

ORDINANCE 2020-09

An ordinance establishing Franchise Fee
on Natural Gas companies
operating in the City of Fairmont, MN.

Be it ordained by the City of Fairmont, MN, as follows:

The City of Fairmont MN, (hereinafter referred to as “City”) hereby establishes a franchise fee on every natural gas company, and every other person, firm or corporation, their successors and assigns, owning, operating, controlling, leasing or managing any natural gas plant or system, generating, manufacturing, selling, distributing or transporting electricity/natural gas, (hereinafter referred to as “Energy Providers”). Energy Providers shall collect from their customers, but not from the City of Fairmont, located within the corporate limits of the City of Fairmont, and pay to the City an amount based on the following fee schedule, after adjustment for the net write-off of uncollectible accounts and corrections of bills theretofore rendered:

CUSTOMER CLASS	MONTHLY METER CHARGE	THERM RATE CHARGE
T-Power Generating Unit- Class 1 and Class 2	\$2.50/Month/Meter	\$0.00375 Per Therm Used
All Other Classes	\$2.50/Month/Meter	\$0.015 Per Therm Used

The amount paid by Energy Providers shall be in lieu of, and Energy Providers shall be exempt from, all other occupation, license, excise or right-of-way permit fees or taxes which the City may impose for the rights and privileges herein granted or for the privilege of doing business within the City, and in the event any such fee, charge, license, tax or assessment shall be imposed by the City, the payment to be made in accordance with the provisions of this section shall be reduced in an amount equal to the annual burden of such fee, charge, license, tax or assessment imposed upon the Energy Providers. Ad valorem property taxes imposed generally upon all real and personal property within the City shall not be deemed to affect the obligation of the Energy Providers under this section.

Any consideration hereunder shall be reported and paid to the City by Energy Providers on a Quarterly basis. Such payment shall be made not more than thirty (30) days following the close of the period for which payment is due. Initial and final payments shall be prorated for the portion of the period at the beginning and end of the term of this Ordinance.

The franchise fee shall be based on the amount collected by Energy Providers during complete billing months during the period for which payment is to be made by imposing a surcharge equal to the designated franchise fee for the applicable customer classification in all customer billings for gas service in each class. The time and manner of collecting the franchise fee is subject to the approval of the Minnesota Public Utilities Commission. No franchise fee shall be payable by Energy Providers if Energy Providers are legally unable to first collect an amount equal to the franchise fee from their customers in each applicable class of customers by imposing a surcharge in Energy Providers’ applicable rates for gas service. The Minnesota Public Utilities Commission requires Energy Providers to provide the Commission with sixty (60) days notice,

including the filing of the franchise fee ordinance or other operative document, prior to implementing a franchise fee.

The city recognizes that the Minnesota Public Utilities Commission may allow the utility company to add a surcharge to customer rates of city residents to reimburse such utility company for the cost of the fee.

Energy Providers shall list the local franchise fee collected from customers as a separate item on bills for utility service issued to customers. If at any time the Minnesota Public Utilities Commission, or other authority having proper jurisdiction, prohibits such recovery, then Energy Providers will no longer be obligated to collect and pay the franchise fee herein contemplated. In addition, an Energy Provider may discount or reduce the franchise fee payable for natural gas delivered to a specific customer of an Energy Provider when it is required to reduce the franchise fee to retain the business of that customer. Modification or reduction of the franchise fee should occur if the franchise fee would cause the customer to cease purchase or transportation deliveries of natural gas from the Energy Provider by installing equipment to access natural gas supply not subject to the City's franchise fee.

The City shall provide copies of annexation ordinances to Energy Providers on a timely basis to ensure appropriate franchise fee collection from customers within the corporate limits of the City.

The City shall have access to and the right to examine during normal business hours, those of Energy Providers' books, receipts, files, records and documents that are necessary to verify the correctness of payments due hereunder. If it is determined that a mistake was made in the payment of any franchise fee required hereunder, such mistake shall be corrected promptly upon discovery, such that any under-payment by Energy Providers shall be paid within 30 days of the recalculation and any over-payment by Energy Providers shall be discounted from the next payment(s) due.

This agreement shall be in force and effect from and after passage of this Ordinance, its acceptance by Energy Providers, and its publication as required by law. The City, by Council Resolution, may revoke this agreement if Energy Providers do not file a written acceptance with the City within ninety (90) days after publication.

Motion by: Council Member Bruce Peters
Seconded by: Council Member Tom Hawkins
All in Favor: Council Members Randy Lubenow, Bruce Peters, Ruch Cyphers and Tom
Hawkins
Opposed: Council Member Wayne Hasek
Abstained: None
Absent: None

PASSED, APPROVED AND ADOPTED this 10th day of August 2020.

/s/ Deborah J. Foster
Deborah J. Foster, Mayor

ATTEST:

/s/ Patricia J. Monsen
Patricia J. Monsen, City Clerk