



Request for City Council Committee Action from the Department of City Coordinator

Date: October 6, 2014

To: Honorable Cam Gordon, Chair, Health, Environment & Community Engagement Committee

Subject: Adopting new franchise agreement and fee ordinances and authorizing approval of Clean Energy Partnerships with Xcel Energy and Centerpoint Energy

Recommendations:

1. Repeal Appendix C of the Minneapolis Code of Ordinances relating to Minnegasco, Inc., Franchise, and approve a new Appendix C relating to Centerpoint Energy utility franchise and fee ordinances;
2. Repeal Appendix D of the Minneapolis Code of Ordinances relating to Northern States Power Company: Charge for Use of Streets, and approve a new Appendix D relating to Xcel Energy utility franchise and fee ordinances;
3. Authorize appropriate staff to execute Clean Energy Partnership MOUs with Xcel Energy and Centerpoint Energy; and
4. Direct Sustainability staff to begin work with utilities to implement the Clean Energy Partnership Board, advisory committee and related activities

Previous Directives:

- July 7, 2014: Received and filed a utility franchise negotiations update.
- February 24, 2014: Received and filed the final Energy Pathways Study; directed staff to pursue Clean Energy Agreements and to pursue all necessary franchise agreements consistent with the Energy Pathway Study's recommendations; and directed staff to recommend changes to the City's 2014 Legislative Agenda consistent with the Energy Pathways Study's recommendations.
- November 18, 2013: the Regulatory Energy and Environment Committee received and filed the recommendations for state legislative issues in 2014 and beyond related to energy systems pathways.
- September 9, 2013: the Regulatory Energy and Environment Committee received and filed the draft Energy Vision which was based on literature review of existing City policies and input from Community Energy Advisory Commission and others.
- August 16, 2013 2013R-353: Adoption of framework for reaching city energy goals including directing City Coordinator and City Attorney's Offices to begin franchise negotiations and to provide an update no later than June 30, 2014.

- June 14, 2013: the City Council directed the City Coordinator to enter into agreement with the Center for Energy and Environment for Energy System Pathways Study at a cost not to exceed \$250,000.
- April 12, 2013: the City Council approved the development of an Energy Systems Pathways Study at a cost not to exceed \$250,000 and to be completed by February 2014.
- October 5, 2012: the City Council approved the formation of a utility franchise working group to assist the city in preparing for negotiations regarding its electric and natural gas franchise agreements with public utility companies. The working group includes representation from city staff, the City Council and the Mayor's Office.

Department Information

Prepared by: Brendon Slotterback, Sustainability Program Coordinator

Approved by: Spencer Cronk, City Coordinator _____

Presenters in Committee: Jay Stroebel, Deputy City Coordinator

Financial Impact: The new franchise fee ordinances would continue current levels of fees paid to the City by the utilities.

Community Impact: None

Background

The City of Minneapolis currently has utility franchise agreements with Xcel Energy for electricity and Centerpoint Energy for natural gas. These agreements, which were signed in the early 1990s, both expire at the end of 2014. These agreements do not currently deal with climate or energy issues, they deal almost exclusively with right of way issues. Recently, the City has increased attention on the impact of the energy system on our climate, air quality and other issues.

At the June 28, 2013 meeting, the City Council adopted the Minneapolis Climate Action Plan. The Plan identified goals and specific strategies to achieve the City's targets for greenhouse gas emissions reduction of 15 percent by 2015 and 30 percent by 2025. The plan includes goals to significantly increase the energy efficiency of the city's building stock and to increase the use of local and renewable energy.

At the August 16, 2013 City Council meeting Resolution 2013R-353 was adopted that directed the City Coordinator's Office and City Attorney's Office to begin negotiations with Xcel and Centerpoint for the electrical and natural gas franchise agreements, and work to complete franchise negotiations as soon as possible.

In February 2014, as part of the Energy Pathways Study findings presentation to the Health Environment and Community Engagement Committee, staff was directed to pursue Clean Energy Agreements with both utilities, negotiated simultaneously with new franchise agreements, consistent with the Study's recommendations.

Related to utility franchise agreements, the Energy Pathways Study recommended:

- 1) The City renew its traditional utility franchise agreements with minor enhancements. Traditionally and by law, franchise agreements have been limited to the subject of payment by utilities for the use of City's rights-of-way for utility infrastructure. Because of statutory limitations in the use of franchise agreements, the study recommended that the scope of existing agreements be extended to cover some reporting, reliability and right-of-way goals cover right of way issues, annual reporting by the utilities on reliability of service, energy usage data that supports policy objectives, and planned distribution investments. However, the study recommended that these agreements should be of a shorter term, and renewal should be made contingent on satisfactory progress being made through additional agreements with the utilities.

2) The City also pursue additional, broader “Clean Energy Agreements” with Xcel and Centerpoint that leverage statewide policies, City regulatory and relationship assets, and utility expertise and funding to advance the City’s energy goals and increase energy efficiency and renewable energy, reliability, and equity of energy services in Minneapolis. The study suggested that these agreements should include the formation of a coordinating entity to set program and policy goals for achievement within the City, and help provide planning, leadership, coordination, promotion, and accountability for meeting these goals.

Negotiations Outcomes

Clean Energy Agreements

The City has successfully negotiated Clean Energy Agreements with both utilities. These agreements establish a first in the nation City-Utility Clean Energy Partnership (CEP) Board that includes decision-makers from the two utilities and the City. These agreements commit the utilities to assist the City in achieving the Climate Action Plan goals and the Energy Vision.

The CEP Board will be made up of two high-level representatives from each utility, two City Council members, the Mayor, and the City Coordinator. The Board will establish biennially a two-year work plan to explore strategies to increase energy efficiency, local and renewable energy development, and advancing the equity of the energy system. The Board will present a report annually to the City Council on progress towards the City’s Energy Vision and Climate Action goals, as well as on the progress towards the two-year work plan.

The Board’s decisions will be informed by feedback from an Energy Vision Advisory Committee (EVAC) made up of representatives from critical Minneapolis communities such as such as business, neighborhoods, environmental justice, technical, and City staff. The charge of the Committee would be to review 2-year work plan and provide feedback and recommendations to the board, review annual performance reports, conduct research and/or provide feedback on special initiatives as requested by the Board, and conduct outreach and promotion of initiatives through member networks as requested by the Board. The Clean Energy Agreement specifies that the membership of EVAC will be determined by the CEP Board.

Staff recommends that both the CEP Board and EVAC meet on a quarterly basis, with both City and utility staff working between meetings to develop the work plan, identify decision points for the board to act on, conduct research, and to implement specific programs as necessary. The Clean Energy Agreements also specify that if the City and utilities agree on certain actions in support of the City’s energy goals that require state regulatory approval, they will work together to seek necessary approvals or regulatory changes.

Franchise Agreements

Both utilities have agreed to franchise agreements with a significantly shorter term than the agreements currently in place. Both agreements include a minimum term of five years and a maximum term of ten years. The City can terminate the agreements at any time after five years with a termination notice twelve months prior to the termination date. The City may choose to extend the agreements twice for five years each with mutual agreement from the utilities. The continuation of the franchise agreements is contingent on good faith efforts by the utilities to honor the obligations of the Clean Energy Agreements.

Importantly for the City, the new agreements maintain the City’s strong control over the right of way, including in relation to construction practices of the utilities. Unlike the existing agreements, the new agreements allow the City to impose lane usage fees on the utilities when they are doing work in the right of way under certain conditions. This is to incentivize the utilities to complete construction work in a timely fashion. The electric utility franchise ensures the Xcel will work cooperatively with the Park Board on issues of tree trimming and removal.

The franchise agreements compel the City and utilities to meet annually to review and address any issues that may have arisen related to the right of way. Unlike the existing agreements, the new franchise agreements commit the utilities to provide information regarding infrastructure investments and capital improvements, as well as customer usage and program participation data as it is allowed under current state regulatory framework. This information is important for the City to assess progress towards its Climate Action goals and develop new strategies in the future.

Summary

The negotiations have been largely successful in implementing the recommendations of the Energy Pathways Study. Key among these were shorter franchise agreements made conditional on progress towards the City's climate and energy goals, and the establishment of a new Clean Energy Partnership that would allow the City and utilities to work collaboratively towards these goals.

The City will continue to use the strategies identified in the Energy Pathways Study and the Climate Action Plan as the basis for the formation of the Clean Energy Partnership work plans. City staff have already begun working collaboratively with utility staff to develop the first work plan for review by the advisory committee and CEP Board in early 2015.