



Request for City Council Committee Action from the Departments of City Coordinator and Intergovernmental Relations

Date: Sept. 18, 2012

To: City Council Member Elizabeth Glidden, Chair, Intergovernmental Relations
City Council Vice President Robert Lilligren, Chair, Committee of the Whole

Subject: Report on future franchise negotiations with CenterPoint Energy and Xcel Energy

Recommendation: To assist the city in preparing for negotiations regarding its electric and natural gas franchise agreements with public utility companies, the City Council will establish a utility franchise work group with participation from city staff, the City Council and the Mayor's Office. The City Coordinator will identify city staff participants for the work group and the Mayor will identify representation from his office. The City Council will be represented by Council President Johnson, Council Vice President Lilligren, and the Chair and Vice Chair of the Regulatory Energy and Environment Committee Council Member Glidden and Council Member Gordon.

Among its tasks the work group shall develop a set of policy principles that will guide the city in its franchise discussions; review and consider potential legislative and/or other regulatory changes and consider formal support for these changes on the City's state legislative agenda; and develop a community engagement program.

Department Information

Prepared by: Gene Ranieri, Intergovernmental Relations Director

Approved by: Paul Aasen, City Coordinator

Presenters in Committee: Paul Aasen, City Coordinator & Peter Ginder, Deputy City Attorney

Financial Impact

- No financial impact

SUPPORTING INFORMATION

The City of Minneapolis is in the early stages of preparing for franchise negotiations with Xcel Energy and CenterPoint Energy. In preparation for these negotiations, our legal staff has examined existing state law that governs the scope of the City's authority through a franchise agreement.

City officials believe these negotiations should offer the City the opportunity to infuse our values and goals around energy and sustainability into the agreement, to ensure fair value for a public benefit (use of our right of way), and to advocate on behalf of the people of Minneapolis who would like to have more control over their own energy uses and energy sources. However, without significant changes to state law, Minneapolis will be limited in what may be included in a franchise agreement.

BACKGROUND ON PUBLIC UTILITY FRANCHISE AGREEMENTS

The City of Minneapolis currently has utility franchise agreements with Xcel Energy for electricity and Centerpoint Energy for natural gas. These agreements were signed in the early 1990s and both expire at the end of 2014.

The right-of-way along city streets and alleys are public property. To connect homes and properties to gas, electric, telephone and other services, companies must run distribution lines using the public right-of-way. A community negotiates franchise agreements with utility companies to identify the conditions that a utility company is allowed to use public property to provide service to local residents and businesses.

Utility companies pay a city franchise fees, negotiated through a franchise agreement, in exchange for use of the public right-of-way.

WHAT IS ALLOWED IN A FRANCHISE AGREEMENT

- States vary greatly on how they allow communities to negotiate franchise agreements. Minnesota (via the Minnesota Public Utilities Commission) has the regulatory authority over public utility rates and services and state law specifically limits a city's authority over public utilities. Generally, Minnesota cities' authority is limited to imposing franchise fees and conditions related to the use of the right-of-way. State law does give cities wide latitude to determine the amount, structure and use of the franchise fees.
- The Minnesota Public Utilities Commission allows utility companies to recover franchise fees from ratepayers to the extent that the fees benefit a city. That means Minneapolis residents, businesses and institutions ultimately bear the burden of paying franchise fees.
- Under current state law, communities do not have the authority to directly impose targets for a utility company's performance. For instance, under state law, the City of Minneapolis could not directly impose renewable energy or conservation targets as a part of the franchise agreement because such action would be considered regulating rates and services.

ABOUT THE CURRENT FRANCHISE AGREEMENTS WITH XCEL ENERGY & CENTERPOINT ENERGY

- Both the franchise agreements with Xcel Energy and Centerpoint Energy expire at the end of 2014. Like other utility companies, Xcel and Centerpoint pay the City of Minneapolis franchise fees in exchange for the use of public right-of-way.
- The franchise agreement with Xcel Energy requires that the company pay the City:
 - 5% of its gross revenues for Minneapolis residential service customers (this rate will drop to 4.5% beginning in January 2013);
 - 3% of its gross revenues for Minneapolis commercial/industrial customers; and
 - 5% of its gross revenues for Minneapolis small commercial/industrial customers;

- In 2012, the Xcel franchise fee is estimated to generate \$16 million. These dollars are directed to the City's general fund, which pays for basic services like putting cops and firefighters on the streets, snow plowing and basic street maintenance.
- The Centerpoint franchise agreement includes franchise fees that vary from 3% to 5% of gross revenue, depending on the customer class. Currently the company pays the City:
 - 4.5% of its gross revenues for Minneapolis residential service customers;
 - 3% of its gross revenues for the largest industrial class of Minneapolis commercial/industrial customers; and
 - 5% of its gross revenues for all other classes of Minneapolis customers.
- In 2012, the Centerpoint franchise fee is estimated to generate \$8.1 million and those dollars are also directed to the City's general fund to pay for basic City services.

WHY THE FRANCHISE AGREEMENT MATTERS

Franchise negotiations give the City the opportunity to ensure that the economic benefit that Xcel Energy and Centerpoint Energy receive from use of our public right-of-way is correctly valued and that the City is fairly compensated for that right-of-way access. Those dollars are vitally important to the people of Minneapolis because they help pay for core services.

In addition, one of Minneapolis' key priorities is around encouraging clean, renewable energy sources. Franchise negotiations with Xcel and Centerpoint should offer the City the opportunity to infuse the City's values around sustainable energy, improved air quality and green jobs into that agreement and to motivate these companies to make progress toward the City's adopted energy vision and goals. The franchise negotiations should also provide the opportunity for the City to advocate on behalf of the people of Minneapolis who would like to have more control over their own energy uses and energy sources.

TIMELINE AND NEXT STEPS

- In preparation for Franchise negotiations, the City examined existing state law that governs the scope of a local government's authority through a franchise agreement. State law significantly limits the scope of what the City of Minneapolis can pursue in a franchise agreement. However, given the ongoing changes in energy services and needs, as well as City and state energy and sustainability goals, the City believes that it's time for changes to state law that regulate these utilities. In the coming months, the City Council will review potential state law changes and consider formal support for these changes on the City's state legislative agenda.
- The City Council will consider approval of principles to guide the negotiation process and will develop a community engagement plan for seeking and utilizing public feedback throughout these negotiations. The City also plans to maintain a web page that will contain up-to-date information about the franchise negotiation process.