**STAFF REPORT**
**City Council Agenda**
**June 20, 2012**

Date: June 18, 2012

To: Randal J. Mendosa, City Manager

From: Mark S. Andre, Director, Environmental Services Department

Staff Contact: Karen T. Diemer, Deputy Director, Environmental Services Department

Re: Adopt an Option of Resolution # 112-52 Placing the Excessive Residential Electricity Use Tax Measure on the Ballot for the Election to Be Held November 6, 2012

## RECOMMENDATION

It is recommended that the City Council: Adopt Resolution # 112-52 (Option 1 or 2 below) placing the Excessive Residential Electricity Use Tax Measure on the Ballot for the Election to Be Held November 6, 2012.

Option 1: An Excessive Residential Electricity Use Tax of $0.15 per kilowatt-hour on the residential use of electric energy in excess of 300% of established baseline for 12 years subject to the following exemptions:

1. Customers receiving Medical baseline;
2. Multi-family households using a single residential meter where the average use per unit within the household does not exceed 150% of baseline; and
3. For households whose electrical usage is less than four hundred percent (400%) of baseline may be exempt for one year, provided the Service User agrees to have an energy assessment to verify that electric usage derives from activities that are lawful under local, state and federal laws. A household may apply annually to extend an exemption for additional years if the Service User adequately demonstrates an annual reduction in electric energy usage of at least fifteen percent (15%) compared to the prior year.

Option 2: An Excessive Residential Electricity Use Tax of <u>a straight percentage of (see staff analysis)</u> % of the charges for <u>total electricity services</u> on households that exceed 600% of the established baseline for 12 years.

Option 3: Adopt a modified version of an Excessive Residential Electricity Use Tax as outlined by the City Council on June 20th, 2012 or subsequent Council meeting.

## INTRODUCTION

At the June 6th, 2012 City Council meeting, the Council directed staff to prepare a resolution placing the Excessive Residential Electricity Use Tax Measure on the ballot for the election to be held November 6, 2012. Subsequent to the Council meeting staff meet with representatives from PG&E and discussed an alternative to original the 15¢ per kilowatt hour tax for electricity usage above 300% of baseline proposal which would instead impose a straight percentage increase to the whole electricity bill for customers who are using above 600% of baseline.

## DISCUSSION

At the June 6th, 2012 City Council meeting, the Council directed staff to prepare a resolution placing the Excessive Residential Electricity Use Tax Measure on the Ballot for the Election to be held November 6, 2012. Based on that direction staff has developed the following ballot measure outline.

An Excessive Residential Electricity Use Tax of $0.15 per kilowatt-hour on the residential use of electric energy in excess of 300% of established baseline for 12 years subject to the following exemptions:

1. Customers receiving Medical Baseline;
2. Multi-family households using a single residential meter where the average use per unit within the household does not exceed 150% of baseline; and
3. For households whose electricity usage is less than four hundred percent (400%) of baseline may be exempt for one year, provided the Service User agrees to have an energy assessment to verify that electric usage derives from activities that are lawful under local, state and federal laws. A household may apply annually to extend an exemption for additional years if the Service User adequately demonstrates an annual reduction in electrical energy usage of at least fifteen percent (15%) compared to the prior year.

Subsequent to the Council meeting staff meet with representatives from PG&E and discussed an alternative that PG&E believes would more smoothly align with both PG&E's billing structure as well as more directly align the tax with the current direction that the California Public Utility Commission's is considering which would eliminate CARE rates for households that exceed 600% of baseline.

Specifically the proposal that was discussed was an Excessive Residential Electricity Use Tax of a straight percentage (i.e. 50%, 75%, 100%) for all residential households that exceed 600% of baseline. Under this scenario staff recommends only the Medical Baseline exemption and no other exemptions. For the Council to consider this alternative the following data was provide by PG&E.

Table1: Total Kilowatt Hours used in 2011 above baseline

| | 300%-400% | 400%-500% | 500%-600% | 600% + |
|---|---|---|---|---|
| CARE | 1,183,538 | 1,006,967 | 848,076 | 3,833,626 |
| Non-CARE | 905,670 | 727,652 | 618,014 | 2,642,706 |
| Total | 2,089,208 | 1,734,619 | 1,466,090 | 6,476,332 |

Table 2: 2011 Electricity Revenue from Accounts that Exceeded Baseline

| | Net Energy Revenue |
|---|---|
| | 600% + of baseline |
| CARE | $946,732 |
| Non-CARE | $1,829,390 |
| Total | $2,776,122 |

**Table 3: Revenue from a Percentage of Net Energy Charges: Households Exceeding 600% of Baseline**

| **Tax Increment** | **Estimated Revenue Potential** |
|---|---|
| **40%** | **$1,110,445** |
| **50%** | **$1,388,056** |
| **60%** | **$1,665,673** |
| **75%** | **$2,082,084** |

## POLICY IMPLICATIONS AND ENVIRONMENTAL REVIEW

The project is supported by City Council 2012-2013 Priority Projects:
#23: Continue to work on energy conservation to work towards reducing greenhouse gas emissions by 20% by the year 2012 and explore renewable energy options by implementing recommendations from the Energy Committee and the Greenhouse Gas Reduction Plan.

## BUDGET/FISCAL IMPACT

Potential Expenses:

1. PG&E has quoted $500,000 to $800,000 to restructure PG&E's billing system to allow energy charges to be assessed based on individual usage (versus net energy use) and to charge a different rate to a subset of customers (versus all customers in the billing class). The components of the cost estimate include: Gathering and documenting system requirements; design of the technical specifications; development and/or programming changes; and system testing.

## ATTACHEMENTS

Resolution # 112-52: Options will be distributed to the City Council on Monday, June 18th and available for viewing at the City Manager's office and Arcata Library.

RESOLUTION NO. 112-52

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARCATA PLACING AN EXCESSIVE RESIDENTIAL ELECTRICITY USERS TAX MEASURE ON THE BALLOT FOR THE ELECTION TO BE HELD NOVEMBER 6, 2012**

**WHEREAS**, in 2006, the City of Arcata adopted the Community Greenhouse Gas Reduction Plan which established a reduction target of 20% below the emissions level of 2000 by 2012; and

**WHEREAS**, the City's Community Green House Gas Reduction Plan identifies energy efficiency as one of seven action areas in which to obtain reductions in greenhouse gas emissions, including implementation of measures to conserve or reduce electrical energy use such as encouraging adjustments to personal behavior and living patterns so that less energy is required for daily needs; and

**WHEREAS**, when the City completed comparison emissions inventories in 2000 and 2006, it discovered that residential sector energy use in Arcata had increased by 30% (24% per capita) or 9,236,897 kilowatt-hours per year; and

**WHEREAS**, the California Public Utilities Commission (CPUC) establishes baseline quantities for average residential electricity use, measured in daily allocations of kilowatt hours (kwh) of electric power within climate based regions of service territories that can be billed at a lower rate; and

**WHEREAS,** electricity usage at levels 600% above baseline equals more than three times the average household electricity usage in Arcata; and

**WHEREAS**, over 6 million kilowatt hours of the electricity used in Arcata residential households in 2011 exceeded 600% of the baseline; and

**WHEREAS**, Government Code section 37100.5 authorizes the legislative body of a city to levy a tax on the consumption of utility services (a "utility users tax" or UUT) subject to voter approval; and

**WHEREAS**, Government Code section 37100.5 impliedly authorizes a city levying a UUT to require collection of the tax by the service provider; and

**WHEREAS**, beginning in 1993, the City of Arcata has imposed a 3% UUT on the consumption of electricity, gas, telecommunication, water and wastewater services within the City.

**WHEREAS**, an increased tax rate imposed on the excessive use of tax will further the goals of the City's Community Greenhouse Gas Reduction Policy by promoting energy efficiency; and

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Arcata hereby places the following question before the voters of Arcata at the election to be held November 6, 2012:

> Shall the City of Arcata impose an additional electricity users tax of 60% on the residential use of electric energy in excess of 600% above the established baseline, with an exemption for households receiving an extended medical baseline, beginning ________________, 20___, and ending twelve years later (Resolution No. 112-52).
>
> Yes or No?

**BE IT FURTHER RESOLVED,** that upon approval of the foregoing question by a majority vote of the electorate, the City shall adopt the following Excessive Residential Electricity Users Tax attached hereto and incorporated herein, and shall direct the City Clerk to codify said tax by adding Section 2628.5 to Article 1.5, *Utility Users Tax*, Chapter 5, *Taxation*, Title II, *Administration*, of the Arcata Municipal Code.

**BE IT FURTHER RESOLVED**, that in the event a majority vote of the electorate fails to approve the adoption of an Excessive Residential Electricity Users Tax, no provision of the City's existing Users Utility Tax shall be affected.

This Resolution shall be effective upon its adoption.

**DATED:**

**ATTEST:** **APPROVED:**

_______________________________ _______________________________
City Clerk, City of Arcata Mayor, City of Arcata

**CLERK'S CERTIFICATE**

I hereby certify that the foregoing is a true and correct copy of **Resolution No. 112-52**, passed and adopted at a regular meeting of the City Council of the City of Arcata, County of Humboldt, State of California, held on the ______ day of June, 2012, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTENTIONS:**

________________________________City Clerk, City of Arcata

**TITLE II – ADMINISTRATION**
**CHAPTER 5 – TAXATION**

ARTICLE 1.5 – UTILITY USERS TAX

**SECTION 2628.5 – EXCESSIVE RESIDENTIAL ELECTRICITY USERS TAX**
**(Measure to be submitted to voters November 6, 2012)**

**SEC. 2628.5. <u>Excessive Residential Electricity Users Tax</u>.**

(a) All provisions contained in Article 1.5, Utility Users Tax, of Chapter 5, Taxation, Title II, Administration, of the Arcata Municipal Code shall apply to this Section 2628.5 except as expressly stated otherwise in this Section 2628.5. In the event of conflict between this Section 2628.5 and other provisions in Article 1.5, this Section 2628.5 shall control.

(b) There is hereby imposed a tax in addition to that imposed by Section 2628 on the residential use of electrical energy supplied by a Service Supplier or Non-utility supplier which is used within the City's boundaries, when electrical usage exceeds six hundred percent (600%) of the baseline established by the Service Supplier or Non-utility Service Supplier. The additional tax imposed by this Section shall be at the rate of sixty percent (60%) of the total charges made for electrical energy.

(c) Exemptions: The following Services Users may be entitled to an exemption from paying the tax imposed by this Section 2628.5 upon application to the City Manager or his or her designee:

(1) Service Users who receive an extended medical baseline from an Electric Corporation.

(d) The exemption found at Article 1.5, Section 2626(c) for Service Users receiving low income rate assistance and the maximum amount of tax established in Section 2632, do not apply to the additional tax imposed by this Section 2628.5.

(e) The tax applicable to electrical energy provided by a Non-utility Service Supplier shall be determined by applying the tax rate to the equivalent charge the service user would have incurred if the energy used had been provided by the electrical corporation franchised by the City. Rate schedules for this purpose shall be available from the City. Non-utility Service Suppliers shall install, maintain and use an appropriate utility-type metering system which will enable compliance with this section.

(f) As used in this section, the term "charges" shall include the value of any other services, credits, property of every kind or nature, or other consideration provided by the service user in exchange for the electricity services. If a non-taxable service and a taxable service are billed together under a single charge, the entire charge shall be deemed taxable unless the service supplier can identify, by verifiable data, non-taxable charges based upon its books and records that are kept in the regular course of business, which shall be consistent with generally accepted accounting principles. The service supplier has the burden of proving the proper apportionment of taxable and non-taxable charges.

(g) As used in this section, "charges" shall apply to all services, components, and items that are (i) necessary for or common to the receipt, use, or enjoyment of electrical service; or historically have been, included in a single or bundled rate for electric service by a local distribution company to a class of retail customers. The term “charges” shall include but is not limited to the following charges:

(1) Energy charges;
(2) Distribution or transmission charges;
(3) Metering charges;
(4) Stand–by, reserves, firming, ramping, voltage support, regulation, emergency, or other similar minimum charges for services;
(5) Customer charges, late charges, service establishment or reestablishment charges, demand charges, independent system operator (ISO) charges, stranded investment or competitive transition charges (CTC), public purpose program charges, nuclear decommissioning charges, trust transfer amounts (bond financing charges), franchise fees, franchise surcharges, annual and monthly charges, and other charges, fees or surcharges which are necessary for or common to the receipt, use, or enjoyment of electric service; and
(6) all other charges, fees, surcharges which are mandated by the California Public Utilities Commission or the Federal Energy Regulatory Commission, whether or not such charges, fees or surcharges appear on a bundled or line item basis on the customer billing.

(h) As used in this section, the term "use of electrical energy" shall not be construed to mean the use of such energy by a storage battery; provided, however, that the term shall include the receipt of such energy for the charging of storage batteries. Nor shall the words "use of electrical energy" be construed to mean the receipt of such energy by an electrical corporation or a governmental agency at a point within the City for resale.

(i) The tax imposed in this section shall be paid by the Person responsible for paying for the electrical energy service and shall be collected from the Service User by the Service Supplier or Non-utility Service Supplier, or its billing agent by the Person selling such electrical energy. The amount of tax collected in one Month shall be remitted to the Tax Administrator on or before the last day of the following month.

(j) Notwithstanding Section 2642(a) of Article 1.5, the tax imposed by this Section 2628.5 shall expire twelve years after commencement on _________________________.

(k) This Section 2628.5 shall commence on ________________________, if adopted by a majority of the electorate on November 6, 2012.