

PUBLIC UTILITIES BOARD - NEW BUSINESS ACTION ITEMS

	DATE REQUESTED	REQUESTOR	ITEM	DEPARTMENT	STATUS
1.	8/14/17	Carroll	Report of existing solar rooftop installations and rate that the power is bought back.	DME	Memo attached 9/22/17
2.	8/14/17	Carroll	Our fee for pole attachments versus Senate Bill 1004	DME	Memo attached 9/22/17
3.	8/14/17	Carroll	Review Ordinance to change the rebate structure regarding batteries	DME	Memo attached 9/22/17
4.	9/11/17	Carroll	Cost regarding DEC	DME	Presentation to be provided by Enterprise Risk Consulting (ERC)
5.	9/11/17	Armintor	Staff Presentation regarding 2010-292 Ordinance right of entry	DME	Memo attached from previous City Council Informal Staff Report 10/23
6.	9/11/17	Armintor	DME rates discounts for larger users not residential	DME	Memo to be provided on 10/23/17
7.	9/25/17	Robinson	Recognize employees for their assistance in hurricane relief efforts in Texas and Florida	DME	Presentation on 10/9/17
8.	9/25/17	Carroll	Website data. How many views of the PUB Meeting during and after. How many downloads of the agenda before and after the meeting.	PIO	Memo attached 10/9/17
9.	9/25/17	Armintor	Timeline for consultants to come back to PUB added to the website	CMO	Future PUB agenda items included in ACM update
10.	9/25/17	Armintor	Consider having all proposed expenditures over \$50k to be individual consideration agenda items.	CMO	Discussion for direction by the PUB at a future Board meeting
11.	10/9/17	Armintor	Data on a map of where people live that pay utilities deposits.	Customer Service	Will provide informal staff report to PUB 10/17/17
12.	10/9/17	Parker	Work Session on interfaith ministries contract	Customer Service	Discussion for feedback in January 2018



MEMORANDUM

DATE: October 17, 2017
TO: Mario Canizares, Assistant City Manager
FROM: Jessica Rogers, Energy Services Manager
CC: Dr. Ken Banks, General Manager of Utilities
SUBJECT: Right of Entry, Section 26-2 of the Code of Ordinances

At the September 11, 2017 PUB meeting, Board Member Armintor requested information regarding the “right of entry” provision of the Code of Ordinances, Section 26-2 and adopted in Ordinance 2010-292. Earlier in 2017, Council Member John Ryan also inquired as to the necessity of utility employees having the right to enter the homes of utility customers.

As a result of Council Member Ryan’s earlier request, utility staff members redrafted this section of the Code to clarify that employees will only have access to the land and accessory buildings or structures at reasonable times for the purpose of inspecting utility equipment and assets. This revised language presented for Council consideration on July 18, 2017 and was adopted 6-0 by Ordinance 2017-201 (attached).

Below is the previous and revised language for Section 26-2 and the information provided to City Council in the June 9 and June 16 Friday Memos.

Previous Section 26-2 Language

“Employees of the utilities department shall have the authority to enter any house or premises at any reasonable time in the regular line of duty for the purpose of inspecting any water, electric or sewer line or any water or electric meter or for the purpose of making necessary repairs. If such entry is refused, the employee shall have recourse to every remedy provided by law to secure entry.”

Language Adopted in Ordinance 2017-201

“Employees of the utilities department shall have the authority to enter the land or any accessory building or structure at any reasonable time in the regular line of duty for the purpose of gaining access to inspect any water, electric or sewer line or any water or electric meter or for the purpose of making necessary repairs. If such access is refused, the employee shall have recourse to every remedy provided by law to secure access, including the issuance of an administrative search warrant.”

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June 9, 2017 Council Friday Memo

Municipal Code Section 26-2 Right of Entry – At the June 6 City Council meeting, Council Member Ryan inquired about Section 26-2 of the Code allowing municipal utility employees to enter residences for the inspection of any water, electric or sewer line or any water or electric meter. That provision was put into the Code of Ordinances in 1966, and cross references a 1989 addition codified in Section 19-86 (Inspections and Abatement Warrants) stating that an inspector must first have permission to enter the residence (consent) or must obtain an administrative search warrant through the court. That provision added additional constitutional protections in that certain criteria have to be met for an administrative search warrant under the Code of Criminal Procedure Sec. 18.05. As a practical matter, there may be a rare instance where a citizen has modified their premises so that access to City utility meters has become obstructed and the City would need to obtain a search warrant to access the meter. Other than consent, there is another exception for not having permission or a warrant for where an imminent danger or peril to human life, limb or property exists. Generally, any emergency situations that arise in the water context are going to concern the private plumbing and service may simply be abated pending resolution. Practically, it would be extremely rare for utilities to need to enter a residence as the meters and equipment should be located outside. There are also rare circumstances where a public safety emergency response requires electricity to be turned off in the residence.

June 16, 2017 Council Friday Memo

Right of Entry Municipal Code – In last Friday's report, staff included an explanation regarding when a utility employee may need access to an individual's property in response to a question from Council Member Ryan. Staff has looked at the language further and proposes the following revisions to Section 26-2 to clarify. If access to the inside of a home would be necessary (very unlikely) or if access is refused, access could be obtained through the administrative search warrant provision of the Code under Section 19-86.

Sec. 26-2. - Right of entry.

Employees of the utilities department shall have the authority to enter ~~any house or premises the land or any accessory building or structure~~ at any reasonable time in the regular line of duty for the purpose of ~~gaining access to~~ inspecting any water, electric or sewer line or any water or electric meter or for the purpose of making necessary repairs. If such ~~entry access~~ is refused, the employee shall have recourse to every remedy provided by law to secure ~~entry access, including the issuance of an administrative search warrant~~.

(Code 1966, § 25-5)

Cross reference— Inspection and abatement warrants, § 19-86 et seq.

State Law reference— Inspection warrants, Vernon's Ann. C.C.P. art. 18.05.

If there are no concerns from Council, staff will prepare an ordinance for the proposed revision to the Code.



City of Denton

City Hall
215 E. McKinney Street
Denton, Texas
www.cityofdenton.com

AGENDA INFORMATION SHEET

DEPARTMENT: Utilities

CM/ DCM/ ACM: Mario Canizares

DATE: July 18, 2017

SUBJECT

Consider adoption of an ordinance of the City of Denton, Texas amending certain provisions of Chapter 26 of the Denton code of ordinances, specifically Section 26-2 to provide for clarification of the means of gaining access to a premises needed by utility employees; providing for a severability clause, savings clause, and an effective date.

BACKGROUND

Code of Ordinances Section 26-2 was added in 1966 and states that employees of the utility department have authority to access a house or premises for the purpose of inspecting water, electric or sewer lines or any water or electric meter for the purpose of making necessary repairs. An addition was added to the Inspections and Abatement Warrants Section 19-86 in 1989 specifying that inspectors must have permission or obtain an administrative search warrant prior to entering a residence.

Utility meters and equipment should be located outside and it would be extremely rare for an employee to need to gain access to a residence. There have been rare instances where a utility meter has been modified so that it is obstructed and under Section 19-86, the City would need to obtain an administrative search warrant to access a meter if the homeowner does not consent to entry. Another exception to gaining entry, if the homeowner does not consent, would be for imminent danger or peril to human life, limb or property. This may occur if there was a public safety emergency requiring the electricity to be turned off in the residence.

The proposed amendment to Section 26-2 clarifies the Code to identify that employees of the utilities department shall have the authority to enter **the land or accessory buildings or structures** at any reasonable time in the regular line of duty for the purpose of gaining access to inspect or make repairs, rather than the house or premises. If such access is refused, then the City has recourse to access through the issuance of an administrative search warrant. A redline of the proposed revisions is shown below.

Sec. 26-2. - Right of entry.

Employees of the utilities department shall have the authority to enter ~~any house or premises~~ the land or any accessory building or structure at any reasonable time in the regular line of duty for the purpose of gaining access to ~~inspect~~ any water, electric or sewer line or any water or electric meter or for the purpose of making necessary repairs. If such ~~entry access~~ is refused, the employee shall have recourse to every remedy provided by law to secure ~~entry access, including the issuance of an administrative search warrant~~.

RECOMMENDATION

Staff recommends approval of the ordinance.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

Background on this item was included in staff reports to City Council on Friday, June 9, 2017 and Friday, June 16, 2017.

FISCAL INFORMATION

There is no fiscal impact associated with the passage of this ordinance.

STRATEGIC PLAN RELATIONSHIP

The City of Denton's Strategic Plan is an action-oriented road map that will help the City achieve its vision. The foundation for the plan is the five long-term Key Focus Areas (KFA): Organizational Excellence; Public Infrastructure; Economic Development; Safe, Livable, and Family-Friendly Community; and Sustainability and Environmental Stewardship. While individual items may support multiple KFAs, this specific City Council agenda item contributes most directly to the following KFA and goal:

Related Key Focus Area: Public Infrastructure
Related Goal: 2.3 Promote superior utility services and facilities

EXHIBITS

Respectfully submitted:
Dr. Kenneth Banks
General Manager of Utilities

Prepared by:
Charlie Rosendahl
Management Analyst

ORDINANCE NO. 2017-201

AN ORDINANCE OF THE CITY OF DENTON, TEXAS AMENDING CERTAIN PROVISIONS OF CHAPTER 26 OF THE DENTON CODE OF ORDINANCES, SPECIFICALLY SECTION 26-2 TO PROVIDE FOR CLARIFICATION OF THE MEANS OF GAINING ACCESS TO A PREMISES NEEDED BY UTILITY EMPLOYEES; PROVIDING FOR A SEVERABILITY CLAUSE, SAVINGS CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, the City of Denton, Texas has previously implemented Chapter 26 “Utilities” of the Code of Ordinances of Denton Texas; and

WHEREAS, it is the intention of the City to further refine the method of gaining the right of entry to access and inspect any water, electric or sewer line &/or meters by City Utilities employees to better serve the citizens of the City of Denton; and

WHEREAS, the Council finds that it is necessary to clarify the method of gaining access for all purposes and such amendments are in the best interest of the citizens of the City of Denton; **NOW THEREFORE;**

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The recitals contained herein are made a part of this Ordinance as if set forth at length herein.

SECTION 2. Chapter 26, Section 26-2 “Right of Entry” is deleted in its entirety and replaced with the following:

Sec. 26-2. Right of Entry.

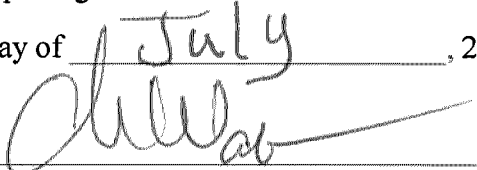
Employees of the utilities department shall have the authority to enter the land or any accessory building or structure at any reasonable time in the regular line of duty for the purpose of gaining access to inspect any water, electric or sewer line or any water or electric meter or for the purpose of making necessary repairs. If such access is refused, the employee shall have recourse to every remedy provided by law to secure access, including the issuance of an administrative search warrant.

SECTION 3. If any section, subsection, paragraph, sentence, clause, phrase, or word in this ordinance, or application thereof to any person or circumstances is held invalid by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council of the City of Denton, Texas hereby declares it would have enacted such remaining portions despite any invalidity.

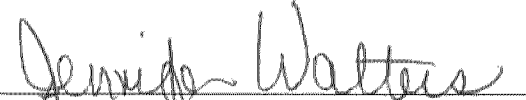
SECTION 4. Save and except as amended hereby, all of the provisions, sections, subsections, paragraphs, sentences, clauses, and phrases of the Code of Ordinances shall remain in full force and effect.

SECTION 5. This Ordinance providing for a penalty shall become effective 14 days from the date of its passage, and the City Secretary is hereby directed to cause the caption of this Ordinance to be published twice in the *Denton Record-Chronicle*, the official newspaper of the City of Denton, Texas within 10 days of the date of its passage.


PASSED AND APPROVED this the 18 day of July, 2017.


CHRIS WATTS, MAYOR

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

BY: 

APPROVED AS TO LEGAL FORM:
AARON LEAL, INTERIM CITY ATTORNEY

BY: 



MEMORANDUM

DATE: October 17, 2017
TO: Bryan Langley, Deputy City Manager
FROM: Jessica Rogers, Energy Services Manager
SUBJECT: Electric Rates and Cost of Service Information

The following information is provided to describe how rates are applied to large commercial customers, explain the general rate components and how they are developed, and establish context and parameters of the upcoming cost of service study.

Large Customers: Rates and PPAs

In general, the City does not have purchase power agreements (PPAs) with any customers to establish rates or provide discounts. There are two notable exceptions to this: the City has PPAs (one with UNT and one with TWU) that were entered into to resolve litigation. All commercial and industrial customers are on the appropriate rate as published in the electric rate ordinance.

PPAs are contracts which set the terms (e.g. price, volume, etc.) for the purchase of power. In many utilities, PPAs may be used with large commercial or industrial customers to set a rate over a given time frame. For example, in the deregulated area, a commercial customer may agree to use a specific retail electric provider (REP) for a given amount of time, if that REP provides the customer with a guaranteed rate. As mentioned above, DME does not currently have any of this type of PPA, nor would staff propose or enter into such an agreement without favorable direction and/or approval from city management, PUB, or City Council.

Cost of Service and Rate Design Analysis

The City of Denton's electric rates are established based on a **cost of service model**, where costs of serving customers are determined and then allocated to individual rate classes. In general, this means that each rate class pays for the cost to serve that rate class, without one rate class subsidizing other rate classes. In this model the cost to serve residential customers is allocated only to residential customers. The allocated cost is then used to set the **revenue requirement**, or the amount of revenue that must be generated by a given rate class to recover the allocated costs. Generally, rates are then set at a level to produce the revenue requirement for a given rate class, although a few rate components are treated differently.

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Each **rate class**, or group of similar customers, is assigned their own rate, which is split into multiple rate components. For example, every residential customer pays a facility charge (minimum billing requirement), a usage charge, an energy charge (ECA or RCA), and a transmission rate (TCRF). Each component of the rate ties back to a given component of the cost of service model and is designed to produce the required revenue to fund a particular operation, function, or cost component.

2017-2018 Cost of Service Study

Every few years DME completes a cost of service study to determine the costs of serving customers and to set the revenue requirement for each rate class. DME staff have initiated a cost of service study with Resolved Energy Consulting and expect to have the results of that study in mid-to-late spring 2018. Following the conclusion of that study, DME will consider any changes to the rates that are needed to meet the new revenue requirements. If, as a result of the study, it is determined that a more thorough examination of the rate structure needs evaluating, staff will then initiate a **rate design analysis**. Depending on the results of the cost of service study and direction provided by management, the PUB, and City Council, staff may bring back rate changes within the existing rate structure for FY 2019, and/or if a full rate design analysis is needed, the results may not be presented until summer 2019 when the FY 2020 rates are considered.

The key goals of this cost of service study and rate design analysis are:

- Allow DME personnel to better understand and analyze data for internal ‘check and balance’
- Determine the financial impact of organization and project changes
- Determine Denton Energy Center rate impacts
- Identify cost and revenue allocations for each rate class
- Identify alternative rate options to promote specific City goals and objectives
- Define distribution of fixed cost recovery between facility and usage rates
- Consider possible options if revenue requirements are not met
- Propose and design modifications to existing rate structures