

## Minneapolis Citizens Environmental Advisory Committee: Principles for the New Electric Utility Franchise Agreement (October 14, 2012)

### *What is the franchise?*

Xcel Energy, the electric utility for the City of Minneapolis, uses city property to run its electric distribution lines that connect to each home and business in the city. The rights-of-way on city streets and alleys are public property that Xcel uses to connect us all to the grid. The city sets standards, based on what is in the public interest, on how the rights-of-way (ROW) can be used by entities other than the city. The franchise agreement identifies the conditions under which Xcel energy is allowed to use city property to provide electric service to Minneapolis residents and businesses.

### *What is in the current franchise agreement?*

The franchise agreement is a five page appendix to Minneapolis ordinances, describing what Xcel can routinely do on city ROW in exchange for paying/collecting a franchise fee. Most of the ordinance is directed at the provisions of the fee. The franchise also addresses operational issues for both city and utility, including vacation of ROW and tree trimming.

### *What does Xcel pay for use of city ROW?*

Xcel pays a fee based on a percentage of gross revenues from Minneapolis customers (as described in the text box from the 2012 Financial Overview). However, the fee is collected from residents and business as a separate line item on each customer's electric bill. Thus, Xcel is not paying the fee so much as collecting the fee from city residents and businesses.

The Xcel franchise fee contributed \$16 million, slightly over 1% of the City's total revenue, in 2012.

### *Why does the franchise matter?*

The franchise agreement defines how the city and Xcel function as partners in providing electric service to Minneapolis residents and businesses. But the current franchise language is rooted in 1950s era presumptions about how electric utility service works. The partnership between Xcel and the city is fundamentally different than in the 1950s, and must address new technologies, new power systems, and new markets.

- Today and into the future the utility and the city will rely increasingly on energy efficiency as a resource, demand management techniques to manage loads and more efficiently use existing distribution systems investment, and non-utility-owned distributed generation that is located within the city limits.
- Local energy resources (solar, biomass, industrial waste heat) are increasingly valuable and offer economic development benefits if the energy system is structured to accommodate harvesting these resources.
- Electric services provided in the city should be consistent with city policies on improving sustainability, reducing GHG emissions, and limiting other environmental and economic risks.
- State and federal policies on electric generation, climate change and environmental risk mitigation, and consumer protection have and will continue to change the regional and national electricity markets.

### *Principles to guide the new franchise agreement*

In order to ensure consistency with city and state policies on reducing GHG emissions, improving environmental and human health, and capturing market opportunities for the development of local energy resources, CEAC recommends that the City use the following principles in negotiating its partnership role with the electric utility in providing electric energy services via the franchise agreement:

“In consideration of such franchise fee, the Company may, during said franchise period, construct, install, enlarge, operate, repair and maintain in, on, over, under and across the streets, alleys and public grounds of the City, an electric distribution system and electric transmission lines, including all poles, pole lines, towers, structures, wires, cables, conduits, lamps, transformers, and other fixtures and appurtenances, usually, conveniently or necessarily used in connection therewith, for the purpose of transmitting electricity into, from and through the City. . . “

*Source: Franchise, Ordinances of the City of Minneapolis*

“The franchise agreement with Xcel Energy for electricity requires the company to pay the City 5% of its gross revenues for Minneapolis residential service customers, 3% of gross revenues for Minneapolis commercial/industrial customers, and 5% of gross revenues for Minneapolis small commercial/industrial customers. The residential rate will drop to 4.5% of gross revenues beginning in January 2013. This franchise agreement expires on Dec.

1. **The new franchise agreement must address the issues of the electric system of the future, not the historic system.**
2. **The new franchise agreement needs to support City energy and sustainability policies (including environment, equity and economy).**
3. **The new franchise agreement needs to support State energy policy.**
4. **The new franchise agreement must acknowledge the economic value of use of City property.**
5. **The new franchise must recognize and be consistent with the State's regulatory authority over utilities.**

These principles are described in more detail below.

1. **The new franchise agreement must address the issues of the electric system of the future, not the historic system.** The existing franchise language accommodates the traditional electric utility system, where a distant centralized plant delivers power to city residents and businesses through a distribution network that uses city rights-of-way. The electric utility of the future integrates centralized plant with distributed and decentralized generation, with neighborhood, business, and homeowner scale generation, and with demand response and energy storage. The distribution system is no longer a one-way street. City rights-of-way and the utility distribution system connect local generation with local load for the mutual benefit of the utility and city residents and businesses.
2. **The new franchise agreement needs to support City energy and sustainability policies (including environment, equity and economy).** Minneapolis has adopted a vision of a sustainable energy future, emphasizing energy efficiency in buildings, development of the City's renewable energy resources, adoption of low and no carbon technologies, and using energy in ways that minimize human and environmental health risk. The City's partnership with the electric utility can and should be structured to make deliberate progress toward the city's adopted energy vision and goals.<sup>1</sup>
3. **The new franchise agreement needs to support State energy policy.** The State of Minnesota has unambiguous, long-term goals for reducing carbon emissions, continually improving energy productivity, and increasing utilization of renewable energy.<sup>2</sup> These goals include explicit standards for electric utilities, making the utilities partners in achieving the state's goals. The franchise agreement should shape the utility's long-term, infrastructural investments and ultimately enable the ability of the State to meet its energy goals.
4. **The new franchise agreement must acknowledge the economic value of use of City property.** The City and the utility are partners in the provision of reliable electric utility services to City residents and businesses. The utility gains significant economic value from its use of City property, enabling it to earn a return on investment. As city ROW have a limited capacity to carry electric, gas, and information system networks, the City should be fairly compensated for use of property owned by City taxpayers and managed on behalf of City residents and businesses.
5. **The new franchise must recognize and be consistent with the State's regulatory authority over utilities.** The State of Minnesota has the authority to ensure that the utility provides reliable service at reasonable rates, and that the utility fulfills its legal obligation to serve that accompanies its State-granted service territory franchise. The franchise agreement can and should be structured to address the issues that relate to City policy, City property, and the City's partnership in providing sustainable energy over the long-term to residents and businesses without conflicting with state regulatory authority.

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<sup>1</sup> Relevant adopted City goals include: (1) Reducing citywide GHG emissions 15% by 2015 and 30% by 2025, compared to a 2006 baseline; (2) Reducing municipal operations' GHG emissions by 1.5% annually; (3) Installing 1 MW of municipal renewable energy generation by 2015; and (4) Permitting 70 renewable energy projects annually by 2015. Minneapolis Sustainability Indicators and Numerical Targets (City Council Approved January 27, 2012).

<sup>2</sup> Minnesota's Next Generation Energy Act, enacted in 2007, empowers state agencies to require utilities to take certain steps to help achieve the numeric goals set forth in the Act.

### *Possible outcomes of the new franchise agreement*

CEAC believes that these principles can and should lead to a franchise agreement that helps achieve specific outcomes, as noted below. Some of these outcomes are specific to the franchise itself, and thus might be explicitly included in the franchise agreement language. Other outcomes noted below can be enabled by removing barriers or creating new structures in the franchise agreement, but also require action outside the franchise.

The outcomes we have identified include:

- **Shorter contract time frame.** The franchise granted to the electric utility should have a shorter tenure than the historic 20-year time period (*e.g.*, five years), or should allow periodic affirmation or other changes based on changes in markets, state or federal regulation, or environmental consequences.
- **Create seamless energy reporting systems.** Ensure that city departments and business get the kind of information they need from the electric utility to track energy conservation efforts, GHG emissions, and other energy-related sustainability initiatives.
- **Enable on-bill financing.** Take advantage of partnering opportunities with the city to link the financing of residential, commercial, and industrial efficiency investments, secured by energy savings, to utility bills.
- **Increase cost-effective investment in public sector efficiency.** The franchise can become a mechanism for the city to fund cost-effective efficiency improvements (and reduce pressure on property taxes) that are not in competition with other spending choices in the city's budget.
- **Remove barriers to distributed energy and neighborhood scale energy.** Local energy resources sometimes require loads to be consolidated or aggregated in order for the resource to be efficiently harvested. Combined heat and power (CHP) facilities and community solar systems, for instance, are more effective when serving multiple and diverse loads that might be on different properties. Greater access of the City and potential investors to information about substation locations, capacity, and age in addition to limitations or opportunities posed by distribution circuits will remove some barriers to distributed and neighborhood scale energy investments.
- **Recognize system value of local solar energy resources.** Creating a solar industry that is ultimately self-sustaining and allows property owners to capture their solar resource requires a fair and predictable process for financing, installation, interconnection, and operation.
- **Reduce distribution network risks.** Networks and subnetworks in the downtown area should be managed for the benefit of achieving renewable energy goals, resolving real risks and resulting in a predictable process for developing solar resources.
- **Improve load shedding opportunities.** Create new opportunities for businesses to economically shed load at times of peak load.
- **Manage utility distribution systems consistently with urban forest goals.** Create clear policies for utility line placement and tree trimming that enhance and sustain the city's urban forest and minimize impacts to private property.
- **Increase the rate of undergrounding of transmission and distribution lines.** No system is currently in place to plan for and meet City goals on undergrounding the T&D system. Undergrounding lines requires coordinated planning on investment being made by both the utility and the City within City rights-of-way.
- **Limit the fee's regressive nature.** The franchise fee behaves as a regressive tax, falling more heavily on low-income (low-use) households and small businesses than on larger energy users. The City should pursue taxation practices consistent with its commitment to progressive taxation.
- **Set appropriate economic incentives.** The franchise fee is levied on the utility's revenue from each customer, including fixed charges and regulatory fees. Tying the fee to actual usage or demand charges would increase the economic incentive for conservation and efficiency. Eliminating the fee on renewable energy use would create an incentive for private investment in Minneapolis housing stock and business property.
- **Create incentives for sustainable development.** The utility and city have a joint interest in ensuring that development and redevelopment creates sustainable housing and transportation infrastructure. Distribution systems should accommodate electric vehicles, net-zero energy buildings, and mixed-use land development and redevelopment.
- **Minimize energy price risk and maximize opportunities for consumer action.** Low-income households are most at risk for energy price shocks, and remaining customers are at risk for uncollectable charges. Aggressive energy efficiency and smart grid investments provide the tools for households to manage energy costs within their household budgets.

- **Create a virtual net metering system.** The utility and the city are partners in delivering energy over City rights-of-way, and in enhancing opportunities for renewable energy. City residents and businesses should be able to share electricity output from a common renewable energy facility, delivered over City right-of-way, without sharing the same meter.
- **Create a franchise model for other cities.** The franchise should not overlap or conflict with PUC jurisdiction but should enable the PUC to better implement state goals on affordability, reliability, rate fairness, and environmental responsibility that other cities can draw from.