

CITY OF ST. AUGUSTA
COUNTY OF STEARNS
STATE OF MINNESOTA

ORDINANCE #2010--- 06

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 ST. AUGUSTA, MINNESOTA

THE CITY OF ST. AUGUSTA DOES ORDAIN:

Section 1. Gas Franchise Fee

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

- (1) City. The City of St. Augusta, County of Stearns, State of Minnesota.
- (2) Company. Northern States Power Company ("Xcel Energy"), its successors and assigns.
- (3) Franchise Agreement. The franchise agreement between the City and Company pursuant to City Ordinance #2010-- 05.
- (4) Gross Revenue. All sums excluding any surcharge or similar addition to the Company's charges to customers for the purpose of reimbursing the Company for the cost resulting from the franchise fee, received by the Company from the sale of gas to its retail customers within the corporate limits of the City.
- (5) Notice. "Notice" means a writing served by any party or parties on any other party or parties. Notice to Company shall be mailed to Xcel Energy Office of General Counsel at 414 Nicollet Mall, Minneapolis MN 55402. Notice to City shall be mailed to the City Clerk at 1914 250th Street, St. Augusta, MN 56301.

(b) *Purpose.* The St. Augusta 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.

(c) *Franchise Fee Statement and Schedule.* A franchise fee is hereby imposed on Company commencing with the first full billing month after the effective date of this ordinance, and in accordance with the following fee schedule:

<u>Customer Classification</u>	<u>Amount per Account per Month (\$)</u>
Residential	\$3 per month
Commercial Firm Non-Demand	\$5 per month

Commercial Firm Demand	\$5 per month
Small Interruptible	\$5 per month
Medium and Large Interruptible	\$5 per month
Firm Transportation	\$5 per month
Interruptible Transportation	\$5 per month

(d) *Account Fee.* 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, 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 gas 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.

(e) *Collection and Payment of the Fee.* Franchise fees are to be collected by the Company and submitted to the City in accordance with the terms set forth in Section 7 of the Franchise Agreement.

(f) *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.

(g) *Payment Adjustments.* Payment to the City will be adjusted to account for uncollectibles, refunds, correction of erroneous billings or other error correction.

(h) *Surcharge.* The City recognizes that the Minnesota Public Utilities Commission allows the Company to add a surcharge to customer rates to reimburse the Company for the cost of implementing and administering the fee.

(i) *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.

(j) *Effective Date of Franchise Fee.* The effective date of this Ordinance shall be after its publication and sixty (60) 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.

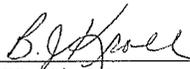
(k) *Sunset Clause.* This Ordinance shall automatically sunset upon expiration of the Franchise Agreement.

(l) *Periodic Review.* The City Council shall review this ordinance every two years in whatever manner the City Council then determines to be appropriate, including, but not limited to, review by the City Council in either a work session or a regular session. Failure to review this ordinance shall not in any way invalidate or limit it.

(m) *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.

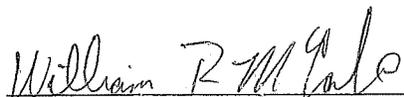
Section 2: Effective Date. This ordinance takes effect as provided herein.

PASSED AND ADOPTED BY THE CITY COUNCIL THIS 2 DAY OF MARCH 2010.



B.J. Kroll, Mayor

ATTEST:



William R. McCabe, City Clerk