

ORDINANCE NO. Appendix K - 2

AN ORDINANCE IMPLEMENTING AN ELECTRIC SERVICE FRANCHISE FEE ON NORTHERN STATES POWER COMPANY, A MINNESOTA CORPORATION, D/B/A XCEL ENERGY, ITS SUCCESSORS AND ASSIGNS, FOR PROVIDING ELECTRIC SERVICE WITHIN THE CITY OF HAYFIELD.

THE CITY COUNCIL OF THE CITY OF HAYFIELD DOES ORDAIN:

SECTION 1. The City of Hayfield's Municipal Code is hereby amended to include reference to the following Special Ordinance.

Subdivision 1. Purpose. The Hayfield 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 electric services within the City of Hayfield.

- (a) Pursuant to City Ordinance 4-18-11A, a Franchise Agreement between the City of Hayfield and Northern States Power Company, a Minnesota corporation, d/b/a Xcel Energy, its successors and assigns, the City has the right to impose a franchise fee on Northern States Power Company, a Minnesota corporation, d/b/a Xcel Energy, its successors and assigns, in an amount and fee design as set forth in the fee schedule attached hereto as Schedule A.

Subdivision 2. Terms. A franchise fee is hereby imposed on Northern States Power Company, a Minnesota Corporation, d/b/a Xcel Energy, its successors and assigns, under its electric franchise in accordance with the schedule attached here to and made a part of this Ordinance, commencing with the Xcel Energy January, 2015 billing month.

The fee shall be in lieu of any permit or other fees being imposed on Company. 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 at a single premise, 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 electric 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 energy 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.

Subdivision 3. Payment. The franchise fee shall be payable quarterly and shall be based on the amount collected by Company 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 electric service in each class. The payment shall be due the last business day of the month following the period for which the payment is made. The franchise fee may be changed by ordinance from time to time; however, each change shall meet the same notice requirements and not occur more often than annually and no change shall require a collection from any customer for electric service in excess of the amounts specifically permitted by the attached fee schedule. The time and manner of collecting the franchise fee may be subject to the approval of the Commission. No franchise fee shall be payable by Company if Company is legally unable to first collect an amount equal to the franchise fee from its customers in each

applicable class of customers by imposing a surcharge in Company's applicable rates for electric service. Company may pay the City the fee based upon the surcharge billed subject to subsequent reductions to account for uncollectibles, refunds and correction of erroneous billings. Company agrees to make its records available for inspection by the City at reasonable times provided that the City and its designated representative agree in writing not to disclose any information which would indicate the amount paid by any identifiable customer or customers or any other information regarding identified customers.

Subdivision 4. Surcharge. The City recognizes that the Minnesota Public Utilities Commission may allow Company to add a surcharge to customer rates of city residents to reimburse Company for the cost of the fee.

Subdivision 5. Equivalent Fee Requirement. This ordinance shall not be effective against Company unless it lawfully imposes and the City monthly or more often collects a fee or tax of the same or greater equivalent amount on the receipts from sales of energy within the City by any other energy supplier, provided that, as to such a supplier, the City has the authority to require a franchise fee or to impose a tax. The "same or greater equivalent amount" shall be measured, if practicable, by comparing amounts collected as a franchise fee from each similar customer, or by comparing, as to similar customers the percentage of the annual bill represented by the amount collected for franchise fee purposes. The franchise fee or tax shall be applicable to energy sales for any energy use related to heating, cooling or lighting, or to run machinery and appliances, but shall not apply to energy sales for the purpose of providing fuel for vehicles. If the Company specifically consents in writing to a franchise or separate ordinance collecting or failing to collect a fee from another energy supplier in contravention of this section, the foregoing conditions will be waived to the extent of such written consent.

Subdivision 6. Enforcement. Any dispute, including enforcement of a default regarding this ordinance will be resolved in accordance with Section 2.5 of the Franchise Agreement.

Subdivision 7. Effective Date of Franchise Fee. The effective date of this Ordinance shall be after its publication and ninety (90) days after the sending of written notice enclosing a copy of this adopted Ordinance to Xcel Energy by certified mail. Collection of the fee shall commence as provided above.

Passed and approved: October 20, 2014.

Mayor

Attest:

City Clerk

SEAL

SCHEDULE A

Franchise Fee Rates:

Electric Utility

The franchise fee shall be in an amount determined by applying the following schedule per customer premise/per month based on metered service to retail customers within the City:

<u>Class</u>	<u>Amount per month</u>
Residential	\$2.00
Small C & I – Non-Demand	\$2.00
Small C & I – Demand	\$2.00
Large C & I	\$2.00
Public Street Lighting	\$2.00
Municipal Pumping – Non-Demand	\$2.00
Municipal Pumping – Demand	\$2.00

Franchise fees are to be collected by the Utility at the rate listed below, and submitted to the City on a quarterly basis as follows:

- January – March collections due by April 30.
- April – June collections due by July 31.
- July – September collections due by October 31.
- October – December collections due by January 31.