

CITY COUNCIL STUDY SESSION

Introduction of Puget Sound Energy (PSE) Franchise Ordinance and related Memoranda of Understanding (MOUs) and report on community interest group outreach.

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DIRECTION NEEDED FROM COUNCIL**DIRECTION**

Staff is seeking direction to return on October 1 for Council approval of the Franchise Ordinance and authorize the City Manager to execute the related MOU.

RECOMMENDATION

Direct staff to return on October 1 with the Ordinance for Council approval granting PSE an electrical services franchise and authorizing the City Manager to execute related MOUs for records of facilities within the franchise area, discontinued poles, vegetation management procedure; and, authorize the City Manager to execute a performance and reliability reporting MOU; and publish said Ordinance as required.

BACKGROUND & ANALYSIS

On April 16, Council received an initial staff briefing including state law for acting on a proposed Franchise Ordinance; previous code amendments setting 10-year term provisions; the status for PSE's application and negotiations; the previous agreement expiration date and continuation provisions; and the application being specific to the City's Right of Way. Council provided staff with initial direction to:

- Bring forward the Franchise Ordinance and related MOUs collectively for introduction and action; and,
- Engage with interested community group representatives to gather input and feedback before formal action is taken.

At the July 16 Study Session, Council received information regarding the previous Franchise Ordinance changes in code regarding renewal periods, regulatory oversight roles of the Washington Utilities and

Transportation Commission (WUTC) and City, and a summary of the operating provisions related to MOUs associated with the PSE Franchise Agreement. Staff recommended the addition of a new MOU addressing removal of discontinued poles. The existing Relocation MOU went into effect in 2012 and was the only MOU that did not have recommended changes. Staff also introduced the (renewal) Ordinance and four MOUs.

At the July 16 Study Session, Council requested minor modifications to the Ordinance and MOUs directing staff to:

- Review termination and carryover provisions across the documents;
- Explore timeline and publication of materials for future Reliability Workshops;
- Evaluate Load Forecasting and Reporting.

Staff was to then return to Study Session with an introduction of the new Franchise Ordinance references and revised MOUs and seek direction to return for subsequent action to adopt the new Franchise Ordinance in accordance with RCW 35A.47.040.

Staff has accomplished the steps necessary to return to Study Session and are now providing Council with the proposed revisions, modifications and additions to the Franchise Ordinance and related MOUs (attached). The following is a summary of the recommend changes:

Franchise Ordinance

Overall there are few changes to the Franchise Ordinance. As presented on July 16, the recommended changes include clarification of pavement cut and restoration addressing loss of pavement integrity with restoration provisions at no cost to the City of Bellevue (Section 5); the City's attachment of its municipal facilities to PSE poles; whereas, commercial uses will still require compensation in accordance with applicable tariff (Section 10); revision to the Indemnification Provisions clarifying provisions in the tendering of claims and work inspected by the City (Section 14); and, adding applicable reference and provisions for the proposed Discontinued Pole MOU (Section 25).

Section 2.3 is now revised in response to a review of the termination and carryover provisions.

Related MOU

As presented on July 16, recommended changes to MOUs provide consistency through recitals, dispute resolution, noticing, termination and amendments. The following provide specifics to each MOU:

Vegetation Management Procedures

- Clarity is added regarding pruning standards to address tree crown management; compliance with Critical Areas or Shorelines permitting; and the removal and replacement of City owned/maintained trees further advancing the City's Land Use and Environmental Comprehensive Plan policies to retain tree canopy.

- Added provisions for the removal and replacement of trees to promote the right tree in the right location.
- Added provision to receive replacement costs from PSE if a tree is removed and not replaced.

Discontinued Poles

- Provisions reflect PSE's regulatory requirements in accordance with state law and administrative codes, Federal Energy Regulatory Commission (FERC) and WUTC. This new MOU captures the City's interests as represented in Comprehensive Plan policies in maintaining the character and appearance within neighborhoods by removing unnecessary poles.
- Sets forth the process, provisions, and penalties for removal of discontinued poles, including coordination meetings every 180 days to review the overall inventory. Penalties are assessed when all third-party attachments are removed as updated in the National Joint Utility Notification System (NJUNS), and PSE does not remove the pole within 90 calendar days following. Penalties accrue at \$100 per pole per month until removal is completed.

Record of Facilities

- This MOU contains minor changes addressing record accessibility relative to safety and securing of critical infrastructure.

Relocation Procedures

- This 2012 MOU remains in effect, as executed by multiple parties. No changes.

Within each new or revised MOU, term provisions are now revised in response to a review of the termination and carryover provisions within the MOUs.

A separate MOU for Electrical System Performance and Reliability Reporting addresses Council direction and includes:

- The annual reliability workshop's *scheduling details* are revised to clarify purpose, timing, information availability and participation roles.
- City staff and PSE will continue working to improve clarity and accessibility to *project plans and locations*. In updating their website PSE will evaluate their ability to provide plan information while also maintaining overall security for critical infrastructure.
- The workshop's interest in reliability is about what is happening today. Separately, as a key stakeholder in how Puget Sound Energy plans their system, the City works with PSE based on their state and federal regulatory framework for long-range planning and *forecasting*.
 - The City will also instruct its longtime outside consultant, Exponent, to compare PSE forecast outcomes for reporting periods with actuals as reported by PSE in its regulatory filings. With Council direction under the Electric Reliability Implementation framework, the City could follow up with PSE if we saw a concerning trend.
 - The WUTC identified in its 2017 Integrated Resource Plan acknowledgement letter an issue regarding forecasting in PSE long-range plans *and its effect* on conservation (IRP

Acknowledgement Letter p. 10). The City could continue to monitor, through its IRP, participation on how PSE responds to such WUTC-identified concerns.

Community Interest Group Outreach

Staff met with community interest groups on April 27 and July 10. Staff were unable to confirm a meeting in advance of this evening, after having offered two potential dates and concluding negotiations with PSE.

Some of the expressed items of interest from these meetings are addressed above in the MOU revision section. Community interest group outreach identified other consistent themes that are more effectively addressed through broader policy and legislative efforts directed by Council. These themes include new technology implementation, regulatory improvements, and vision for electrical infrastructure. There is Comprehensive Plan policy support for continued development of efficient energy and renewable resources. However, these are outside of City authority under its grant of a franchise agreement and thus would constitute a separate work program.

POLICY & FISCAL IMPACTS

Policy Impact

The Franchise Ordinance and related MOUs are in alignment with current policies and regulatory authority. With the adoption of the Growth Management Act, both the WUTC and the City of Bellevue have jurisdiction over PSE's electrical utility activities within the City limits:

1. The WUTC has authority to regulate rates, services, facilities, and practices of electrical utilities (RCW 80.01.040) and;
2. The City of Bellevue has franchise authority over use of public streets and public right of way for transmission and distribution of electrical energy (RCW 35A.47.040).

Bellevue City Code Chapter 14.20 contains the terms and conditions for granting franchises with utility providers (such as PSE) using public streets and right of way. Franchise agreements are necessary to protect the City's rights to manage and control the rights of way.

The Comprehensive Plan has policies to influence the exercise of the Franchise Agreement and associate MOUs:

Land Use Element

LU-2: Retain the City's park-like character through the preservation and enhancement of parks, open space, and tree canopy throughout the City.

LU-13: Support neighborhood efforts to maintain and enhance their character and appearance.

Utilities Element

UT-20: Coordinate emergency preparedness and response with local and regional utility partners.

UT-18 and 48: Coordinate with other jurisdictions and governmental entities in the planning and implementation of multi-jurisdictional utility facility additions and improvements.

UT-59: When implementing street projects, determine whether the relocation of distribution facilities underground is required. If so, determine the manner of payment: tariff schedule, capital improvement program, or the formation of a local improvement district.

UT-62: Support neighborhood efforts to underground existing electrical transmission and distribution lines.

UT-63: Support neighborhood efforts to form financial arrangements, such as local improvement districts, to cover the non-utility share of project costs for undergrounding electrical lines.

UT-66: Encourage directional pruning of trees and phased replacement of improperly located vegetation in the right-of-way. Perform pruning and trimming of trees in an environmentally sensitive and aesthetically acceptable manner and according to professional arboricultural specifications and standards.

UT-75: Prior to seeking City approval for facilities, encourage utilities service providers to solicit community input on the siting of proposed facilities which may have a significant adverse impact on the surrounding community.

UT-78: Support federal or state actions that would preserve local government authority to regulate time, manner, and place of construction in the right-of-way.

Environmental Element

EN-4: Promote and invest in energy efficiency and renewable energy resources as an alternative to non-renewable resources.

EN-13: Minimize the loss of tree canopy and natural areas due to transportation and infrastructure projects and mitigate for losses, where impacts are unavoidable.

Fiscal Impact:

There are no financial impacts in executing the Franchise Ordinance and related MOUs.

Relative to Council discussion surrounding undergrounding overhead electrical distribution facilities as part of Capital Investment Program (CIP) street projects (scope, budget, and cost are presented as part of the CIP budget process), there are no current CIP projects that budgeted for undergrounding distribution facilities. As represented by Council, undergrounding has additional fiscal impacts upon residents.

The Franchise Agreement does not govern undergrounding of electrical distribution facilities, but the City and PSE look for opportunities to identify projects planned for undergrounding. In some projects, PSE and other non-city managed utilities have installed empty conduit and facilities at their cost, or at the cost of a third party in accordance with tariff schedules, in anticipation of compatibility with future undergrounding. Since 2004, PSE has installed eleven underground electrical services, with two additional projects identified for 2019 including Bridle Trails Circuit 22.

OPTIONS

1. Direct staff to return on October 1 with the Ordinance for Council approval granting PSE an Electrical Services Franchise and authorizing the City Manager to execute related MOU's for Records of Facilities within the Franchise Area, Discontinued Poles, and Vegetation Management Procedure, and authorize the City Manager to execute a Performance and Reliability Reporting MOU; and publish said Ordinance as required.
2. Council to provide alternate direction to staff.

ATTACHMENTS & AVAILABLE DOCUMENTS

- A. Memorandum of Understanding/Vegetation Management Practices
- B. Memorandum of Understanding/Discontinued Poles
- C. Memorandum of Understanding/Records of Facilities within the Franchise Area
- D. Memorandum of Understanding/2012 Utilities Relocation
- E. Memorandum of Understanding/Electrical System Performance and Reliability Reporting
- F. Proposed Ordinance (Electrical Franchise Ordinance)

Available in Council Library:

Franchise Application Transmittal Letter

Franchise Agreement Application (Electrical Services) PSE