. HL&P's ratepayers should not pay a return on costs that resulted from a dispute between the company and its investment partner; and it is therefore recommended that this item be removed from Rate Base and that HL&P be granted a ten year amortization on these costs.

7. **NUCLEAR FUEL** $21.3 million

It is recommended that HL&P's nuclear fuel inventory be reduced by $21.3 million to the level recommended by the STP management committee.

8. **PUC PRUDENCE REVIEW OF STP** $0.7 million

HL&P has requested that the $45 million of costs associated with the PUC Staff's review of the prudence of STP be included in Rate Base. It is recommended that an adjustment to the requested amount be made to reflect the appropriate disallowance by the PUC in the last case.

9. **OTHER DEDUCTIONS** $5.7 million

It is recommended that unfunded retirement plan costs of $2.4 million and $3.3 million of contractor retainage costs be removed from the Rate Base.

10. **BERTRON CYCLING MODIFICATIONS** $67.9 million

HL&P has requested the inclusion in Rate Base of $67.9 million for cycling and life extension modifications to its gas-fired Bertron Units 1 and 2. Approximately $110 million has been budgeted for similar projects at the Parish and Deepwater plants.

Given the low capacity factor of these units and the large capital investment associated with these modifications, these projects appear extremely questionable. HL&P has not provided sufficient information to indicate that these projects were economically justified and the best available alternative. Studies provided by HL&P are based upon very questionable assumptions and fail to account for the significant decline in gas prices which occurred in the mid-1980's. HL&P's projection of the extension to plant service life resulting from these projects also appears to be unrealistically short. Furthermore, although HL&P studies assumed significant O&M cost reductions would result from the project, no O&M reductions are predicted in HL&P's filing. It is recommended that the total $67.9 million request for the Bertron project be disallowed since HL&P has not provided sufficient information to meet its burden of proof that these expenditures were reasonable and prudent.

11. STP DEFERRALS $ 4.4 million

In prior HL&P cases, the PUC has approved deferred accounting treatment for certain costs related to STP not currently reflected in rates. The deferred STP costs are subsequently amortized and recovered in rates. There are two types of STP deferred costs: (1) short-term deferrals and (2) qualifying deferrals.

Short-term deferrals are related to STP costs incurred between the time STP Unit 1 or 2 went into service and the time that rates reflecting costs associated with that Unit went into effect. Qualifying deferrals are related to STP costs deferred under the RMP. Short-term deferrals are amortized over the remaining life of STP while qualifying phase-in deferrals must be recovered within ten years of the date which deferrals begin.

A review of STP operations from commercial operation to the end of the test period has revealed five forced outages that were the result of poor or imprudent management by HL&P. Examples of poor HL&P management include failure to install required safety related equipment during construction and failure to perform adequate maintenance resulting in unnecessary forced outages. The additional O&M expenses incurred during these unnecessary forced outages total $3.4 million and it is recommended that they should be disallowed from the deferred STP O&M expenses. Adjusting for carrying costs associated with these disallowed expenses results in a recommended reduction to STP deferrals of $4.0 million.

An additional reduction of $0.4 million is required to adjust the STP deferrals balance to actual deferrals. This adjustment and the above disallowance results in a total reduction to STP deferrals of $4.4 million.

C. RECONCILABLE FUEL AND PURCHASED POWER (FUEL FACTOR)

1. **NORTH DAYTON GAS STORAGE FACILITY COSTS** $4.2 million

One of the primary reasons for HL&P's development of the North Dayton Storage Facility was to smooth the peaks and valleys, or the swing, of HL&P's gas purchases. However, the economic justification for this investment has not materialized. For the test year storage facility costs were approximately $17.2 million, with estimated maximum savings of $13.0 million. Accordingly, it is recommend that HL&P's reconcilable fuel costs be reduced by $4.2 million to reflect the net loss associated with this facility.

We recommend an alternative disallowance if the Commission rules that HL&P's initial decision to invest in gas storage was prudent, and therefore that losses incurred during the test period should not be disallowed. As stated previously, one of the primary reasons for development of the storage facility was to smooth the peaks and valleys, or the swing, of HL&P's gas purchases. The storage facility has not been fully utilized for that purpose. HL&P signed a contract with United Texas Transmission Company (UTTCO) in February, 1990 to provide 30% of gas requirements with a large swing capability. The swing capability commands a price premium. The full cost of fuel under this contract should not be allowed in the fuel factor until the storage facility is more fully used. If the Commission decides to allow all storage facility costs in the forecast period, a reduction of $6.3 million in UTTCO gas costs is recommended.

2. **COAL PRICE FORECAST** $12.5 million

HL&P has updated their coal price forecast. Use of this new forecast reduces coal costs by $12.5 million for the forecast period. There is no effect on the reconcilable coal costs.

3. **OIL AND GAS BURN IN COAL AND LIGNITE UNITS** $3.0 million

As noted above, HL&P burns a much higher percentage of secondary fuel (gas and oil) in its coal and lignite units than do other utilities in the state. Adjusting the costs of gas and oil burned in the lignite and coal units to more typical levels results in a recommended reduction of $3 million to HL&P's reconcilable fuel expense.

4. **LIMESTONE PLANT GENERATION** $3.5 million

For the forecast period, HL&P estimated the megawatt-hours to be generated from each unit by using a standard computer program. Some of the program input data which describes the Limestone units does not accurately reflect the capabilities of the units and the fuel contract constraints. Consequently, the amount of generation forecast for the Limestone units is lower than it should be. This has the

effect of decreasing the forecast lignite burn and increasing the more expensive gas burn. Adjusting for these assumptions yields a recommended reduction of $3.5 million for the forecast period.

5. **GAS PRICE FORECAST** $24.6 million

In April 1990, HL&P developed a forecast for spot gas prices at the wellhead. They used this forecast as the basis for estimating delivered spot gas and contract gas costs for the forecast period. A more current forecast of spot gas prices at the wellhead should be used. The Data Resources, Inc., (DRI) price forecast for Gulf Coast spot gas at the wellhead, published in the December 1990 Monthly Energy Outlook, is recommended. Use of this forecast results in a recommended reduction of gas costs of $24.62 million. There is no effect on reconcilable gas costs.

III. REVENUE REQUIREMENT: STEP 3

It is recommended that HL&P's requested increase for Step 3 be adjusted to reflect the Rate of Return previously discussed in Section II(A)(5) of this recommendation. It is recommended that adjustments be made to Federal income Taxes, Revenue Related expense and other taxes which result from the change in revenue requirements caused by the change in return. These recommended adjustments total $8 million.

IV. COST ALLOCATION

Once the total Company revenue requirement has been determined, the next step in the ratemaking process is to determine the portion of the total revenue requirement to be recovered from each customer class. In determining how the total revenue requirement will be distributed among the customer classes, various criteria are considered. The primary factor to be considered for determining this revenue split is a fully allocated cost of service study.

Basically, a cost allocation study is developed in three distinct steps. First, each component of the total revenue requirement is assigned to one of the primary functional categories of production, transmission, distribution, customer accounting or customer information/marketing. Second, each functionalized cost component is further broken down by cost classification, i.e., demand-related, energy-related or customer-related. Finally, each functionalized and classified cost component is allocated to the various customer classes on the basis of an appropriate cost allocation methodology. Also, some cost components may be specifically assigned to a particular customer class.

If the revenues to be recovered from a customer class match the approved allocated cost of serving that class, then the rates for the class are said to be cost based. However, criteria other than just the allocated cost of service are sometimes appropriate for consideration in determining the distribution of total revenue requirements among customer classes. These other criteria may include such considerations as gradualism, revenue stability and social or community policies.

HL&P has developed a cost allocation study for both its proposed Step 2 increase and Step 3 increase. Based upon its cost allocation study and other considerations, HL&P has distributed its proposed revenues among the customer classes. HL&P's proposed revenue distribution is summarized on Exhibit VI, pages 1 and 2. The City's analysis of HL&P's cost allocation study and proposed revenue distribution has resulted in the recommended adjustments discussed below.

A. ALLOCATION OF FRANCHISE FEES

In exchange for its franchise to provide electric service to cities, to use right-of-ways within city limits and other benefits, HL&P pays a franchise fee to these cities, including the City of Houston. HL&P currently recovers this franchise fee expense directly from the customers located within the city limits of the city charging the fee. This is accomplished through a surcharge or percentage add-on factor applied to the total amount of the monthly electric bill of those customers located inside city limits. For most customers within city limits, the surcharge is approximately 4.258%. For example, if one customer inside the city and one customer outside the city both have electric bills of $200 for electric service, the customer inside the city limits would have to pay approximately $208.52 because of the franchise fee surcharge.

Since city franchises provide system-wide benefits to HL&P, the customers within the city limits should not bear the entire expense. Accordingly, it is recommended that franchise fees be spread among all customers within a class resulting in lower charges to customers within city limits.

B. ALLOCATION OF DISTRIBUTION FACILITIES

HL&P has allocated most demand-related distribution costs to customer classes on the basis of the average four summer month coincident peaks (4CP) at the distribution voltage level allocation methodology. This approach is used for allocating all overhead facilities (poles, lines, etc.). For allocating underground facilities, HL&P has specifically assigned residential underground facilities to that class. The problem with this allocation is that the coincident peak demands of the residential customers served by underground facilities have not been taken out of the 4CP allocation factor used to allocate overhead facilities. Therefore, a significant portion of residential customers will be assigned cost responsibility for both overhead and underground distribution costs. It is recommended that the 4CP allocation factor be adjusted to eliminate this over-allocation of distribution cost responsibility to the residential customer class.

C. ALLOCATION OF UNCOLLECTIBLE EXPENSE

HL&P incurs or writes-off certain uncollectible expenses because some customers leave the system without paying outstanding power bills owed the Company. In allocating this expense to customer classes, HL&P has directly assigned to each class the amount of the uncollectible expense related to non-paying customers of that class leaving the system. Under this approach, only the residential and two general service customer classes are assigned uncollectible expenses. These expenses are attributable to customers that have left the system and not to any particular class of current customers. In prior rate cases, the Commission has determined uncollectible expenses to be a "global" or system-wide cost. Accordingly, it is recommended that these expenses be allocated to all customer classes. Operating income is a reasonable basis for allocating this expense.

D. ALLOCATION OF FACTORING EXPENSE

HL&P sells certain accounts receivable (bad debts) at a discount to an independent firm which then attempts to collect the bad debts. The costs related to this transaction are referred to as factoring expense. In its cost allocation study, HL&P has allocated this expense on the basis of total O&M expenses excluding fuel and certain revenue related expenses. This expense is similar to uncollectible expense in that it should be borne by all customer classes. As with uncollectible expenses, it is recommended that operating expenses be the basis for allocating this expense.

E. ASSIGNMENT OF STEP 2 REVENUES TO THE LARGE GENERAL SERVICE (LGS) CUSTOMER CLASS

In HL&P's previous rate case, Docket No. 8425, the PUC approved rates that resulted in a percentage increase to the LGS customer class that was higher than the other customer classes. In its Step 2 proposed rate increase, the Company is proposing to offset this PUC approved increase by giving the LGS class a lower increase. This proposal is an attempt to circumvent the results of the Commission's Final Order in Docket No. 8425. Accordingly, the LGS class should not receive special treatment in this case and it is recommended that the LGS class be assigned a greater portion of the Step 2 revenue increase than HL&P is proposing.

F. SUMMARY

Based upon the above issues, HL&P's proposed distribution of the revenue increase among the customer classes is unacceptable. The recommended distribution of the City's proposed Step 2 and Step 3 revenue increases among the customer classes is shown on Exhibit VI.

VII. RATE DESIGN

The final step in the ratemaking process is the development of rates for each rate class to recover the amount of revenues that has been assigned to that customer class. An analysis of HL&P's proposed rate design determined it was generally reasonable with the exception of the proposed residential rate.

As shown on Exhibit IV, HL&P is proposing to increase the residential customer charge from the current $6.00 per month level to $8.10 per month in Step 2 and to $8.65 per month in Step 3. The result is a total increase of 44% in the customer charge. This drastic increase results in a higher percentage increase for low use residential customers. Based upon the gradualism principle, a customer charge increase to $6.35 for Step 2 and to $6.70 for Step 3 is much more reasonable. A comparison of the impact on typical monthly residential bills at various Kwh usage levels under HL&P's proposed Step 2 and Step 3 residential rate and the City's recommended Step 2 and Step 3 residential rate are shown on Exhibit V, pages 1 and 2.

VIII. FUEL RECONCILIATION

A. STP OUTAGES $2.5 million

The operating performance of STP during the reconciliation period was reviewed to identify outages resulting from imprudent or unreasonable management. These outages result in higher costs to the ratepayer because of the relatively high fuel cost of the generation required to replace the lost STP generation. A total of five events were identified as resulting from imprudent or unreasonable management. The five identified outages resulted in 162,417 megawatt-hours in lost nuclear generation and additional fuel replacement costs of approximately $2.5 million.

B. NORTH DAYTON GAS STORAGE FACILITY COSTS $10.0 million

In Docket 8425, the Commission allowed HL&P to reconcile costs for the gas storage facility, primarily because its use was considered to result in net savings. For the reconciliation period, however, the gas storage costs were approximately $25.7 million. The estimated maximum fuel cost savings were only $15.7 million. Therefore, it is recommended that an adjustment to reconcilable costs of $10.0 million be made to reflect that the facility has not been cost effective.

For the reconciliation period, use of gas from storage was less than 30% of the amounts estimated in HL&P's justification for the storage project. At that time, it was envisioned that gas would be injected at night, during low demand on HL&P's system, and withdrawn during the day. In practice, injection and withdrawal during the same day has been infrequent. One of the reasons for this has been an adequate supply of gas on the market, with reduced economic reason for daily cycling of storage gas. A large part of the estimated maximum savings for both the reconciliation and test year periods has come from burning inventory gas to reduce fuel oil burns during periods of very cold weather.

An alternative disallowance for the gas storage facility is recommended if the Commission rules that HL&P's initial decision to invest in gas storage was prudent, and therefore that losses incurred during the reconciliation period cannot be disallowed. During the reconciliation period, HL&P did not use the full capacity, 3.5 billion cubic feet (Bcf), of the storage facility. At least $3.6 million in fuel costs savings, which would have been possible with the full storage capacity, were not realized. Under this alternative approach, a reduction of $3.6 million is recommended.

C. OIL AND GAS BURN IN COAL AND LIGNITE UNITS $6.4 million

HL&P burns gas in the lignite and coal units during startup and for some operational purposes. Oil is also burned at the lignite units as a backup to gas. Such use of a secondary fuel in coal and lignite units is normal. However, HL&P burns a much higher percentage of secondary fuel in the coal and lignite units than do other utilities

in the state. Adjusting the costs of gas and oil burned in the lignite and coal units to more typical levels results in a recommended reduction in the reconciliation period of $6.4 million.

D. COAL AND LIGNITE UNIT MAINTENANCE SCHEDULE $3.8 million

HL&P periodically removes each of its generating units from service for scheduled maintenance. A schedule is prepared well in advance for these maintenance outages. During the reconciliation period, HL&P scheduled some maintenance outages on coal and lignite units in winter months, when it appears to have been possible to schedule the maintenance at other times. The consequence of winter maintenance on coal/lignite units is that gas units must generate more during those months to make up for the loss of coal/lignite generation, since winter gas prices are higher than at other times of the year. An adjustment of $4 million is recommended for this item.

E. MISCELLANEOUS GAS AND COAL ADJUSTMENTS $3.1 million

There are a few cases in the reconciliation period when it appears that HL&P's gas purchasing negotiations did not result in the lowest reasonable costs. Also, a discrepancy of $770,000 exists between reconcilable coal costs in the filing and information obtained through the discovery process. The recommended adjustment for these items is $3.1 million.

F. GENERATING UNIT EFFICIENCY $3.1 million

During the reconciliation period, the heat rates (a measure of efficiency) for the gas-fired P. H. Robinson Units 1 and 4 were several percent lower than the performance recorded in prior periods and also were significantly lower than design values for these units. An increase in heat rate results in a direct increase in fuel costs. A disallowance of $3.1 million is recommended based upon a 5% improvement in the heat rate of Robinson Unit 1 and a 2% improvement in the heat rate for Robinson Unit 4.

IX. STP PERFORMANCE STANDARDS

The Commission currently is considering performance standards for El Paso Electric Company's Palo Verde nuclear units, which have experienced numerous operating problems since beginning commercial operations several years ago. Given the performance problems which have been experienced to date at STP, we believe that it also would be appropriate for the Commission to adopt performance standards for STP. If properly designed, performance standards can provide incentives for improved performance at STP which would benefit both the Company and ratepayers, while providing insurance to ratepayers in the event the plant does not perform well.

There are several major features of the performance standard program which are recommended for application to STP. First, capacity factor should be used as the standard by which the performance of STP is evaluated. Capacity factor measures the percentage of maximum potential generation produced by a unit in a given period of time, i.e., a 75% annual capacity factor indicates that a unit produced 75% of the power it was capable of generating had it operated at maximum output for every hour during the year. Second, the capacity factor standard, or target for STP should be equal to a three-year average capacity factor for all other comparable U.S. nuclear units during the same period. The three year average measurement period levelizes the effects of refueling outages. The STP comparison group should be units which are of a similar age, design and rating. Third, a deadband performance range of plus or minus 5% from the target capacity factor should be utilized to allow for normal variations above and below the industry standard performance level. Within the deadband no penalty or reward should be applied. For STP capacity factor performance above or below the deadband, the Company and ratepayers would share 50% of the incremental replacement energy costs or savings. Finally, the range for rewards and penalties would be capped to prevent severe financial penalty or excess incentives which could lead to operating decisions not in the best long-term interest of the plant.

CITY OF HOUSTON
****
HOUSTON LIGHTING & POWER - 3/31/90

REVENUE REQUIREMENT
****

DESCRIPTION	(COLUMN 1) TEST YEAR PER BOOKS	(COLUMN 2) COMPANY ADJUSTMENTS TO TEST YEAR	(COLUMN 3) COMPANY REQUESTED TEST YEAR	(COLUMN 4) STAFF ADJUSTMENTS TO REQUEST	(COLUMN 5) STAFF RECOMMENDED TEST YEAR
PURCHASED POWER	$ 406,516	$ 84,621	$ 491,137	$ 0	$ 491,137
FUEL	970,842	24,324	995,166	(48,309)	946,857
OPERATIONS AND MAINTENANCE	686,552	121,201	807,753	(66,782)	740,971
DEPRECIATION	304,281	13,446	317,727	(8,352)	309,375
AMORTIZATION	7,253	29,108	36,361	(1,626)	34,735
TAXES OTHER THAN INCOME TAXES	161,389	26,815	188,204	(4,689)	183,515
FEDERAL INCOME TAXES	155,366	45,597	200,963	(25,221)	175,742
RETURN	507,521	268,066	775,587	(66,278)	709,309
DEFERRED EXPENSES	(88,663)	88,663	0	0	0
REVENUE REQUIREMENT	$ 3,111,057	$ 701,841	$ 3,812,898	$ (221,257)	$ 3,591,641
OTHER REVENUES	$ 31,367	$ 2,224	$ 33,591	$ 0	$ 33,591
FUEL REVENUES	1,144,527	48,910	1,193,437	(46,715)	1,146,722

STAFF'S ADJUSTMENT TO TEST YEAR PER BOOKS IS DERIVED BY ADDING
THE AMOUNT IN COLUMN 2 TO THE AMOUNT IN COLUMN 4

CITY OF HOUSTON
****
HOUSTON LIGHTING & POWER - 3/31/90

OPERATIONS AND MAINTENANCE (EXCLUDING FUEL AND PURCHASED POWER)
****

DESCRIPTION	(COLUMN 1) TEST YEAR PER BOOKS	(COLUMN 2) COMPANY ADJUSTMENTS TO TEST YEAR	(COLUMN 3) COMPANY REQUESTED TEST YEAR	(COLUMN 4) STAFF ADJUSTMENTS TO REQUEST	(COLUMN 5) STAFF RECOMMENDED TEST YEAR
O&M NOT ADJUSTED	$ 193,853	$ 0	$ 193,853	$ (9,984)	$ 183,869
WAGE AND SALARY EXPENSES	288,730	31,185	319,915	(21,179)	298,736
EMPLOYEE BENEFITS	35,871	25,632	61,503	(4,761)	56,742
STP ANNUALIZED O&M	38,315	5,801	44,116	(5,780)	38,336
PROPERTY INSURANCE RESERVE	0	2,213	2,213	(191)	2,022
FACTORING COSTS	21,682	3,432	25,114	(5,474)	19,640
FRANCHISE REQUIREMENTS	76,541	14,040	90,581	(5,256)	85,325
RATE CASE EXPENSES	0	3,494	3,494	(1,747)	1,747
EEI DUES	804	(74)	730	0	730
LEGISLATIVE ADVOCACY	7	(7)	0	0	0
SOCIAL DUES	41	(41)	0	0	0
RESEARCH AND DEVELOPMENT	11,852	370	12,222	0	12,222
LEASE AND RENTAL CHARGES	7,856	(234)	7,622	0	7,622
INTEREST ON CUSTOMER DEPOSITS	0	3,646	3,646	0	3,646
ADV., CONTRIBUTIONS & DONATIONS	6,576	961	7,537	(1,587)	5,950
PROJECT SHARE	0	1,100	1,100	(1,100)	0
HII SERVICE FEE	14,945	0	14,945	0	14,945
USE TAX	0	460	460	0	460
POSTAGE ADJUSTMENT	0	815	815	(815)	0
TRINITY MINE COSTS	0	7,460	7,460	(7,460)	0
POWER WHEELING COSTS	156	(156)	0	0	0
NONRECURRING ITEMS	(19,721)	19,721	0	0	0
UNCOLLECTIBLE EXPENSE	9,044	1,383	10,427	(1,448)	8,979
TOTAL OPERATIONS AND MAINTENANCE	$ 686,552	$ 121,201	$ 807,753	$ (66,782)	$ 740,971

STAFF'S ADJUSTMENT TO TEST YEAR PER BOOKS IS DERIVED BY ADDING
THE AMOUNT IN COLUMN 2 TO THE AMOUNT IN COLUMN 4

CITY OF HOUSTON
****
HOUSTON LIGHTING & POWER - 3/31/90

INVESTED CAPITAL
****

DESCRIPTION	(COLUMN 1) TEST YEAR PER BOOKS	(COLUMN 2) COMPANY ADJUSTMENTS TO TEST YEAR	(COLUMN 3) COMPANY REQUESTED TEST YEAR	(COLUMN 4) STAFF ADJUSTMENTS TO REQUEST	(COLUMN 5) STAFF RECOMMENDED TEST YEAR
PLANT IN SERVICE	$ 10,147,276	$ (2,556,178)	$ 7,591,098	$ (67,928)	$ 7,523,170
STP PHASE-IN	1,800,772	0	1,800,772	0	1,800,772
ACCUMULATED DEPRECIATION	(1,987,916)	8,149	(1,979,767)	0	(1,979,767)
NET PLANT IN SERVICE	9,960,132	(2,548,029)	7,412,103	(67,928)	7,344,175
NUCLEAR FUEL	141,742	0	141,742	(21,276)	120,466
PROPERTY HELD FOR FUTURE USE	181,118	(84,964)	96,154	(92,901)	3,253
WORKING CASH ALLOWANCE	(105,098)	0	(105,098)	(39,973)	(145,071)
MATERIALS AND SUPPLIES	133,243	0	133,243	(19,721)	113,522
PREPAYMENTS	26,333	0	26,333	0	26,333
FUEL INVENTORY	19,937	0	19,937	0	19,937
TRINTIY MINE INVESTMENT	0	138,235	138,235	(138,235)	0
STP UNIT NO 1 DEFERRALS	525,311	(164,258)	361,053	(4,447)	356,606
PUC PRUCENCE REVIEW OF STP	45,045	0	45,045	(769)	44,276
ETSI LITIGATION COSTS	6,556	0	6,556	0	6,556
CITY OF AUSTIN LITIGATION COSTS	36,196	0	36,196	(36,196)	0
DEFERRED FEDERAL INCOME TAXES	(995,954)	(29,628)	(1,025,582)	17,908	(1,007,674)
PRE 1971 INVESTMENT TAX CREDITS	(4,171)	0	(4,171)	0	(4,171)
CUSTOMERS DEPOSITS	(50,677)	0	(50,677)	0	(50,677)
INJURIES AND DAMAGES RESERVE	(5,394)	0	(5,394)	0	(5,394)
RETIREMENT PLAN	(32,171)	0	(32,171)	(2,375)	(34,546)
CUSTOMER ADVANCES FOR CONTRUCTION	(5,491)	0	(5,491)	0	(5,491)
CONTRACTOR RETAINAGE	0	0	0	(3,373)	(3,373)
TOTAL INVESTED CAPITAL	$ 9,876,657	$ (2,688,644)	$ 7,188,013	$ (409,286)	$ 6,778,727
RATE OF RETURN			0.107887	-0.003250	0.104637
RETURN			$ 775,587	$ (66,278)	$ 709,309

STAFF'S ADJUSTMENTS TO TEST YEAR PER BOOKS IS DERIVED BY ADDING
THE AMOUNT IN COLUMN 2 TO THE AMOUNT IN COLUMN 4

CITY OF HOUSTON
****
HOUSTON LIGHTING & POWER - 3/31/90

REVENUE REQUIREMENT
****

DESCRIPTION	(COLUMN 1) TEST YEAR PER BOOKS	(COLUMN 2) COMPANY ADJUSTMENTS TO TEST YEAR	(COLUMN 3) COMPANY REQUESTED TEST YEAR	(COLUMN 4) STAFF ADJUSTMENTS TO REQUEST	(COLUMN 5) STAFF RECOMMENDED TEST YEAR
PURCHASED POWER	$ 406,516	$ 84,621	$ 491,137	$ 0	$ 491,137
FUEL	970,842	24,324	995,166	(48,309)	946,857
OPERATIONS AND MAINTENANCE	686,552	126,314	812,866	(67,240)	745,626
DEPRECIATION	304,281	27,564	331,845	(8,352)	323,493
AMORTIZATION	7,253	50,857	58,110	(1,628)	56,482
TAXES OTHER THAN INCOME TAXES	161,389	32,584	193,973	(5,635)	188,338
FEDERAL INCOME TAXES	155,366	73,898	229,264	(27,914)	201,350
RETURN	507,521	347,770	855,291	(70,201)	785,090
DEFERRED EXPENSES	(88,663)	88,663	0	0	0
REVENUE REQUIREMENT	$ 3,111,057	$ 856,595	$ 3,967,652	$ (229,280)	$ 3,738,372
OTHER REVENUES	$ 31,367	$ 2,224	$ 33,591	$ 0	$ 33,591
FUEL REVENUES	1,144,527	48,910	1,193,437	(46,715)	1,146,722
BASE RATE REVENUE	$ 1,935,163	$ 805,461	$ 2,740,624	$ (182,565)	$ 2,558,059

STAFF'S ADJUSTMENT TO TEST YEAR PER BOOKS IS DERIVED BY ADDING
THE AMOUNT IN COLUMN 2 TO THE AMOUNT IN COLUMN 4

CITY OF HOUSTON
****
HOUSTON LIGHTING & POWER - 3/31/90

OPERATIONS AND MAINTENANCE (EXCLUDING FUEL AND PURCHASED POWER)
****

DESCRIPTION	(COLUMN 1) TEST YEAR PER BOOKS	(COLUMN 2) COMPANY ADJUSTMENTS TO TEST YEAR	(COLUMN 3) COMPANY REQUESTED TEST YEAR	(COLUMN 4) STAFF ADJUSTMENTS TO REQUEST	(COLUMN 5) STAFF RECOMMENDED TEST YEAR
O&M NOT ADJUSTED	$ 193,853	$ 0	$ 193,853	$ (9,984)	$ 183,869
WAGE AND SALARY EXPENSES	288,730	31,185	319,915	(21,179)	298,736
EMPLOYEE BENEFITS	35,871	25,632	61,503	(4,761)	56,742
STP ANNUALIZED O&M	38,315	5,801	44,116	(5,780)	38,336
PROPERTY INSURANCE RESERVE	0	2,213	2,213	(191)	2,022
FACTORING COSTS	21,682	4,451	26,133	(5,690)	20,443
FRANCHISE REQUIREMENTS	76,541	17,716	94,257	(5,447)	88,810
RATE CASE EXPENSES	0	3,494	3,494	(1,747)	1,747
EEI DUES	804	(74)	730	0	730
LEGISLATIVE ADVOCACY	7	(7)	0	0	0
SOCIAL DUES	41	(41)	0	0	0
RESEARCH AND DEVELOPMENT	11,852	370	12,222	0	12,222
LEASE AND RENTAL CHARGES	7,856	(234)	7,622	0	7,622
INTEREST ON CUSTOMER DEPOSITS	0	3,646	3,646	0	3,646
ADV., CONTRIBUTIONS & DONATIONS	6,576	961	7,537	(1,587)	5,950
PROJECT SHARE	0	1,100	1,100	(1,100)	0
HII SERVICE FEE	14,945	0	14,945	0	14,945
USE TAX	0	460	460	0	460
POSTAGE ADJUSTMENT	0	815	815	(815)	0
TRINITY MINE COSTS	0	7,460	7,460	(7,460)	0
POWER WHEELING COSTS	156	(156)	0	0	0
NONRECURRING ITEMS	(19,721)	19,721	0	0	0
UNCOLLECTIBLE EXPENSE	9,044	1,801	10,845	(1,499)	9,346
TOTAL OPERATIONS AND MAINTENANCE	$ 686,552	$ 126,314	$ 812,866	$ (67,240)	$ 745,626

STAFF'S ADJUSTMENT TO TEST YEAR PER BOOKS IS DERIVED BY ADDING
THE AMOUNT IN COLUMN 2 TO THE AMOUNT IN COLUMN 4

CITY OF HOUSTON
****
HOUSTON LIGHTING & POWER - 3/31/90

INVESTED CAPITAL
****

DESCRIPTION	(COLUMN 1) TEST YEAR PER BOOKS	(COLUMN 2) COMPANY ADJUSTMENTS TO TEST YEAR	(COLUMN 3) COMPANY REQUESTED TEST YEAR	(COLUMN 4) STAFF ADJUSTMENTS TO REQUEST	(COLUMN 5) STAFF RECOMMENDED TEST YEAR
ANT IN SERVICE	$ 10,147,276	$ (2,556,178)	$ 7,591,098	$ (67,928)	$ 7,523,170
P PHASE-IN	2,387,678	0	2,387,678	0	2,387,678
CUMULATED DEPRECIATION	(1,987,916)	(52,562)	(2,040,478)	0	(2,040,478)
T PLANT IN SERVICE	10,547,038	(2,608,740)	7,938,298	(67,928)	7,870,370
CLEAR FUEL	141,742	0	141,742	(21,276)	120,466
OPERTY HELD FOR FUTURE USE	181,118	(84,964)	96,154	(92,901)	3,253
RKING CASH ALLOWANCE	(108,663)	0	(108,663)	(54,872)	(163,535)
TERIALS AND SUPPLIES	133,243	0	133,243	(19,721)	113,522
EPAYMENTS	26,333	0	26,333	0	26,333
EL INVENTORY	19,937	0	19,937	0	19,937
INTIY MINE INVESTMENT	0	138,235	138,235	(138,235)	0
ORT TERM DEFERRALS	525,311	58,306	583,617	(4,088)	579,529
P QUALIFIED DEFERRALS	140,254	0	140,254	0	140,254
C PRUCENCE REVIEW OF STP	45,045	0	45,045	(769)	44,276
SI LITIGATION COSTS	6,556	0	6,556	0	6,556
TY OF AUSTIN LITIGATION COSTS	36,196	0	36,196	(36,196)	0
FERRED FEDERAL INCOME TAXES	(995,954)	(176,385)	(1,172,339)	17,908	(1,154,431)
E 1971 INVESTMENT TAX CREDITS	(4,171)	0	(4,171)	0	(4,171)
STOMERS DEPOSITS	(50,677)	0	(50,677)	0	(50,677)
JURIES AND DAMAGES RESERVE	(5,394)	0	(5,394)	0	(5,394)
TIREMENT PLAN	(32,171)	0	(32,171)	(2,375)	(34,546)
STOMER ADVANCES FOR CONTRUCTION	(5,491)	0	(5,491)	0	(5,491)
NTRACTOR RETAINAGE	0	0	0	(3,373)	(3,373)
TAL INVESTED CAPITAL	$ 10,600,252	$ (2,673,548)	$ 7,926,704	$ (423,826)	$ 7,502,878
TE OF RETURN			0.107900	-0.003262	0.104638
TURN			$ 855,291	$ (70,201)	$ 785,090

AFF'S ADJUSTMENTS TO TEST YEAR PER BOOKS IS DERIVED BY ADDING
E AMOUNT IN COLUMN 2 TO THE AMOUNT IN COLUMN 4

EXHIBIT III

CITY OF HOUSTON
COMPARISON OF HL&P AND COH STEP 2 AND STEP 3 REVENUES

(MILLIONS OF DOLLARS)

	HL&P STEP 2 REQUESTED INCREASE		COH STEP 2 REQUESTED INCREASE		HL&P STEP 3 REQUESTED INCREASE OVER STEP 2 REVENUES		COH STEP 3 REQUESTED INCREASE OVER STEP 2 REVENUES	
	AMOUNT	PERCENT	AMOUNT	PERCENT	AMOUNT	PERCENT	AMOUNT	PERCENT
STP	$ 225		$ 193		$ 151		$ 143	
NON STP	111		(24)		-		-	
TOTAL BASE	336	15.6%	169	7.8%	151	6.1%	143	6.2%
FUEL	49	4.3%	2	0.2%	-		-	
FRANCHISE	10	11.6%	3	5.2%	4	4.1%	4	4.1%
OTHER	2	7.1%	2	7.1%	-		-	
TOTAL REVENUE REQUEST	$ 397	11.6%	$ 176	5.2%	$ 155	4.1%	$ 147	4.1%

EXHIBIT IV

COMPARISON OF RESIDENTIAL RATES

Line No.	Rate Component	HL&P's Present Rate	Proposed Step 2 Rates		Proposed Step 3 Rates	
			HL&P	COH	HL&P	COH
(a)	(b)	(c)	(d)	(e)	(f)	(g)
1	Facilities Charge ($/Month) -	$6.00	$8.10	$6.35	$8.65	$6.70
	Energy Charge (¢/kWh) -					
	Summer:					
2	First 250 kWh @	2.040¢	2.300¢	2.150¢	2.755¢	2.255¢
3	All additional kWh @	6.8411¢	8.050¢	7.490¢	8.400¢	7.940¢
	Winter:					
4	First 250 kWh @	2.040¢	2.300¢	2.150¢	2.755¢	2.255¢
5	Next 750 kWh @ *	6.8411¢	8.050¢	7.490¢	8.400¢	7.940¢
6	All additional kWh @	3.1609¢	3.700¢	4.1256¢	3.849¢	4.413¢
7	Fuel Charge (¢/kWh) -	1.9924¢	2.0885¢	1.99672¢	2.0885¢	1.99672¢
8	PCRF Charge (¢/kWh) -	0.0215¢	0	0	0	0

Note: * Under HL&P's proposed and COH's proposed rates, the second energy block during the Winter is only for the next 550 kWh instead of 750 kWh.

STEP 2 IMPACT ON TYPICAL MONTHLY BILLS OF INSIDE CITY RESIDENTIAL CUSTOMERS *

MONTHLY KWH USAGE	MONTHLY BILL @ HL&P's EXISTING RATE	INCREASE UNDER HL&P's PROPOSED STEP 2 RATE		INCREASE UNDER COH's PROPOSED STEP 2 RATE	
		AMOUNT	PERCENT	AMOUNT	PERCENT
200	$14.65	$2.95	20.10%	$0.40	2.71%
300	$21.35	$3.82	17.88%	$0.70	3.28%
400	$30.56	$5.19	16.97%	$1.25	4.08%
500	$39.76	$6.55	16.48%	$1.79	4.51%
600	$48.96	$7.92	16.18%	$2.34	4.77%
700	$58.17	$9.29	15.97%	$2.88	4.96%
800	$67.37	$10.66	15.82%	$3.43	5.09%
900	$76.57	$9.76	12.74%	$2.25	2.93%
1000	$85.78	$8.85	10.32%	$1.06	1.24%
1100	$93.06	$9.87	10.61%	$1.80	1.93%
1250	$103.99	$11.40	10.96%	$2.90	2.79%
1500	$122.20	$13.95	11.41%	$4.74	3.88%
2000	$158.62	$19.04	12.00%	$8.42	5.31%
2500	$195.05	$24.13	12.37%	$12.10	6.20%
3000	$231.47	$29.22	12.62%	$15.78	6.82%

* AMOUNTS SHOWN ARE AN AVERAGE OF SUMMER AND WINTER RATES.

STEP 3 IMPACT ON TYPICAL MONTHLY BILLS OF INSIDE CITY RESIDENTIAL CUSTOMERS *

MONTHLY KWH USAGE	HL&P's PROPOSED STEP 3 RATE INCREASE OVER HL&P's PROPOSED STEP 2 RATE		COH's PROPOSED STEP 3 RATE INCREASE OVER COH's PROPOSED STEP 2 RATE	
	AMOUNT	PERCENT	AMOUNT	PERCENT
200	$1.52	8.65%	$0.58	3.82%
300	$1.94	7.72%	$0.86	3.90%
400	$2.31	6.45%	$1.32	4.16%
500	$2.67	5.77%	$1.79	4.30%
600	$3.04	5.34%	$2.25	4.38%
700	$3.40	5.04%	$2.71	4.44%
800	$3.77	4.83%	$3.17	4.48%
900	$4.03	4.66%	$3.55	4.51%
1000	$4.29	4.53%	$3.93	4.53%
1100	$4.55	4.42%	$4.31	4.54%
1250	$4.94	4.28%	$4.88	4.56%
1500	$5.59	4.10%	$5.82	4.59%
2000	$6.89	3.88%	$7.71	4.62%
2500	$8.19	3.74%	$9.61	4.64%
3000	$9.49	3.64%	$11.50	4.65%

* AMOUNTS SHOWN ARE AN AVERAGE OF SUMMER AND WINTER RATES.

DISTRIBUTION OF HL&P's
AND CITY OF HOUSTON'S STEP 2
REVENUE INCREASE AMONG CUSTOMER CLASSES

(THOUSANDS OF DOLLARS)

LINE NO.	RATE CLASS	HL&P's EXISTING REVENUES	INCREASE UNDER HL&P's PROPOSED STEP 2		INCREASE UNDER COH's PROPOSED STEP 2	
			AMOUNT	PERCENT	AMOUNT	PERCENT
(a)	(b)	(c)	(d)	(e)	(h)	(i)
1	Residential	$1,323,447	$176,739	13.35%	$78,432	5.93%
2	Miscellaneous General Service	$844,280	$98,761	11.70%	$45,087	5.34%
3	Large General Service	$581,601	$66,248	11.39%	$28,512	4.90%
4	Large Overhead Service - A	$176,668	$18,843	10.67%	$7,387	4.18%
5	Large Overhead Service - B	$228,259	$25,409	11.13%	$10,247	4.49%
6	Interruptible Service	$141,946	$694	0.49%	$225	0.16%
7	Public Utility	$5,965	$888	14.89%	$798	13.38%
8	Street Lighting Service	$30,396	$5,640	18.56%	$2,654	8.73%
9	Contract Lighting Service	$4,813	$659	13.69%	$372	7.73%
10	Standby Electric Service	$19,027	$255	1.34%	$32	0.17%
11	Economic Redevelopment Service	$27,810	$958	3.44%	$94	0.34%
12	Subtotal -- Rate Revenue	$3,384,212	$395,094	11.67%	$173,840	5.14%
13	Other Revenue	$31,367	$2,224	7.09%	$2,225	7.09%
14	Total Revenue	$3,415,579	$397,318	11.63%	$176,065	5.15%

DISTRIBUTION OF HL&P's
AND CITY OF HOUSTON'S STEP 3
REVENUE INCREASE AMONG CUSTOMER CLASSES

(THOUSANDS OF DOLLARS)

LINE NO.	RATE CLASS	HL&P's PROPOSED STEP 3 RATE INCREASE OVER HL&P'S PROPOSED STEP 2 RATE		COH's PROPOSED STEP 3 RATE INCREASE OVER COH'S PROPOSED STEP 2 RATE	
		AMOUNT	PERCENT	AMOUNT	PERCENT
(a)	(b)	(c)	(d)	(e)	(f)
1	Residential	$65,499	4.37%	$63,673	4.54%
2	Miscellaneous General Service	$32,274	3.42%	$37,274	4.19%
3	Large General Service	$35,524	5.48%	$26,359	4.32%
4	Large Overhead Service - A	$6,913	3.54%	$6,899	3.75%
5	Large Overhead Service - B	$11,905	4.69%	$8,792	3.69%
6	Interruptible Service	$180	0.13%	$180	0.13%
7	Public Utility	$432	6.30%	$432	6.39%
8	Street Lighting Service	$1,028	2.85%	$2,004	6.06%
9	Contract Lighting Service	$144	2.63%	$269	5.19%
10	Standby Electric Service	$849	4.40%	$849	4.45%
11	Economic Redevelopment Service	$0	0.00%	$0	0.00%
12	Subtotal -- Rate Revenue	$154,748	4.09%	$146,731	4.12%
13	Other Revenue	$6	0.02%	$0	0.00%
14	Total Revenue	$154,754	4.06%	$146,731	4.09%

ORDINANCE NUMBER 91-794

16-4148—ORDER DECLARING RESULT OF CITY OFFICER ELECTION (176) Hart Graphics, Austin, Texas

Order Declaring Result Of City Officers' Election

THE STATE OF TEXAS

CITY OF FULSHEAR

On this the 10th day of MAY, 19 91, the City Council/~~Commission~~ of the City of FULSHEAR, Texas, convened in SPECIAL session open to the public at the regular meeting place thereof with the following members present, to-wit:

PAT L. PRESLEY, Mayor, Pro-Tem

VIOLA RANDLE, Alderman/Commissioner[1]

TOM HARKNESS, Alderman/Commissioner[1]

JACK H. LIEM, Alderman[2]

NARVELENE BANKS, Alderman[2]

_____, Alderman[2]

CAROLYN H. SMITH, City Secretary/Clerk[1]

and the following absent: FRANCES SMART, MAYOR, constituting a quorum, and among other proceedings had were the following:

Alderman/Commissioner[1] TOM HARKNESS introduced a resolution and order and moved its adoption. The motion was seconded by Alderman/Commissioner[1] JACK H. LIEM, and the motion carrying with it the adoption of the resolution and order prevailed by the following vote,

AYES: ALL

_____, NOES: NONE

The resolution is as follows:

There came on to be considered the returns of an election held on the 04th day of MAY, 19 91, for the purpose of electing the hereinafter named officials, and it appearing from said returns, duly and legally made, that there were cast at said election 110 valid and legal votes; that each of the candidates in said election received the following votes:

~~FOR MAYOR~~

NAME OF CANDIDATE	TOTAL NUMBER OF VOTES RECEIVED

FOR ALDERMAN ~~COMMISSIONER~~

NAME OF CANDIDATE	TOTAL NUMBER OF VOTES RECEIVED
PAT L. PRESLEY	64
JACK H. LIEM	66
SCOTT EVANS	92
LAVERNE PATTERSON	56

FOR _____ [3]

NAME OF CANDIDATE	TOTAL NUMBER OF VOTES RECEIVED

FOR _____ [3]

NAME OF CANDIDATE	TOTAL NUMBER OF VOTES RECEIVED

FOR _____ [3]

NAME OF CANDIDATE	TOTAL NUMBER OF VOTES RECEIVED

FOR _____ [3]

NAME OF CANDIDATE	TOTAL NUMBER OF VOTES RECEIVED

THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL/~~COMMISSION~~ OF THE CITY OF FULSHEAR **, TEXAS:**

That said election was duly called; that notice of said election was given in accordance with law, and that said election was held in accordance with law, and that XXXXXXXXXXX ~~XXXXX was duly elected Mayor of said City at said election~~[2] and PAT L. PRESLEY, JACK H. LIEM, and SCOTT EVANS were duly elected Aldermen/Commissioners[1] of said City at said election~~, and that XXXXXXXXXXX XXXXXXXX was duly elected XXXXXXXXXXX~~[2], and said above named parties are hereby declared duly elected to said respective offices, subject to the taking of their oaths and filing bond as provided by the laws of the State of Texas.

It is further found and determined that in accordance with the order of this governing body the Secretary/Clerk[1] posted written notice of the date, place and subject of this meeting on the bulletin board located in the City Hall, a place convenient and readily accessible to the general public, and said notice having been so posted and remaining posted continuously for at least 72 hours preceding the scheduled time of said meeting. A copy of the return of said posting shall be attached to the minutes of this meeting and shall be made a part thereof for all intents and purposes.

PASSED, ADOPTED AND APPROVED this the 10th day of MAY 19 91.

Frances Ewert
Mayor

ATTEST:

Carolyn H. Fletcher
Secretary/Clerk[1]

[1]Strike one not applicable.

City of FULSHEAR Ordinance No. 91-795

AN ORDINANCE APPROVING THE SETTLEMENT AGREEMENT FILED WITH THE PUBLIC UTILITY COMMISSION ON FEBRUARY 27, 1991 AND AUTHORIZING THE CITY OF FULSHEAR TO BECOME A SIGNATORY TO THE SETTLEMENT AGREEMENT FILED WITH THE PUBLIC UTILITY COMMISSION IN THE HOUSTON LIGHTING & POWER RATE INCREASE REQUEST; MAKING VARIOUS FINDINGS AND PROVISIONS RELATING TO THE SUBJECT; AND DECLARING AN EMERGENCY.

* * * *

WHEREAS, on November 9, 1990, Houston Lighting & Power Company (the "company") filed with the City of FULSHEAR a Statement of Intent and Petition for Authority to Change Rates relating to electric utility service, and proper notice thereof was duly given; and

WHEREAS, by Ordinance No. 90-790, the City Council suspended the effective date of such proposed rate increase for Step One until March 18, 1991 and Council suspended the effective date of the proposed rate increase for Step Two until October 31, 1991; and

WHEREAS, on 03-07-91, the City Council passed Ordinance No. 91-793 relating to rates to be charged by Houston Lighting & Power Company for electric utility service within the corporate limits of the City of FULSHEAR Texas; and

WHEREAS, after intense negotiations with other intervenors, PUC staff, and HL&P, a settlement of the issues raised in the case has been achieved which is essentially the same as adopted by Council in Ordinance. 91-793; and

WHEREAS, a Settlement Agreement was filed with the Public Utility Commission on February 27, 1991; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR:

Section 1. The City Council of the City of FULSHEAR hereby finds the Settlement Agreement to be reasonable and in the best interest of the City.

Section 2. The City Council hereby approves and adopts the "Settlement Agreement" attached hereto as Exhibit "A" and incorporated herein for all purposes.

Section 3. The City Council hereby recommends that the Public Utility Commission adopt the Settlement Agreement.

Section 4. The City Council hereby authorizes the City of FULSHEAR to become a signatory to the Settlement Agreement.

Section 5. The City Council hereby authorizes and directs the City Secretary to serve the Company with a certified copy of this ordinance.

Section 6. Nothing contained in this Ordinance shall be construed now or hereafter as limiting or modifying,in any manner, the right and power of the City under the law to regulate the rates and charges of the Company.

Section 7. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict only.

Section 8. In the event that the Public Utility Commission does not adopt this Settlement Agreement setting electric rates for the Company, the City Council hereby authorized the City Attorney or his designees to represent the City and its citizens in any and all matters in connection with Docket 9850 and to take any and all actions necessary and incidental thereto and to the resolution of such matters, all as may be in the best interests of the City.

Section 9. If any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to the other persons or sets of circumstances shall not be affected thereby, it being the intent of the City council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any portion hereof, and all provisions of this Ordinance are declared to be severable for this purpose.

Section 10. The City Council officially finds, determines, recites and declares that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time

required by law preceding this meeting, as required by the Open Meetings Law, TEX.REV.CIV.STAT.ANN. art. 6252-17 (Vernon Supp. 1991); and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter thereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

Section 11. There exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor.

PASSED AND ADOPTED this 06 day of JUNE, 19 91.

APPROVED this 06 day of JUNE, 19 91.

Frances Smart

Mayor of the City of FULSHEAR

ATTEST:

Carolyn H. Smith

City Secretary

VOTING: Pat L. Presley YES
Viola Randle YES
Jack H. Liem YES
Narvelene Banks YES
Scott Evans YES

ORDINANCE NO. 91-796

AN ORDINANCE AMENDING ORDINANCE NUMBER 595, INCREASING THE NUMBER OF AUTHORIZED POSITIONS FOR RESERVE OFFICERS TO EIGHT (8) PROVIDING AN EFFECTIVE DATE; PROVIDING A REPEALER CLAUSE PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR POSTING AND PUBLISHING.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

I

The First Paragraph of Section I is amended by increasing the number of authorized positions for Reserve Officers to EIGHT (8), to read:

"That there is hereby created and established, a Reserve Officers Unit, in accordance with Local Government Code as amended including Section 141.006 and 141.007 for the City of Fulshear, as a part of the City Police Department composed of up to EIGHT (8) patrolmen and officers. The personnel to fill such positions shall be appointed by the Chief of Police, and confirmed by the City Council. The terms of office, salaries of officers, or patrolmen, if any, shall be established by the City Council and all such appointees shall give bond for the faithful performance of their duties in the amount as the City Council may require and in accordance with all the laws of the State of Texas."

II

This Ordinance shall take effect from and after the date of its passage, and all Ordinances or portion of Ordinances heretofore passed in conflict with the terms hereof are specifically repealed.

III

If any provision, section, subsection, sentence, clause, phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion thereof or provision, or regulation contained herein, shall become inoperative or fail by reason of any unconstitutionality of

any other portion hereof and all provisions of this Ordinance are declared to be severable for that purpose.

IV

The City Secretary is instructed to post and publish notice of this Ordinance as required by law, by publishing only the descriptive caption.

PASSED AND APPROVED this 6th day of June, 1991.

THE CITY OF FULSHEAR, TEXAS

By: _____
FRANCES SMART
Mayor

ATTEST:

By: _____
CAROLYN SMITH
City Secretary

ALDERMEN VOTING:

V.	RANDLE	YES
P.	PRESSLEY	YES
N.	BANKS	YES
J.	H. LIEM	YES
S.	EVANS	YES

ORDINANCE NO. 91-797

AN ORDINANCE AMENDING ORDINANCE NO. 579, PROVIDING FOR AN APPOINTMENT OF THE MUNICIPAL COURT CLERK, PROVIDING FOR DOCKET PROCEDURE; PROVIDING FOR MUNICIPAL COURT JURY FEES; PROVIDING FOR WITNESSES; PROVIDING FOR SPECIAL EXPENSES; PROVIDING FOR WARRANT FEES; PROVIDING FOR EXECUTION OF JUDGMENT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE AND EFFECTIVE DATE; PROVIDING FOR POSTING AND PUBLISHING.

WHEREAS, the City Council deems it appropriate to Amended Ordinance No. 579, as is more particularly described hereinafter:

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMAN OF THE CITY OF FULSHEAR, TEXAS:

I

1. SECTION 4. - CLERK . All references in Ordinance No. 579 and particularly in SECTION 4 is hereby amended to delete the reference to the City Secretary so that the office of Court Clerk is created, so that any reference in Ordinance No. 579 to the office of City Secretary shall be substituted with the office of Court Clerk, to read more particularly as follows:

"SECTION 4. CLERK +

A. Appointment. The Mayor shall appoint a Court Clerk, who shall serve as Clerk of the Municipal Court. Whenever the Mayor and City Council shall deem it necessary, the Court Clerk may appoint a deputy or deputies with the same power as the Court Clerk acting as Clerk. The Court Clerk or any Deputy Clerk of the Municipal Court shall hold this office at the will of the Mayor."

2. SECTION 13. DOCKET The first paragraph of SECTION 13 is hereby amended to delete reference to the term Corporation Court and substitute therein the term Municipal Court and shall read as follows:

"SECTION 13. DOCKET The Judge or the Clerk of the Municipal Court shall keep a docket in which there shall be entered this proceedings, trials and examinations for criminal offenses had before him, which docket shall show:

1. The Style of Action;
2. The Nature of the offense charged;
3. The date of the issuance of the warrant and the return made thereon;
4. The time when the examination and trial was had, and if the same was a trial, whether by jury or not;

5. The Verdict of the jury, if any,
6. Judgment of the Court;
7. Motion for new trial, if any, and the return of the Court thereon;
8. Notice of appeal, if any; and,
9. The time when and the manner in which the judgment was in force."

3. SECTION 16. JURY. The last paragraph of SECTION 16 shall be amended to increase the jury fee from $5.00 to $6.00 and shall read as follows:

"Municipal Court jurors shall be paid SIX AND NO/100 ($6.00) DOLLARS for each day of service in accordance with Article 2122. V. T. C. S."

4. SECTION 17. WITNESSES. The first paragraph of SECTION 17 shall be amended to accurately reflect the spelling of the word "imprisonment" in paragraph 1, and paragraph 1 is hereabove amended to read as follows:

"The Judge is authorized to subpoena witnesses, and order their arrest, attachment, or imprisonment for contempt of Court, when they fail or refuse to appear and give testimony, in the same manner as the rules for enforcing the attendance of witness in Criminal cases tried in the Justice of the Peace Court, so far as applicable. Every defendant has the right to have compulsory process for obtaining witnesses."

5. SECTION 19. SPECIAL EXPENSES. The following portions of SECTION 19 shall be amended to read as follows:

a. paragraph A, dealing with Jury Fees, is hereby deleted.

b. Paragraph B, dealing with Warrant Fees is amended to increase the warrant fee from SEVEN AND 50/100 ($7.50) DOLLARS to THIRTY FIVE AND NO/100 ($35.00) DOLLARS, and shall read as follows:

"B. Warrant Fee:

If after due notice any defendant shall fail to appear in Court on the day and at the time set for his appearance, either by citation or in his bond and a warrant is issued for his arrest, a warrant expense of THIRTY FIVE AND NO/100 ($35.00) DOLLARS, plus all necessary and reasonable expenses incurred in his arrest shall be added and collected in addition to the fine levied by the Court on his conviction."

C. All references

deleted.

6. SECTION 22. EXECUTION OF JUDGMENT. The first full paragraph of SECTION 22, is hereby amended to increase the credits received for time from FIVE AND NO/100 ($5.00) DOLLARS to TEN AND NO/100 ($10.00) DOLLARS, and shall read as follows:

"SECTION 22. EXECUTION OF JUDGMENT

When a defendant is convicted of a violation in the Municipal Court of the City and his punishment is assessed as a pecuniary fine, if he is unwilling to pay the fine and costs adjudged against him, he may for such time as will satisfy the judgment be put to work in the work hours, or the City farm, or streets, alleys or other public improvements or community service as provided by law, or be imprisoned in the City jail. The defendant shall receive TEN AND NO/100 ($10.00) DOLLARS for each day he shall serve time in the City jail, work house, farm or working on improvements or performing community service as a credit on the full amount of the judgment assessed by the Court and shall remain confined until the full amount of the judgment against him shall be satisfied or until he is discharged according to law or by the Judge of the Court."

II

If any provision, section, subsection, sentence, clause, phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion therof or provision, or regulation contained herein, shall become inoperative or fail by reason of any unconstitutionality of any other portion hereof and all provisions of this Ordinance are declared to be severable for that purpose.

III

The City Secretary is instructed to post and publish notice of this Ordinance as required by law, by publishing only the descriptive caption.

PASSED AND APPROVED this 1st day of August, 1991.

THE CITY OF FULSHEAR, TEXAS

By: _____
FRANCES SMART, Mayor

ATTEST:

By: _____
CAROLYN SMITH
City Secretary

ALDERMEN VOTING:

P. PRES LEY	YES
V. RANDLE	YES
J. LIEM	ABSENT
N. BANKS	YES
S. EVANS	YES

ORDINANCE 91-798

AN ORDINANCE ADOPTING THE 1992 BUDGET

FOR THE CITY OF FULSHEAR, TEXAS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR,TEXAS:

1. The Budget as proposed and presented by the Mayor and Board of Council Members of the City of Fulshear, Texas, for the fiscal year January 01, 1992 through December 31, 1992, is hereby approved and adopted by the City of Fulshear, Texas.

2. The Public Hearing having been duly held on September 05, 1991, at 7:00 p.m., at City Hall, 30603 F.M. 1093, Fulshear, Texas, with all persons having been heard, this Ordinance shall take effect and be in full force from and after its adoption.

PASSED AND APPROVED THIS THE 05TH DAY OF SEPTEMBER, 1991.

Frances Sweet

MAYOR

ATTEST:

Carolyn H. Smith

CAROLYN H. SMITH, CITY SECY-TREAS.

VOTING:

Pat L. Presley YES, Viola Randle YES, Narvelene Banks YES,

Scott Evans YES.

ORDINANCE 91-799

AN ORDINANCE LEVYING TAXES FOR THE USE AND SUPPORT OF THE MUNICIPAL GOVERNMENT OF THE CITY OF FULSHEAR; PROVIDING FOR THE INTEREST AND SINKING FUND FOR THE YEAR 1991; APPORTIONING EACH LEVY FOR THE SPECIFIC PURPOSE; PROVIDING FOR PENALTIES AND INTEREST AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

SECTION 1. That there is hereby levied and there shall be collected for the use and support of the municipal government of the City of Fulshear, and to provide Interest and Sinking Fund for the year NINETEEN HUNDRED AND NINETY-ONE, upon all property, real, personal, and mixed, within the corporate limits of said City subject to taxation, a tax of 0.4800 CENTS on each One Hundred Dollars ($100.00) valuation of property, said tax being so levied and apportioned to the specific purpose herein set forth:

(1) For the maintenance and support of the general government (General Fund) on each One Hundred Dollar ($100.00) valuation of property.

SECTION 2. All monies collected under this Ordinance for the specific items therein named, be and the same are hereby appropriated and set apart for the specific purpose indicated in each item and that the Assessor and Collector of Taxes, the City Treasurer and the City Secretary shall keep these accounts so as to readily and distinctly show the amount collected, the amounts expended and the amount on hand at any time, belonging to such funds, it is hereby made the duty of the Tax Assessor and Collector of Taxes and every person collecting money for the City of Fulshear, to deliver to the City

Treasurer and the City Secretary at the time of depositing any monies, a statement showing to what fund such deposit should be made and from what source received. All receipts for the City not specifically apportioned by this Ordinance are hereby made payable to the General Fund of the City.

SECTION 3. All taxes for the year 1991 hereby levied shall become due and payable at the offices of the Tax Assessor/Collector of the City of Fulshear, Texas, on or after the first day of OCT.,1991, and of the taxes levied for said year are not paid on or before January 31 next after becoming due, interest shall be charged upon the gross amount of the taxes due and penalty due until paid at the rate provided by law for each month or fraction thereof thereafter. Said interest shall be in addition to such penalties, costs of collection and attorney fees as may be thereafter provided for delinquent taxes or as provided by law.

SECTION 4. That this Ordinance shall take effect and be in force from and after its passage.

PASSED AND APPROVED this 05th day of SEPTEMBER, 1991.

By: Frances Smart
FRANCES SMART, MAYOR

ATTEST:
Carolyn H. Smith
Carolyn H. Smith, City Secy - Treas.

VOTING:
Pat L. Presley YES, Narvelene Banks YES,
Viola Randle YES, Scott Evans ABSENT.

No. 91-800

AN ORDINANCE AMENDING ORDINANCE NUMBER 602, REGULATING SIGNS AND BILLBOARDS, REQUIRING A PERMIT THEREFORE; AND PROVIDING PERMIT FEES; PROVIDING FOR A SIGN ADMINISTRATOR; PROVIDING A PENALTY AND FOR ENFORCEMENT SETTING STANDARDS FOR CONSTRUCTION AND MAINTENANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE AND EFFECTIVE DATE; PROVIDING FOR POSTING AND PUBLISHING.

WHEREAS, the City Council of the City of Fulshear finds that it wishes to amend Ordinance Number 602, Sections D.(1), D.(3)(f), and E.(2)(h).

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS, AS FOLLOWS:

I

Section D.(1) and D.(3)(f) are amended to read as follows:

"D. SIGN ADMINISTRATOR AND ENFORCEMENT

(1) Sign Administrator

The Mayor shall administer and enforce the terms and conditions of this Ordinance and all other provisions of laws relating to signs. The Mayor hereinafter called "Sign Administrator" is empowered to delegate the duties and powers granted to and imposed upon him by this Section to other persons serving under him. The Sign Administrator is directed to enforce and carry out all provisions of this Ordinance."

D.
(3) Powers of Sign Administrator

(f) Pursuant to and in accordance with any agreement between the City and the County of Fort Bend and/or the State of Texas and/or the United States Government, the Sign Administrator is hereby authorized to enforce any applicable terms and provisions of the Texas Highway Beautification Act, Tex. Civ. Stat. Ann., Art. 6675v-1, The Agreement for Carrying out National Policy Relative to Control of Outdoor Advertising, entered into between the United States of America and the State of Texas, by instrument dated May 2, 1972, any supplements or amendments to that agreement, and any rules or regulations promulgated by the County of Fort Bend and/or the State of Texas, and/or the Texas Highway Department, pursuant to the said act or agreements, with regard to signs."

Section E.(2)(h) is amended to read as follows:

E. SIGN PERMITS AND FEES

(2) Exceptions
(h)
"1. On-premise Temporary sign provided the number of such signs on any premise does not exceed two (2) in number, and provided such signs are displayed on consecutive days, and only for a maximum of NINETY (90) days in any ONE HUNDRED EIGHTY (180) day period; or

2. Off-premise Temporary signs, provided the number of such signs on any premise does not exceed two (2) in number, and provided such signs are displayed on consecutive days and for only a maximum of NINETY (90) days in any ONE HUNDRED EIGHTY (180) day period; or"

II

This Ordinance shall take effect from and after the date of its passage, and all Ordinances or portion of Ordinances heretofore passed in conflict with the terms hereof are specifically repealed, all other provisions of said Ordinance said remain in full force and effect.

III

If any provision, section, subsection, sentence, clause, phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion thereof or provisio [illegible] ulation contained herein, shall become inoperative or i [illegible] of any unconstitutionality of any other portion hereof an [illegible] of this Ordinance are declared to be severable for that purpose.

IV

The City Secretary is instructed to post and publish notice of this Ordinance as required by law, by publishing only the descriptive caption.

PASSED AND APPROVED this 19th day of November, 1991.

THE CITY OF FULSHEAR, TEXAS

By: Frances Smart
FRANCES SMART
Mayor

ATTEST:

By: Carolyn H Smith
CAROLYN SMITH
City Secretary

ALDERMEN VOTING:

V.	RANDLE	YES
P.	PRESSLEY	YES
N.	BANKS	ABSENT
S.	EVANS	YES
D.	HANNA	YES