



To: MAYOR AND COUNCIL

Agenda Item #: VIII.C. & D.

From: John Wallin
Finance Director

Date: October 16, 2012

Subject: Second Reading Ordinance No. 2012-15 Franchise Ordinance CenterPoint Energy and
Second Reading Ordinance No. 2012-16 Franchise Ordinance Xcel

Action
Discussion
Information

Action Requested:

Adopt second readings of Ordinance 2012-15 and Ordinance 2012-16 creating franchise fees for the City's natural gas and electric utilities.

Information / Background:

At the Council's retreat meeting in February idea was introduced of implementing a modest franchise fee of the Edina customers of Xcel Energy and CenterPoint Energy to create a new revenue stream that would be specifically dedicated to funding new improvements sidewalk, trail and non-motorized transportation projects around the city. These projects are currently funded from the City's annual Capital Improvements Plan or from special assessments.

The Council expressed interest in the franchise fee concept and asked staff to research the issue in more depth. At the Council's June 5 Work Session, in addition to conducting a review of the City's Special Assessment Policy, the Council also considered a more formal proposal to fund a new sidewalk, trail and non-motorized transportation improvement program through the adoption of utility franchise fees.

The Council formally considered two new ordinances at the August 6 Council meeting and approved first reading to implement new utility franchise fees for the purpose of funding for new sidewalks, trails, lighting, street markings and related costs that will increase the safety of the City's pedestrian, cyclist and non-motorized transportation system.

If the two new ordinances are adopted by the City Council, the City will create a new fund called the Pedestrian and Cyclist Safety Fund (PACS Fund) to account for the new franchise fee revenues. The franchise fee revenues will be a dedicated revenue to the PACS Fund. The PACS Fund will be used to fund construction and maintenance activities, lighting, right-of-way acquisition, consulting and staff costs related to the expansion and improvement of the City's sidewalk, trail and non-motorized transportation system.

The proposed franchise fee for a residential utility account is \$1.45/month for both Xcel and CenterPoint customers for a total of \$2.90/month. According to data supplied to the City by the two utilities, the average residential customer natural gas bill is \$90.25/month and average residential electric bill is \$89.17/month. The addition of the proposed franchise fees raises the monthly bill in each case by approximately 1.6%.

There are higher monthly fees for commercial accounts that are described in detail in the ordinances. In all classes of customers, however, the new franchise fees are flat fees that do not vary with the consumption. Franchise fees are applied to each customer meter regardless of the property tax status of the customer. Non-profit organizations, schools, churches and government utility customers will be assessed franchise fees based on the type of meter/service status they have through their respective utility companies.

If adopted by the Council, the proposed franchise fee structure in the new ordinances will create approximately \$1.1 million each year in new revenue for the purpose of increasing the safety of the City's pedestrians, cyclists and drivers at a financial impact to our residents of \$2.90/month.

If the Council wishes to continue to proceed with the adoption of the franchise fees, the next step in the process is to adopt second reading on the two ordinances (2012-15 and 2012-16) at the October 16, 2012 Council Meeting. Following adoption on first reading on August 6, 2012, the City provided an official 60 day notice to each utility of the City's impending action. During that 60 day period, the utilities were allowed to comment on the proposed ordinances. The 60 day time period has been completed and the Council may proceed with second reading of the ordinances. The Xcel Energy did not submit any changes to the proposed Ordinance. CenterPoint Energy sent a proposed change and the proposed Ordinance 2012-15 was changed to reflect the request to clarify that the surcharge can only be passed on to residents of the city, in this case residents of the City of Edina. The updated language is with added language underlined is:

SECTION 8. SURCHARGE. The City of Edina recognizes that the Minnesota Public Utilities Commission may allow the Company to add a surcharge to customer rates of city residents to reimburse the Company for the cost of the fee.

RECOMMENDATION:

Staff recommends the City Council adopt second reading on the two new franchise fee ordinances.

ATTACHMENTS:

Ordinance No. 2012-15

Ordinance No. 2012-16

ORDINANCE NO. 2012-15

AN ORDINANCE IMPLEMENTING A GAS ENERGY FRANCHISE FEE ON CENTERPOINT ENERGY MINNESOTA GAS ("CENTERPOINT ENERGY") FOR PROVIDING GAS ENERGY SERVICE WITHIN THE CITY OF EDINA.

THE CITY COUNCIL OF THE CITY EDINA, HENNEPIN COUNTY, MINNESOTA ORDAINS:

SECTION 1. DEFINITIONS.

(a) Definitions. For the purposes of this Ordinance, the following terms shall have the following meanings:

(1) City means the City of Edina, County of Hennepin, State of Minnesota.

(2) Company means CenterPoint Energy Minnesota Gas ("CenterPoint Energy"), its successors and assigns.

(3) Franchise Ordinance means Ordinance No. 2003-2.

(4) Notice means a writing served by any party or parties on any other party or parties. Notice to Company shall be mailed to CenterPoint Energy, Minnesota Division Vice President, 800 LaSalle Avenue, Minneapolis, MN 55402. Notice to City shall be mailed to the City Clerk at 4801 W. 50th Street, Edina, MN 55424.

SECTION 2. PURPOSE. The Edina City Council has determined that it is in the best interest of the City to impose a franchise fee on those public utility companies that provide natural gas and electric services within the City. Pursuant to the Franchise Agreement the City has the right to impose a franchise fee on Company.

SECTION 3. FRANCHISE FEE STATEMENT AND SCHEDULE. A franchise fee is hereby imposed on Company commencing with the February, 2013 billing month, and in accordance with the following fee schedule:

<u>Customer Classification</u>	<u>Amount per Account per Month (\$)</u>
Residential	\$ 1.45
Firm A	\$ 2.90
Firm B	\$ 9.00
Firm C	\$40.00
Sm Vol, Dual Fuel A (SVDF A)	\$40.00
Sm Vol, Dual Fuel B (SVDF B)	\$40.00
Lg Vol, Dual Fuel (LVDF)	\$40.00

SECTION 4. ACCOUNT FEE. This fee is an account based fee and not a meter-based fee. In the event that an entity covered by this Ordinance has more than one meter, but only one account, only one fee shall be assessed to that account. In the event any entities covered by this

Ordinance have more than one account, each account shall be subject to the appropriate fee. In the event a question arises as to the proper fee amount for any account, the highest possible fee amount shall apply.

SECTION 5. PAYMENT. Franchise fees are to be collected by the Company and submitted to the City 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.

SECTION 6. RECORD SUPPORT FOR PAYMENT. The Company shall make each payment when due and, if requested by the City, shall provide a statement summarizing how the franchise fee payment was determined, including information showing any adjustments to the total made to account for any non-collectible accounts, refunds or error corrections. The Company shall permit the City, and its representatives, access to the Company's records for the purpose of verifying such statements.

SECTION 7. PAYMENT ADJUSTMENTS. Payment to the City will be adjusted where the Company is unable to collect the franchise fee. This includes non-collectible accounts.

SECTION 8. SURCHARGE. The City of Edina recognizes that the Minnesota Public Utilities Commission may allow the Company to add a surcharge to customer rates of city residents to reimburse the Company for the cost of the fee.

SECTION 9. DISPUTE RESOLUTION. If either party asserts that the other party is in default in the performance of any obligation hereunder, the complaining party shall notify the other party of the default and the desired remedy. The notification shall be written. Representatives of the parties must promptly meet and attempt in good faith to negotiate a resolution of the dispute. If the dispute is not resolved within 30 days of the written notice, the parties may jointly select a mediator to facilitate further discussion. The parties will equally share the fees and expenses of this mediator. If a mediator is not used or if the parties are unable to resolve the dispute within 30 days after first meeting with the selected mediator, either party may commence an action in District Court to interpret and enforce this ordinance or for such other relief permitted by law.

SECTION 10. EFFECTIVE DATE OF FRANCHISE FEE. The effective date of this Ordinance shall be after its publication and ninety (90) days after sending written notice enclosing a copy of this adopted Ordinance to Company by certified mail. Collection of the fee shall commence as provided above.

SECTION 11. RELATION TO FRANCHISE ORDINANCE. This ordinance is enacted in compliance with the Franchise Ordinance and shall be interpreted as such.

SECTION 12. PERMIT FEES. The Company will administer the collection and payment of franchise fees to the City in lieu of permit fees, or other fees that may otherwise be imposed on

the Company in relation to its operations as a public utility in the City so long as the following requirements are met:

- (1) The Company applies for any and all permits, licenses and similar documentation as though this provision did not exist.
- (2) The Company requests the fee to be waived at the time of application.

FIRST READ at a regular meeting of the City Council of the City of Edina on the 6 day of August, 2012, and finally read and adopted and ordered published in summary form as attached hereto at a regular meeting of the City Council of said City on the 16 day of October, 2012.

First Reading: August 6, 2012

Second Reading: October 16, 2012

Published:

Attest:

Debra A. Mangan, City Clerk

James B. Hovland, Mayor

Please publish in the Edina Sun Current on:
Send two Affidavits of Publication.
Bill to Edina City Clerk

ORDINANCE NO. 2012-16

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 EDINA

THE CITY COUNCIL OF THE CITY OF EDINA DOES ORDAIN:

SECTION 1. The City of Edina Municipal Code is hereby amended to include reference to the following Special Ordinance.

Subdivision 1. Purpose. The Edina City Council has determined that it is in the best interest of the City to impose a franchise fee on those public utility companies that provide electric services within the City of Edina.

- (a) Pursuant to City Ordinance No. 1995-4, an ordinance granting a Franchise to Northern States Power Company, a Minnesota corporation, d/b/a Xcel Energy, its successors and assigns, the City has the right to impose a franchise fee on Northern States Power Company, a Minnesota corporation, d/b/a Xcel Energy, its successors and assigns, in an amount and fee design as set forth in Section 9 of the Northern States Power Company Franchise and in the fee schedule attached hereto as Schedule A.

Subdivision 2. Franchise Fee Statement. A franchise fee is hereby imposed on Northern States Power Company, a Minnesota corporation, d/b/a Xcel Energy, its successors and assigns, under its electric franchise in accordance with the schedule attached here to and made a part of this Ordinance, commencing with the Xcel Energy February, 2013 billing month.

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.

Subdivision 3. Payment. The said franchise fee shall be payable to the City in accordance with the terms set forth in Section 9.3 of the Franchise.

Subdivision 4. Surcharge. The City recognizes that the Minnesota Public Utilities Commission allows the utility company to add a surcharge to customer rates to reimburse such utility company for the cost of the fee and that Xcel Energy will surcharge its customers in the City the amount of the fee.

Subdivision 5. Record Support for Payment. Xcel Energy shall make each payment when due and, if required by the City, shall 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.

Subdivision 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.

Subdivision 7. Effective Date of Franchise Fee. 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 Xcel Energy by certified mail. Collection of the fee shall commence as provided above.

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Debra A. Mangan, City Clerk

James B. Hovland, Mayor

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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:

<u>Class</u>	<u>Amount Per Month</u>
Residential	\$ 1.45
Sm C&I, Non-Dem	\$ 2.90
Sm C&I, Demand	\$ 9.00
Large C&I	\$40.00

Franchise fees are to be collected by the Utility at the rate listed below, 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.