

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Public Hearing and Second Reading on Franchise Fee Ordinances

Meeting Date: August 14, 2017
 Item Type: Regular
 Contact: Kristi Smith 651-450-2521
 Prepared by: Kristi Smith, Finance Director
 Reviewed by: Joe Lynch, City Administrator

Fiscal/FTE Impact:

<input type="checkbox"/>	None
<input type="checkbox"/>	Amount included in current budget
<input type="checkbox"/>	Budget amendment requested
<input type="checkbox"/>	FTE included in current complement
<input type="checkbox"/>	New FTE requested – N/A
<input type="checkbox"/>	Other

PURPOSE/ACTION REQUESTED

Public hearing and second reading of the Ordinances Implementing Electric and Gas Franchise Fees and Amending Ordinances Relating to Gas and Electric Franchise Fees

SUMMARY

The first reading of franchise fees was approved on July 10, 2017.

The following changes have been made to the documents:

- Franchise Fee Gas Utility Rate for Firm Transportation is recommended at \$15.00
- Franchise Fee Gas Utility Rate for Interruptible Transportation is recommended at \$15.00
- Franchise Fee Electric Utility Rate for C&I Interruptible (Dakota Electric Association) is recommended at \$25.00 (previously recommended at \$95.00)
- Removal of the word metered from Schedule A on the Ordinance implementing electric franchise fees for Dakota Electric Association (Street Lights are not metered.)

Council asked the impact to changing the monthly Street Light fees to \$0. Revenue would be reduced by about \$3,100 annually. Dakota Electric Association recommends the Street Light fees be \$0 as the implementation of this fee would require additional programming on their part and manual intervention each month.

Council asked the impact to changing the monthly Commercial fees to \$3.00 for electric and \$10.50 for gas. Revenue would be reduced by about \$177,700 annually.

Council asked if Xcel Energy and Dakota Electric Association concur that the rates are equivalent due to the different categories in the proposed ordinances. With the above change to Electric C&I Interruptible Dakota Electric Association agrees and Xcel Energy preliminarily agrees (pending review by their Finance Department).

Council also asked what classifications the city accounts are. City accounts are classified as follows (per July 2017 invoices):

Address	Gas Rate	Electric Rate
St Lite #Stlt		Street Lights
1597 80th St E		Sm Gen (non-demand)
1841 105th St E #east		Gen Demand
1841 105th St E #west		Gen Demand
1841 105th St #MNTBldg		Gen Demand
Wescott/149 #lights		Sm Gen (non-demand)
10810 Alison Way #park		Sm Gen (non-demand)
Skyview Park - 6765 Dawn Way	Sm Commerical Firm Svc	General
Aquatic Center - 8055 Barbara Ave	Large Comm Firm Svc	
Simley Island Park - 3100 80th St E		Sm Gen Svc (metered)
Oakwood Park - 3534 78th St E	Sm Commerical Firm Svc	Sm Gen Svc (metered)
Ice Arena Load Profile - 8055 Barbara Ave	Large Comm Firm Svc	General
Ice Arena Load Profile - 8055 Barbara Ave		General
Groveland Pk Shelter	Sm Commerical Firm Svc	Sm Gen Svc (metered)
SV Park - 2810 70th St E	Sm Commerical Firm Svc	Sm Gen Svc (metered)
Aquatic Center - 8055 Barbara Ave		General
Aquatic Center - 8055 Barbara Ave		General
Lions Park Pond - 2423 65th St		Sm Gen Svc (metered)
RV Maintenece Bldg - 1841 105th St	Sm Commerical Firm Svc	
Rock Island / Picnic Shelter - 4465 66th St E		Sm Gen Svc (metered)
Protective Street Lights		Street Lights
Fire Sirens		
Maintenance Facility - 8168 Barbara Ave	Large Comm Firm Svc	
Traffic Signal - 5000 S Robert Trl Unit Signal		General TOD kWh Meterd
Traffic Signal and Lights - 2920 Upper 55th St		Sm Gen Svc (metered)
Festoon/Receptacles - 6752 Cahill Ave		Sm Gen Svc (metered)
Street Lights - 2923 80th St E		Sm Gen Svc (metered)
Cold Storage Bldg - 8150 Barbara Ave		General
Public Works Bldg - 8150 Barbara Ave		General
Traffic Signal - 5401 S Robert Trl Sunfish Lake		General TOD kWh Meterd
Traffic Signal and Lights - 5805 Blaine Ave		Sm Gen Svc (metered)
2880 80th St E		Sm Gen Svc (metered)
Storm Water Pump - 8481 College Trl		General
2800 70th St E		Sm Gen Svc (metered)
8150 Barbara Avenue		General
8150 Barbara Avenue		General
Protective Street Lights		Street Lights
Club House - 1850 70th St E	Sm Commerical Firm Svc	
Shelter #5 - 1850 70th St E		Sm Gen Svc (metered)
Comfort Station - 1850 70th St E		Sm Gen Svc (metered)
Irrigation Load Profile - 1850 70th St E		General
Club House - 1850 70th St E		General
Maint Bldg - 1597 80th St E	Sm Commerical Firm Svc	
1850 70th St E Lot Lights		Energy Only St Lt Svc
7011 Concord Blvd		Sm Municipal Pump Svc
Forest Haven Lift Station - 5916 Blackberry Bridge Path		Sm Municipal Pump Svc
Well #5 - 2990 75th St E	Sm Commerical Firm Svc	Municipal Pumping Svc
Well #7 - 7509 Barbara Ave	Sm Commerical Firm Svc	Peak Controlled Service
Well #8 - 2307 75th St E		Municipal Pumping Svc
Well #6 - 2988 75th St E		Municipal Pumping Svc
River Road Lift Station - 6901 River Rd		Sm Municipal Pump Svc
Doffing Ave Lift Station - 6320 Doffing Ave		Sm Municipal Pump Svc
Well #6 - 2980 75th St E	Sm Commerical Firm Svc	
Babcock Booster Station - 7400 Babcock Trl	Sm Commerical Firm Svc	
Water Treat Plant - Load Profi - 2015 75th St e	Sm Commerical Firm Svc	Peak Controlled Service
Well #4 - 2800 70th St E	Sm Commerical Firm Svc	Peak Controlled Service
Well #3 - 6857 Cahill Ave	Sm Commerical Firm Svc	General TOD Srvc
Babcock Booster Station - Load - 7400 Babcock Trl		Peak Controlled Service
North Side Water Tower - 1770 50th St e		Sm Gen Svc (metered)

Address	Gas Rate	Electric Rate
Whistletree Lift Station - 8222 Cleary Ct		Sm Municipal Pump Svc
Arbor Pointe Tower - 8815 Broderick Blvd		Sm Gen Svc (metered)
7733 S Robert Trl		Municipal Pumping Svc
Pine Bend Lift Station - 9937 Inver Grove Trl Unit Lift		Sm Municipal Pump Svc
Argenta Hills Lift Station - 7601 S Robert Trl Unit Lift	Sm Commerical Firm Svc	
Asher Lift Station - 7022 Archer Trl		General
7015 Clayton Ave	Large Comm Firm Svc	General
Fire Department - 2059 Upper 55th St E		General
2059 Upper 55th St E	Large Comm Firm Svc	
Protective Street Lights		Street Lights
Traffic Signal - 3296 117th St E		General TOD kWh Metered
Simley Lake Street Lights - 3110 80th St		Sm Gen Svc (metered)
Traffic Signal/117th & Hwy 52 - 3590 117th St E		Sm Gen Svc (metered)
3717 117th St E		Sm Gen Svc (metered)
Traffic Signal = 2254 Upper 55th St E		Sm Gen Svc (metered)
3105 68th St E		Sm Gen Svc (metered)
3241 68th St E		Sm Gen Svc (metered)
7722 S Robert Trl		Sm Gen Svc (metered)
4465 66th St E Unit Lighting		Energy Only St Lt Svc
5650 Asher Ave E		Sm Gen Svc (metered)

**LEVANDER,
GILLEN &
MILLER, P.A.**

ATTORNEYS AT LAW

TIMOTHY J. KUNTZ
DANIEL J. BEESON
*KENNETH J. ROHLF
◊STEPHEN H. FOCHLER
△JAY P. KARLOVICH
ANGELA M. LUTZ AMANN
*KORINE L. LAND
□*DONALD L. HOEFT
DARCY M. ERICKSON
DAVID S. KENDALL
*BRIDGET McCAULEY NASON
TONA T. DOVE
AARON S. PRICE
•
HAROLD LEVANDER
1910-1992
•
ARTHUR GILLEN
1919-2005
•
ROGER C. MILLER
1924-2009

MEMO

*ALSO ADMITTED IN WISCONSIN
†ALSO ADMITTED IN NORTH DAKOTA
◊ALSO ADMITTED IN MASSACHUSETTS
□ALSO ADMITTED IN OKLAHOMA
△ALSO ADMITTED IN ARIZONA

TO: Mayor and Councilmembers
FROM: Timothy J. Kuntz, City Attorney
DATE: July 6, 2017
RE: Franchise Fees

Section 1. Background. The franchise fee ordinances are on the Council Agenda for the July 10, 2017 Council Meeting. This will be the first reading of these ordinances. The second reading is scheduled for August 14, 2017 in conjunction with a public hearing. The third reading is scheduled for September 11, 2017.

The City has three franchises:

- Electric Franchise with Northern States Power Company d/b/a Xcel Energy
- Electric Franchise with Dakota Electric Association
- Gas Franchise with Northern States Power Company d/b/a Xcel Energy

In order to impose a franchise fee, two ordinances have to be considered with respect to each of the franchises (for a total of 6 ordinances). With regard to each franchise, one ordinance amends Section 9 of the existing franchise and the second ordinance implements the fee by specifically imposing the fee on the utility.

Section 2. Salient Aspects of Franchise Fee Ordinances. There are six subjects addressed by the ordinances:

1. Time Frame
2. Amount of Fee
3. Collection of Fee
4. Type of Fee
5. Equivalent Fee Requirement
6. Purpose of Fee

Section 3. Time Frame. The fee starts with the January 2018 billing month and expires on June 30, 2029. The duration of the fee is 11.5 years.

Section 4. Amount of Fee. The amount of the monthly fee is shown on the fee schedule attached to the ordinance implementing the franchise fee. The administration department is still working with the utilities to make sure that the correct nomenclature is used to describe the utility billing categories. The administration department has worked with the utilities to produce a fee schedule that is designed to yield approximately \$1,000,000 in fees each calendar year.

Section 5. Collection of Fee. The franchise fee will be shown on each bill. The customer will pay the franchise fee to the utility as part of the monthly billing system. The utility will turn over the franchise fee to the City on a quarterly basis. The ordinances impose the following collection requirements:

9.4 Collection of the Fee. The franchise fee shall be payable quarterly and shall be based on the amount collected by Company during billing months during the period for which payment is to be made by imposing a surcharge equal to the designated franchise fee for the applicable customer classification in all customer billings for electric service in each class. The payment shall be due the last business day of the month following the period for which the payment is made. The franchise fee may be changed by ordinance from time to time; however, each change shall meet the same notice requirements and not occur more often than annually and no change shall require a collection from any customer for electric service in excess of the amount specifically permitted by this Section 9. The time and manner of collecting the franchise fee is subject to the approval of the Commission. No franchise fee shall be payable by Company if Company is legally unable to first collect an amount equal to the franchise fee from its customer in each applicable class of customers by imposing a surcharge in Company's applicable rates for electric service. Company may pay the City the fee based upon the surcharge billed subject to subsequent reduction to account for uncollectible, refunds and correction of erroneous billings. Company agrees to make its records available for inspection by the City at reasonable times provided that the City and its designated representative agree in writing not to disclose any information which would indicate the amount paid by any identifiable customer or customers or any other information regarding identified customers. In addition, the Company agrees to provide at the time of each payment a statement summarizing how the franchise fee payment was determined, including information showing any adjustments to the total surcharge billed in the period for which the payment is being made to account for any uncollectibles, refunds or error corrections.

Section 6. Type of Fee. The fee is an account-based fee on each premise. The ordinances provide the following with respect to the type of fee:

A franchise fee is hereby imposed on the Company under its electric franchise in accordance with the schedule attached hereto and made a part of this

Ordinance, commencing with the Company January 2018 billing month.

The fee shall be in lieu of any permit or other fees being imposed on Company.

This fee is an account-based fee on each premise and not a meter-based fee. In the event that an entity covered by this ordinance has more than one meter at a single premise, but only one account, only one fee shall be assessed to that account. If a premise has two or more meters being billed at different rates, the Company may have an account for each rate classification, which will result in more than one franchise fee assessment for electric service to that premise. If the Company combines the rate classifications into a single account, the franchise fee assessed to the account will be the largest franchise fee applicable to a single rate classification for energy delivered to that premise. In the event any entities covered by this ordinance have more than one premise, each premise (address) shall be subject to the appropriate fee. In the event a question arises as to the proper fee amount for any premise, the Company's manner of billing for energy used at all similar premises in the city will control.

Section 7. Equivalent Fee Requirement. Once a franchise fee is imposed on one utility, the City has to impose an equivalent amount on other utilities providing the same type of energy. If a franchise fee is imposed on Xcel Energy, a similar fee has to be imposed on Dakota Electric. The ordinances provide the following with respect to the equivalent fee requirement:

9.5 Equivalent Fee Requirement. The separate ordinance imposing the fee shall not be effective against Company unless it lawfully imposes and the City monthly or more often collects a fee or tax of the same or greater equivalent amount on the receipts from sales of the energy within the City by any other energy supplier, provided that, as to such a supplier, the City has the authority to require a franchise fee or to impose a tax. The “same or greater equivalent amount” shall be measured, if practicable, by comparing amounts collected as franchise fee from each similar customer, or by comparing, as to similar customers the percentage of the annual bill represented by the amount collected for franchise fee purposes. The franchise fee or tax shall be applicable by the amount collected for franchise fee purposes. The franchise fee or tax shall be applicable to energy sales for any energy use related to heating, cooling or lighting, or to run machinery and appliances, but shall not apply to energy sales for the purposes of providing fuel for vehicles. If the Company specifically consents in writing to a franchise or separate ordinance collecting or failing to collect a fee from another energy supplier in contravention of this Section 9.5, the foregoing conditions will be waived to the extent of such written consent.

Section 8. Purpose of Fee. Minnesota Statute 216B.36 authorizes franchise fees for the following purposes:

Under the license, permit, right, or franchise, the utility may be obligated by any municipality to pay to the municipality fees to raise revenue or defray increased municipal costs accruing as a result of utility operations, or both.

The ordinances recite that the purposes of the fees are as follows:

9.1 Fee Schedule. The City reserves all rights under Minn. Stat. §§ 216B.36 and 301B.01 to require a franchise fee at any time during the term of this ordinance. During the term of the franchise hereby granted, and in lieu of any permit or other fees being imposed on Company, the City may impose on Company a franchise fee, for the purpose of raising revenue and/or for the purpose of defraying or recovering the cost to maintain, restore and operate streets, trails and public parking lots, by collecting the amounts indicated in a Fee Schedule set forth in a separate ordinance from each customer in the designated Company Customer Class.

ORDINANCE NO. _____

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA**

**AN ORDINANCE IMPLEMENTING AN ELECTRIC SERVICE FRANCHISE FEE
ON NORTHERN STATES POWER COMPANY, A MINNESOTA CORPORATION,
D/B/A XCEL ENERGY, ITS SUCCESSORS AND ASSIGNS, FOR PROVIDING
ELECTRIC SERVICE WITHIN THE CITY OF INVER GROVE HEIGHTS**

THE CITY COUNCIL OF THE CITY OF INVER GROVE HEIGHTS ORDAINS AS FOLLOWS:

SECTION 1. PURPOSE. The Inver Grove Heights City Council has determined that it is in the best interest of the City of Inver Grove Heights (the “City”) to impose a franchise fee on those public utility companies that provide electric services within the City.

Pursuant to City Ordinance No. 1199, amended by City Ordinance No. _____, a Franchise Agreement between the City and Northern States Power Company, a Minnesota Corporation, d/b/a Xcel Energy, its successors and assigns (the “Company”), the City has the right to impose a franchise fee on the Company in an amount and fee design as set forth in the fee schedule attached hereto as Schedule A.

SECTION 2. TERMS. A franchise fee is hereby imposed on the Company under its electric franchise in accordance with the schedule attached hereto and made a part of this Ordinance, commencing with the Company January 2018 billing month.

The fee shall be in lieu of any permit or other fees being imposed on Company.

This fee is an account-based fee on each premise and not a meter-based fee. In the event that an entity covered by this ordinance has more than one meter at a single premise, but only one account, only one fee shall be assessed to that account. If a premise has two or more meters being billed at different rates, the Company may have an account for each rate classification, which will result in more than one franchise fee assessment for electric service to that premise. If the Company combines the rate classifications into a single account, the franchise fee assessed to the account will be the largest franchise fee applicable to a single rate classification for energy delivered to that premise. In the event any entities covered by this ordinance have more than one premise, each premise (address) shall be subject to the appropriate fee. In the event a question arises as to the proper fee amount for any premise, the Company's manner of billing for energy used at all similar premises in the city will control.

SECTION 3. PAYMENT. The franchise fee shall be payable quarterly and shall be based on the amount collected by Company during complete billing months during the period for which payment is to be made by imposing a surcharge equal to the designated franchise

fee for the applicable customer classification in all customer billings for electric service in each class. The payment shall be due the last business day of the month following the period for which the payment is made. The franchise fee may be changed by ordinance from time to time; however, each change shall meet the same notice requirements and not occur more often than annually and no change shall require a collection from any customer for electric service in excess of the amounts specifically permitted by the attached fee schedule. The time and manner of collecting the franchise fee may be subject to the approval of the Commission. No franchise fee shall be payable by Company if Company is legally unable to first collect an amount equal to the franchise fee from its customers in each applicable class of customers by imposing a surcharge in Company's applicable rates for electric service. Company may pay the City the fee based upon the surcharge billed subject to subsequent reductions to account for uncollectibles, refunds and correction of erroneous billings. Company agrees to make its records available for inspection by the City at reasonable times provided that the City and its designated representative agree in writing not to disclose any information which would indicate the amount paid by any identifiable customer or customers or any other information regarding identified customers. In addition, the Company agrees to provide at the time of each payment a statement summarizing how the franchise fee payment was determined, including information showing any adjustments to the total surcharge billed in the period for which the payment is being made to account for any uncollectibles, refunds or error corrections.

SECTION 4. SURCHARGE. The City recognizes that the Minnesota Public Utilities Commission may allow Company to add a surcharge to customer rates of city residents to reimburse Company for the cost of the fee.

SECTION 5. EQUIVALENT FEE REQUIREMENT. This ordinance shall not be effective against Company unless it lawfully imposes and the City monthly or more often collects a fee or tax of the same or greater equivalent amount on the receipts from sales of energy within the City by any other energy supplier, provided that, as to such a supplier, the City has the authority to require a franchise fee or to impose a tax. The "same or greater equivalent amount" shall be measured, if practicable, by comparing amounts collected as a franchise fee from each similar customer, or by comparing, as to similar customers the percentage of the annual bill represented by the amount collected for franchise fee purposes. The franchise fee or tax shall be applicable to energy sales for any energy use related to heating, cooling or lighting, or to run machinery and appliances, but shall not apply to energy sales for the purpose of providing fuel for vehicles. If the Company specifically consents in writing to a franchise or separate ordinance collecting or failing to collect a fee from another energy supplier in contravention of this section, the foregoing conditions will be waived to the extent of such written consent.

SECTION 6. ENFORCEMENT. Any dispute, including enforcement of a default regarding this ordinance will be resolved in accordance with Section 2.5 of the Franchise Agreement.

SECTION 7. EFFECTIVE DATE OF FRANCHISE AGREEMENT. The effective date of this Ordinance shall be after its publication and ninety (90) days after the sending of written notice enclosing a copy of this adopted Ordinance to Company by certified mail. Collection of

the fee shall commence as provided above.

SECTION 8. SUNSET DATE OF FRANCHISE FEE. The termination of this Ordinance shall take effect at the end of June 30, 2029. Changes or adjustments to terms of this Ordinance shall follow the process outlined in the Franchise Agreement.

Passed this _____ day of September, 2017.

George Tourville, Mayor

Attest:

Michelle Tesser, City Clerk

SCHEDULE A

Franchise Fee Rates:

Electric Utility

The franchise fee shall be in an amount determined by applying the following schedule per customer premise/per month based on metered service to retail customers within the City:

	Amount per month
Residential	\$2.75
Sm C & I – Non-Dem	\$3.00
Sm C & I – Demand	\$25.00
Large C & I	\$95.00
Public Street Ltg	\$6.00
Muni Pumping – N/D	\$0.00
Muni Pumping – Dem	\$0.00

Franchise fees are to be collected by the Company at the rate listed above and submitted to the City on a quarterly basis as follows:

- January – March collections due by April 30.
- April – June collections due by July 31.
- July – September collections due by October 31.
- October – December collections due by January 31.

ORDINANCE NO. _____

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA**

**AN ORDINANCE AMENDING INVER GROVE HEIGHTS
ORDINANCE NO. 1199, SECTION 9 RELATING TO A FRANCHISE FEE
FOR THE FRANCHISE GRANTED TO NORTHERN STATES POWER COMPANY, A
MINNESOTA CORPORATION, D/B/A XCEL ENERGY ITS SUCCESSORS AND
ASSIGNS FOR FURNISHING OF ELECTRIC ENERGY TO THE CITY**

THE CITY COUNCIL OF THE CITY OF INVER GROVE HEIGHTS ORDAINS AS FOLLOWS:

Section One. Amendment. Ordinance No. 1199, Section 9 of the Inver Grove Heights City Code is hereby amended to read as follows:

SECTION 9. FRANCHISE FEE.

~~The City reserves all rights under Minn. Stat. §§ 216B.36 and 301B.01 to require a franchise fee at any time during the term of this ordinance. If the City elects to require a franchise fee it shall notify Company and negotiate in good faith to reach a mutually acceptable fee schedule. The fee shall be set forth in a separate ordinance and not adopted until at least sixty (60) days after notice enclosing such proposed ordinance has been served upon the Company by certified mail. If the City and Company are unable to agree on a franchise fee or on any terms related thereto, including but not limited to the requirement of concurrent permit fees to defray costs of utility operations, each hereby consents to the jurisdiction of State District Court, Dakota County, to construe their respective rights under the law, subject to all rights of appeal. City and Company expressly reserve all rights and arguments concerning franchise fees and related issues and this paragraph is not intended, and shall not be construed, as a waiver of any such rights or arguments.~~

9.1 Fee Schedule. The City reserves all rights under Minn. Stat. §§ 216B.36 and 301B.01 to require a franchise fee at any time during the term of this ordinance. During the term of the franchise hereby granted, and in lieu of any permit or other fees being imposed on Company, the City may impose on Company a franchise fee, for the purpose of raising revenue and/or for the purpose of defraying or recovering the cost to maintain, restore and operate streets, trails and public parking lots, by collecting the amounts indicated in a Fee Schedule set forth in a separate ordinance from each customer in the designated Company Customer Class.

9.2 Separate Ordinance. The franchise fee shall be imposed by separate ordinance duly adopted by the City Council, which ordinance shall not be adopted until at least 60 days after written notice enclosing such proposed ordinance has been served upon Company by certified mail. The fee shall not become effective until the beginning of a Company billing month at least 90 days after written notice enclosing such adopted ordinance has been served

upon Company by certified mail. Section 2.5 shall constitute the sole remedy for solving disputes between Company and the City in regard to the interpretation of, or enforcement of, the separate ordinance. No action by the City to implement a separate ordinance will commence until this Ordinance is effective.

9.3 Terms Defined. For the purpose of this Section 9, the following definitions apply:

9.3.1 “Customer Class” shall refer to the classes listed on the Fee Schedule and as defined or determined in Company’s electric tariffs on file with the Commission.

9.3.2 “Fee Schedule” refers to the schedule in Section 9.1 setting forth the various customer classes from which a franchise fee would be collected if a separate ordinance were implemented immediately after the effective date of this franchise agreement. The Fee Schedule in the separate ordinance may include new Customer Class added by Company to its electric tariffs after the effective date of this franchise agreement.

9.4 Collection of the Fee. The franchise fee shall be payable quarterly and shall be based on the amount collected by Company during billing months during the period for which payment is to be made by imposing a surcharge equal to the designated franchise fee for the applicable customer classification in all customer billings for electric service in each class. The payment shall be due the last business day of the month following the period for which the payment is made. The franchise fee may be changed by ordinance from time to time; however, each change shall meet the same notice requirements and not occur more often than annually and no change shall require a collection from any customer for electric service in excess of the amount specifically permitted by this Section 9. The time and manner of collecting the franchise fee is subject to the approval of the Commission. No franchise fee shall be payable by Company if Company is legally unable to first collect an amount equal to the franchise fee from its customer in each applicable class of customers by imposing a surcharge in Company’s applicable rates for electric service. Company may pay the City the fee based upon the surcharge billed subject to subsequent reduction to account for uncollectible, refunds and correction of erroneous billings. Company agrees to make its records available for inspection by the City at reasonable times provided that the City and its designated representative agree in writing not to disclose any information which would indicate the amount paid by any identifiable customer or customers or any other information regarding identified customers. In addition, the Company agrees to provide at the time of each payment a statement summarizing how the franchise fee payment was determined, including information showing any adjustments to the total surcharge billed in the period for which the payment is being made to account for any uncollectibles, refunds or error corrections.

9.5 Equivalent Fee Requirement. The separate ordinance imposing the fee shall not be effective against Company unless it lawfully imposes and the City monthly or more often collects a fee or tax of the same or greater equivalent amount on the receipts from sales of the energy within the City by any other energy supplier, provided that, as to such a supplier, the City has the authority to require a franchise fee or to impose a tax. The “same or greater equivalent

amount” shall be measured, if practicable, by comparing amounts collected as franchise fee from each similar customer, or by comparing, as to similar customers the percentage of the annual bill represented by the amount collected for franchise fee purposes. The franchise fee or tax shall be applicable by the amount collected for franchise fee purposes. The franchise fee or tax shall be applicable to energy sales for any energy use related to heating, cooling or lighting, or to run machinery and appliances, but shall not apply to energy sales for the purposes of providing fuel for vehicles. If the Company specifically consents in writing to a franchise or separate ordinance collecting or failing to collect a fee from another energy supplier in contravention of this Section 9.5, the foregoing conditions will be waived to the extent of such written consent.

Section Two. Effective Date. This ordinance amendment shall be effective from and after its passage and publication according to law.

Passed this _____ day of September, 2017.

George Tourville, Mayor

Attest:

Michelle Tesser, City Clerk

ORDINANCE NO. _____

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA**

**AN ORDINANCE IMPLEMENTING AN ELECTRIC SERVICE FRANCHISE FEE
ON DAKOTA ELECTRIC ASSOCIATION, A MINNESOTA CORPORATION, ITS
SUCCESSORS AND ASSIGNS, FOR PROVIDING ELECTRIC SERVICE WITHIN THE
CITY OF INVER GROVE HEIGHTS**

THE CITY COUNCIL OF THE CITY OF INVER GROVE HEIGHTS ORDAINS AS FOLLOWS:

SECTION 1. PURPOSE. The Inver Grove Heights City Council has determined that it is in the best interest of the City of Inver Grove Heights (the “City”) to impose a franchise fee on those public utility companies that provide electric services within the City.

Pursuant to City Ordinance No. 1204, amended by City Ordinance No._____, a Franchise Agreement between the City and Dakota Electric Association, a Minnesota Corporation, its successors and assigns (the “Company”), the City has the right to impose a franchise fee on the Company in an amount and fee design as set forth in the fee schedule attached hereto as Schedule A.

SECTION 2. TERMS. A franchise fee is hereby imposed on the Company under its electric franchise in accordance with the schedule attached hereto and made a part of this Ordinance, commencing with the Company January 2018 billing month.

The fee shall be in lieu of any permit or other fees being imposed on Company.

This fee is an account-based fee on each premise and not a meter-based fee. In the event that an entity covered by this ordinance has more than one meter at a single premise, but only one account, only one fee shall be assessed to that account. If a premise has two or more meters being billed at different rates, the Company may have an account for each rate classification, which will result in more than one franchise fee assessment for electric service to that premise. If the Company combines the rate classifications into a single account, the franchise fee assessed to the account will be the largest franchise fee applicable to a single rate classification for energy delivered to that premise. In the event any entities covered by this ordinance have more than one premise, each premise (address) shall be subject to the appropriate fee. In the event a question arises as to the proper fee amount for any premise, the Company's manner of billing for energy used at all similar premises in the city will control.

SECTION 3. PAYMENT. The franchise fee shall be payable quarterly and shall be based on the amount collected by Company during complete billing months during the period for which payment is to be made by imposing a surcharge equal to the designated franchise

fee for the applicable customer classification in all customer billings for electric service in each class. The payment shall be due the last business day of the month following the period for which the payment is made. The franchise fee may be changed by ordinance from time to time; however, each change shall meet the same notice requirements and not occur more often than annually and no change shall require a collection from any customer for electric service in excess of the amounts specifically permitted by the attached fee schedule. The time and manner of collecting the franchise fee may be subject to the approval of the Commission. No franchise fee shall be payable by Company if Company is legally unable to first collect an amount equal to the franchise fee from its customers in each applicable class of customers by imposing a surcharge in Company's applicable rates for electric service. Company may pay the City the fee based upon the surcharge billed subject to subsequent reductions to account for uncollectibles, refunds and correction of erroneous billings. Company agrees to make its records available for inspection by the City at reasonable times provided that the City and its designated representative agree in writing not to disclose any information which would indicate the amount paid by any identifiable customer or customers or any other information regarding identified customers. In addition, the Company agrees to provide at the time of each payment a statement summarizing how the franchise fee payment was determined, including information showing any adjustments to the total surcharge billed in the period for which the payment is being made to account for any uncollectibles, refunds or error corrections.

SECTION 4. SURCHARGE. The City recognizes that the Minnesota Public Utilities Commission may allow Company to add a surcharge to customer rates of city residents to reimburse Company for the cost of the fee.

SECTION 5. EQUIVALENT FEE REQUIREMENT. This ordinance shall not be effective against Company unless it lawfully imposes and the City monthly or more often collects a fee or tax of the same or greater equivalent amount on the receipts from sales of energy within the City by any other energy supplier, provided that, as to such a supplier, the City has the authority to require a franchise fee or to impose a tax. The "same or greater equivalent amount" shall be measured, if practicable, by comparing amounts collected as a franchise fee from each similar customer, or by comparing, as to similar customers the percentage of the annual bill represented by the amount collected for franchise fee purposes. The franchise fee or tax shall be applicable to energy sales for any energy use related to heating, cooling or lighting, or to run machinery and appliances, but shall not apply to energy sales for the purpose of providing fuel for vehicles. If the Company specifically consents in writing to a franchise or separate ordinance collecting or failing to collect a fee from another energy supplier in contravention of this section, the foregoing conditions will be waived to the extent of such written consent.

SECTION 6. ENFORCEMENT. Any dispute, including enforcement of a default regarding this ordinance will be resolved in accordance with Section 2.5 of the Franchise Agreement.

SECTION 7. EFFECTIVE DATE OF FRANCHISE AGREEMENT. The effective date of this Ordinance shall be after its publication and ninety (90) days after the sending of written notice enclosing a copy of this adopted Ordinance to Company by certified mail. Collection of

the fee shall commence as provided above.

SECTION 8. SUNSET DATE OF FRANCHISE FEE. The termination of this Ordinance shall take effect at the end of June 30, 2029. Changes or adjustments to terms of this Ordinance shall follow the process outlined in the Franchise Agreement.

Passed this _____ day of September, 2017.

George Tourville, Mayor

Attest:

Michelle Tesser, City Clerk

SCHEDULE A

Franchise Fee Rates:

Electric Utility

The franchise fee shall be in an amount determined by applying the following schedule per customer premise/per month based on ~~metered~~ service to retail customers within the City:

	Amount per month
Residential	\$2.75
Residential Demand Controller	\$2.75
Residential Time of Day	\$2.75
Irrigation	\$3.00
Small General (non-demand)	\$3.00
Security Lighting	\$0.00
Street Lighting (Member-Owned)	\$6.00
Street Lighting (DEA-Owned)	\$6.00
Custom Street Lighting	\$6.00
LED Security Lighting	\$0.00
General (demand)	\$25.00
General Time of Day (demand)	\$25.00
C&I Interruptible	\$95.00 \$25.00
Muni Pumping – N/D	\$0.00
Muni Pumping – Dem	\$0.00

Franchise fees are to be collected by the Company at the rate listed above and submitted to the City on a quarterly basis as follows:

- January – March collections due by April 30.
- April – June collections due by July 31.
- July – September collections due by October 31.
- October – December collections due by January 31.

ORDINANCE NO. _____

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA**

**AN ORDINANCE AMENDING INVER GROVE HEIGHTS
ORDINANCE NO. 1204, SECTION 9 RELATING TO A FRANCHISE FEE
FOR THE FRANCHISE GRANTED TO DAKOTA ELECTRIC ASSOCIATION ITS
SUCCESSORS AND ASSIGNS FOR FURNISHING OF ELECTRIC ENERGY
TO THE CITY**

THE CITY COUNCIL OF THE CITY OF INVER GROVE HEIGHTS ORDAINS AS FOLLOWS:

Section One. Amendment. Ordinance No. 1204, Section 9 of the Inver Grove Heights City Code is hereby amended to read as follows:

SECTION 9. FRANCHISE FEE.

~~The City reserves all rights under Minn. Stat. §§ 216B.36 and 301B.01 to require a franchise fee at any time during the term of this ordinance. If the City elects to require a franchise fee it shall notify Company and negotiate in good faith to reach a mutually acceptable fee schedule. The fee shall be set forth in a separate ordinance and not adopted until at least sixty (60) days after notice enclosing such proposed ordinance has been served upon the Company by certified mail. If the City and Company are unable to agree on a franchise fee or on any terms related thereto, including but not limited to the requirement of concurrent permit fees to defray costs of utility operations, each hereby consents to the jurisdiction of State District Court, Dakota County, to construe their respective rights under the law, subject to all rights of appeal. City and Company expressly reserve all rights and arguments concerning franchise fees and related issues and this paragraph is not intended, and shall not be construed, as a waiver of any such rights or arguments.~~

9.1 Fee Schedule. The City reserves all rights under Minn. Stat. §§ 216B.36 and 301B.01 to require a franchise fee at any time during the term of this ordinance. During the term of the franchise hereby granted, and in lieu of any permit or other fees being imposed on Company, the City may impose on Company a franchise fee, for the purpose of raising revenue and/or for the purpose of defraying or recovering the cost to maintain, restore and operate streets, trails and public parking lots, by collecting the amounts indicated in a Fee Schedule set forth in a separate ordinance from each customer in the designated Company Customer Class.

9.2 Separate Ordinance. The franchise fee shall be imposed by separate ordinance duly adopted by the City Council, which ordinance shall not be adopted until at least 60 days after written notice enclosing such proposed ordinance has been served upon Company by certified mail. The fee shall not become effective until the beginning of a Company billing month at least 90 days after written notice enclosing such adopted ordinance has been served

upon Company by certified mail. Section 2.5 shall constitute the sole remedy for solving disputes between Company and the City in regard to the interpretation of, or enforcement of, the separate ordinance. No action by the City to implement a separate ordinance will commence until this Ordinance is effective.

9.3 Terms Defined. For the purpose of this Section 9, the following definitions apply:

9.3.1 “Customer Class” shall refer to the classes listed on the Fee Schedule and as defined or determined in Company’s electric tariffs on file with the Commission.

9.3.2 “Fee Schedule” refers to the schedule in Section 9.1 setting forth the various customer classes from which a franchise fee would be collected if a separate ordinance were implemented immediately after the effective date of this franchise agreement. The Fee Schedule in the separate ordinance may include new Customer Class added by Company to its electric tariffs after the effective date of this franchise agreement.

9.4 Collection of the Fee. The franchise fee shall be payable quarterly and shall be based on the amount collected by Company during billing months during the period for which payment is to be made by imposing a surcharge equal to the designated franchise fee for the applicable customer classification in all customer billings for electric service in each class. The payment shall be due the last business day of the month following the period for which the payment is made. The franchise fee may be changed by ordinance from time to time; however, each change shall meet the same notice requirements and not occur more often than annually and no change shall require a collection from any customer for electric service in excess of the amount specifically permitted by this Section 9. The time and manner of collecting the franchise fee is subject to the approval of the Commission. No franchise fee shall be payable by Company if Company is legally unable to first collect an amount equal to the franchise fee from its customer in each applicable class of customers by imposing a surcharge in Company’s applicable rates for electric service. Company may pay the City the fee based upon the surcharge billed subject to subsequent reduction to account for uncollectible, refunds and correction of erroneous billings. Company agrees to make its records available for inspection by the City at reasonable times provided that the City and its designated representative agree in writing not to disclose any information which would indicate the amount paid by any identifiable customer or customers or any other information regarding identified customers. In addition, the Company agrees to provide at the time of each payment a statement summarizing how the franchise fee payment was determined, including information showing any adjustments to the total surcharge billed in the period for which the payment is being made to account for any uncollectibles, refunds or error corrections.

9.5 Equivalent Fee Requirement. The separate ordinance imposing the fee shall not be effective against Company unless it lawfully imposes and the City monthly or more often collects a fee or tax of the same or greater equivalent amount on the receipts from sales of the energy within the City by any other energy supplier, provided that, as to such a supplier, the City has the authority to require a franchise fee or to impose a tax. The “same or greater equivalent

amount” shall be measured, if practicable, by comparing amounts collected as franchise fee from each similar customer, or by comparing, as to similar customers the percentage of the annual bill represented by the amount collected for franchise fee purposes. The franchise fee or tax shall be applicable by the amount collected for franchise fee purposes. The franchise fee or tax shall be applicable to energy sales for any energy use related to heating, cooling or lighting, or to run machinery and appliances, but shall not apply to energy sales for the purposes of providing fuel for vehicles. If the Company specifically consents in writing to a franchise or separate ordinance collecting or failing to collect a fee from another energy supplier in contravention of this Section 9.5, the foregoing conditions will be waived to the extent of such written consent.

Section Two. Effective Date. This ordinance amendment shall be effective from and after its passage and publication according to law.

Passed this _____ day of September, 2017.

George Tourville, Mayor

Attest:

Michelle Tesser, City Clerk

ORDINANCE NO. _____

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA**

**AN ORDINANCE IMPLEMENTING A GAS SERVICE FRANCHISE FEE
ON NORTHERN STATES POWER COMPANY, A MINNESOTA CORPORATION,
D/B/A XCEL ENERGY, ITS SUCCESSORS AND ASSIGNS, FOR PROVIDING
GAS SERVICE WITHIN THE CITY OF INVER GROVE HEIGHTS**

THE CITY COUNCIL OF THE CITY OF INVER GROVE HEIGHTS ORDAINS AS FOLLOWS:

SECTION 1. PURPOSE. The Inver Grove Heights City Council has determined that it is in the best interest of the City of Inver Grove Heights (the “City”) to impose a franchise fee on those public utility companies that provide gas services within the City.

Pursuant to City Ordinance No. 1200, amended by City Ordinance No. _____, a Franchise Agreement between the City and Northern States Power Company, a Minnesota Corporation, d/b/a Xcel Energy, its successors and assigns (the “Company”), the City has the right to impose a franchise fee on the Company in an amount and fee design as set forth in the fee schedule attached hereto as Schedule A.

SECTION 2. TERMS. A franchise fee is hereby imposed on the Company under its gas franchise in accordance with the schedule attached hereto and made a part of this Ordinance, commencing with the Company January 2018 billing month.

The fee shall be in lieu of any permit or other fees being imposed on Company.

This fee is an account-based fee on each premise and not a meter-based fee. In the event that an entity covered by this ordinance has more than one meter at a single premise, but only one account, only one fee shall be assessed to that account. If a premise has two or more meters being billed at different rates, the Company may have an account for each rate classification, which will result in more than one franchise fee assessment for gas service to that premise. If the Company combines the rate classifications into a single account, the franchise fee assessed to the account will be the largest franchise fee applicable to a single rate classification for energy delivered to that premise. In the event any entities covered by this ordinance have more than one premise, each premise (address) shall be subject to the appropriate fee. In the event a question arises as to the proper fee amount for any premise, the Company's manner of billing for energy used at all similar premises in the city will control.

SECTION 3. PAYMENT. The franchise fee shall be payable quarterly and shall be based on the amount collected by Company during complete billing months during the period for which payment is to be made by imposing a surcharge equal to the designated franchise

fee for the applicable customer classification in all customer billings for gas service in each class. The payment shall be due the last business day of the month following the period for which the payment is made. The franchise fee may be changed by ordinance from time to time; however, each change shall meet the same notice requirements and not occur more often than annually and no change shall require a collection from any customer for gas service in excess of the amounts specifically permitted by the attached fee schedule. The time and manner of collecting the franchise fee may be subject to the approval of the Commission. No franchise fee shall be payable by Company if Company is legally unable to first collect an amount equal to the franchise fee from its customers in each applicable class of customers by imposing a surcharge in Company's applicable rates for gas service. Company may pay the City the fee based upon the surcharge billed subject to subsequent reductions to account for uncollectibles, refunds and correction of erroneous billings. Company agrees to make its records available for inspection by the City at reasonable times provided that the City and its designated representative agree in writing not to disclose any information which would indicate the amount paid by any identifiable customer or customers or any other information regarding identified customers. In addition, the Company agrees to provide at the time of each payment a statement summarizing how the franchise fee payment was determined, including information showing any adjustments to the total surcharge billed in the period for which the payment is being made to account for any uncollectibles, refunds or error corrections.

SECTION 4. SURCHARGE. The City recognizes that the Minnesota Public Utilities Commission may allow Company to add a surcharge to customer rates of city residents to reimburse Company for the cost of the fee.

SECTION 5. EQUIVALENT FEE REQUIREMENT. This ordinance shall not be effective against Company unless it lawfully imposes and the City monthly or more often collects a fee or tax of the same or greater equivalent amount on the receipts from sales of energy within the City by any other energy supplier, provided that, as to such a supplier, the City has the authority to require a franchise fee or to impose a tax. The "same or greater equivalent amount" shall be measured, if practicable, by comparing amounts collected as a franchise fee from each similar customer, or by comparing, as to similar customers the percentage of the annual bill represented by the amount collected for franchise fee purposes. The franchise fee or tax shall be applicable to energy sales for any energy use related to heating, cooling or lighting, or to run machinery and appliances, but shall not apply to energy sales for the purpose of providing fuel for vehicles. If the Company specifically consents in writing to a franchise or separate ordinance collecting or failing to collect a fee from another energy supplier in contravention of this section, the foregoing conditions will be waived to the extent of such written consent.

SECTION 6. ENFORCEMENT. Any dispute, including enforcement of a default regarding this ordinance will be resolved in accordance with Section 2.5 of the Franchise Agreement.

SECTION 7. EFFECTIVE DATE OF FRANCHISE AGREEMENT. The effective date of this Ordinance shall be after its publication and ninety (90) days after the sending of written notice enclosing a copy of this adopted Ordinance to Company by certified mail. Collection of

the fee shall commence as provided above.

SECTION 8. SUNSET DATE OF FRANCHISE FEE. The termination of this Ordinance shall take effect at the end of June 30, 2029. Changes or adjustments to terms of this Ordinance shall follow the process outlined in the Franchise Agreement.

Passed this _____ day of September, 2017.

George Tourville, Mayor

Attest:

Michelle Tesser, City Clerk

SCHEDULE A

Franchise Fee Rates:

Gas Utility

The franchise fee shall be in an amount determined by applying the following schedule per customer premise/per month based on metered service to retail customers within the City:

	Amount per month
Residential	\$2.00
Commercial Non-Demand	\$10.50
Commercial Firm Demand	\$50.00
Small Interruptible	\$90.00
Medium and Large Interruptible	\$100.00
Firm Transportation	\$ <u>\$15.00</u>
Interruptible Transportation	\$ <u>\$15.00</u>

Franchise fees are to be collected by the Company at the rate listed above and submitted to the City on a quarterly basis as follows:

- January – March collections due by April 30.
- April – June collections due by July 31.
- July – September collections due by October 31.
- October – December collections due by January 31.

ORDINANCE NO. _____

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA**

**AN ORDINANCE AMENDING INVER GROVE HEIGHTS
ORDINANCE NO. 1200, SECTION 9 RELATING TO A FRANCHISE FEE
FOR THE FRANCHISE GRANTED TO NORTHERN STATES POWER COMPANY, A
MINNESOTA CORPORATION, D/B/A XCEL ENERGY ITS SUCCESSORS AND
ASSIGNS FOR A GAS DISTRIBUTION AND TRANSMISSION SYSTEM IN THE CITY**

THE CITY COUNCIL OF THE CITY OF INVER GROVE HEIGHTS ORDAINS AS FOLLOWS:

Section One. Amendment. Ordinance No. 1200, Section 9 of the Inver Grove Heights City Code is hereby amended to read as follows:

SECTION 9. FRANCHISE FEE.

~~The City reserves all rights under Minn. Stat. §§ 216B.36 and 301B.01 to require a franchise fee at any time during the term of this ordinance. If the City elects to require a franchise fee it shall notify Company and negotiate in good faith to reach a mutually acceptable fee schedule. The fee shall be set forth in a separate ordinance and not adopted until at least sixty (60) days after notice enclosing such proposed ordinance has been served upon the Company by certified mail. If the City and Company are unable to agree on a franchise fee or on any terms related thereto, including but not limited to the requirement of concurrent permit fees to defray costs of utility operations, each hereby consents to the jurisdiction of State District Court, Dakota County, to construe their respective rights under the law, subject to all rights of appeal. City and Company expressly reserve all rights and arguments concerning franchise fees and related issues and this paragraph is not intended, and shall not be construed, as a waiver of any such rights or arguments.~~

9.1 Fee Schedule. The City reserves all rights under Minn. Stat. §§ 216B.36 and 301B.01 to require a franchise fee at any time during the term of this ordinance. During the term of the franchise hereby granted, and in lieu of any permit or other fees being imposed on Company, the City may impose on Company a franchise fee, for the purpose of raising revenue and/or for the purpose of defraying or recovering the cost to maintain, restore and operate streets, trails and public parking lots, by collecting the amounts indicated in a Fee Schedule set forth in a separate ordinance from each customer in the designated Company Customer Class.

9.2 Separate Ordinance. The franchise fee shall be imposed by separate ordinance duly adopted by the City Council, which ordinance shall not be adopted until at least 60 days after written notice enclosing such proposed ordinance has been served upon Company by certified mail. The fee shall not become effective until the beginning of a Company billing month at least 90 days after written notice enclosing such adopted ordinance has been served

upon Company by certified mail. Section 2.5 shall constitute the sole remedy for solving disputes between Company and the City in regard to the interpretation of, or enforcement of, the separate ordinance. No action by the City to implement a separate ordinance will commence until this Ordinance is effective.

9.3 Terms Defined. For the purpose of this Section 9, the following definitions apply:

9.3.1 “Customer Class” shall refer to the classes listed on the Fee Schedule and as defined or determined in Company’s gas tariffs on file with the Commission.

9.3.2 “Fee Schedule” refers to the schedule in Section 9.1 setting forth the various customer classes from which a franchise fee would be collected if a separate ordinance were implemented immediately after the effective date of this franchise agreement. The Fee Schedule in the separate ordinance may include new Customer Class added by Company to its gas tariffs after the effective date of this franchise agreement.

9.4 Collection of the Fee. The franchise fee shall be payable quarterly and shall be based on the amount collected by Company during billing months during the period for which payment is to be made by imposing a surcharge equal to the designated franchise fee for the applicable customer classification in all customer billings for gas service in each class. The payment shall be due the last business day of the month following the period for which the payment is made. The franchise fee may be changed by ordinance from time to time; however, each change shall meet the same notice requirements and not occur more often than annually and no change shall require a collection from any customer for gas service in excess of the amount specifically permitted by this Section 9. The time and manner of collecting the franchise fee is subject to the approval of the Commission. No franchise fee shall be payable by Company if Company is legally unable to first collect an amount equal to the franchise fee from its customer in each applicable class of customers by imposing a surcharge in Company’s applicable rates for gas service. Company may pay the City the fee based upon the surcharge billed subject to subsequent reduction to account for uncollectible, refunds and correction of erroneous billings. Company agrees to make its records available for inspection by the City at reasonable times provided that the City and its designated representative agree in writing not to disclose any information which would indicate the amount paid by any identifiable customer or customers or any other information regarding identified customers. In addition, the Company agrees to provide at the time of each payment a statement summarizing how the franchise fee payment was determined, including information showing any adjustments to the total surcharge billed in the period for which the payment is being made to account for any uncollectibles, refunds or error corrections.

9.5 Equivalent Fee Requirement. The separate ordinance imposing the fee shall not be effective against Company unless it lawfully imposes and the City monthly or more often collects a fee or tax of the same or greater equivalent amount on the receipts from sales of the energy within the City by any other energy supplier, provided that, as to such a supplier, the City has the authority to require a franchise fee or to impose a tax. The “same or greater equivalent amount” shall be measured, if practicable, by comparing amounts collected as franchise fee from

each similar customer, or by comparing, as to similar customers the percentage of the annual bill represented by the amount collected for franchise fee purposes. The franchise fee or tax shall be applicable by the amount collected for franchise fee purposes. The franchise fee or tax shall be applicable to energy sales for any energy use related to heating, cooling or lighting, or to run machinery and appliances, but shall not apply to energy sales for the purposes of providing fuel for vehicles. If the Company specifically consents in writing to a franchise or separate ordinance collecting or failing to collect a fee from another energy supplier in contravention of this Section 9.5, the foregoing conditions will be waived to the extent of such written consent.

Section Two. Effective Date. This ordinance amendment shall be effective from and after its passage and publication according to law.

Passed this _____ day of September, 2017.

George Tourville, Mayor

Attest:

Michelle Tesser, City Clerk