

April 16, 2018

CITY COUNCIL STUDY SESSION ITEM

SUBJECT

Puget Sound Energy Electrical Franchise

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POLICY ISSUES

State Law: State Law grants two public entities shared jurisdiction over Puget Sound Energy (PSE) within the City of Bellevue: (1) the Washington Utilities and Transportation Commission (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 other public rights of way for transmission and distribution of electrical energy (RCW 35A.47.040).

Bellevue City Code: BCC Chapter 14:20 contains the basic terms and conditions for granting franchises with utilities (such as PSE) using the public streets and other public rights of way. Franchise agreements are necessary to protect the City's rights to manage and control the rights of way.

Current Franchise Agreement: The current PSE franchise agreement was adopted May 14, 2003 (Ordinance 5443) and Council voted to extend May 13, 2013 for five years. A new franchise agreement is needed to replace the existing one.

DIRECTION NEEDED FROM COUNCIL

ACTION

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DIRECTION

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INFORMATION ONLY

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Staff seeks direction to return to Council with a franchise ordinance for approval at the May 7 Council Regular Session.

BACKGROUND/ANALYSIS

The current electrical franchise was adopted May 14, 2003 (Ordinance No. 5443), and was in place for 10 years until May 13, 2013. Council voted at that time to extend this electrical franchise for a period of 5 years until May 13, 2018. PSE has requested that the City enter into a new franchise agreement. The current electrical franchise agreement (from 2003) was developed through extensive negotiations with

PSE. Modifications to the franchise agreement together with four memoranda of understanding (MOU) helped define coordination of PSE projects and City activities within the public rights of way.

Franchise Provisions:

The existing electric franchise agreement with PSE includes the following elements:

1. **Permitting/Restoration:**
The franchise ensures the City's ability to require permits, through which the City can influence the location of facilities (e.g. where cables, vaults, etc. can be installed with the public right-of-way). When facilities are installed in the public right-of-way, permitting ensures the City's infrastructure (roads, sidewalks, etc.) are adequately restored. Further, permitting helps ensure PSE's facilities are not installed in the right-of-way in conflict with City utilities.
2. **Relocation:**
As an occupant of the public right-of-way, PSE is subject to relocation if necessitated by the installation of public infrastructure. The Franchise agreement lays out the conditions that trigger relocation of facilities, and when PSE is responsible for paying for those relocations. The procedures for relocation (notification, conditions, etc.) are detailed in one of the four MOU associated with the Franchise.
3. **Undergrounding:**
In some situations, it may be desirable (from the public's perspective and/or PSE's) for the PSE facilities to be undergrounded. The franchise agreement defines who, within the regulations set up by the WUTC, pays for this undergrounding. As a result of this agreement, incorporating the City's Comprehensive Plan policy to have all new facilities (distribution and service lines) undergrounded, the City has been successfully preventing the addition of new aerial power lines in public right-of-way within City limits.
4. **Shared Excavations:**
The Franchise also helps protect City assets and minimize impact on the public by requiring PSE and other franchised utility companies to coordinate their plans for new facilities and install facilities in joint trenches to the extent possible, reducing the impact on the pavement and motoring public.
5. **Vegetation Management:**
It is necessary for PSE to maintain vegetation around its facilities and aerial power lines. The Franchise agreement ensures the City is involved in the development and implementation of the Vegetation Management Plan (both for annual maintenance and unanticipated situations requiring immediate remediation). The goal is balancing the sometimes-competing objectives of electric reliability, aesthetics, and preservation of tree canopy. The Vegetation Management Procedures are laid out in greater detail in an MOU.

Performance and Reliability:

In association with the Franchise agreement, the City and PSE have entered into a Performance & Reliability MOU, and a Records of Installation MOU. These MOU are in addition to the Relocation MOU and Vegetation MOU referenced in the above section. As a result of a major wind storm event in November 2006, and concerns about meeting long-term needs of Bellevue businesses and residents, Council commissioned an Electric Reliability Study (ERS) to evaluate PSE's effectiveness in providing adequate and reliable electricity to the City, then and in the future.

The ERS commenced in early 2011, engaging the services of a consultant and including the participation of a stakeholders group, representing Bellevue businesses and residents. Their work resulted in a detailed assessment presented to Council in 2012 with a report which included recommendations for maintaining and improving the continued adequate and reliable delivery of electricity to Bellevue.

Some of their recommendations involved active partnership and cooperation between PSE and the City. Many of their recommendations have since become part of City processes. In 2015 and March 2018, the City produced a “report card” which summarizes the ongoing progress in implementing the ERS recommendations.

Franchise Scope:

The PSE Electrical Franchise agreement only applies to facilities installed in the public rights-of-way and public easements in Bellevue. It does not apply to private property, such as where substations would be located. Thus, the franchise agreement is not a vehicle for influencing the design of PSE systems or system expansion. The City’s existing review processes (via Land Use and Right-of-Way Use Permits) are what afford the community and the City the opportunity to provide input into the location of the new facilities. The City and PSE implemented more formalized coordination to respond to forecasted storms, integrated with City Incident Command structure and regular meetings to create/implement responses, such as Outage Information System, etc.

The Franchise also does not apply to the Energize Eastside Project currently undergoing environmental and permit review. This project is located primarily within PSE’s currently owned private easements and not within the City’s right-of-way.

Proposed Updates for 2018:

PSE Electrical Franchise Agreement: No substantive changes are recommended to the Franchise agreement. The agreement was substantially updated in 2003, and has proved effective over the past 15 years. Most of the desired improvements can be better addressed in the four existing MOU and by adding an additional MOU for pole replacement and removal concerns.

Memoranda of Understanding: Staff has engaged PSE in regard to related MOU, pertaining to particular topics related to the Franchise. Staff is seeking to conclude discussions so that they will be ready to sign on or about May 7 in conjunction with approval of a franchise ordinance. If these are not ready by May 7, then these MOUs can be completed as soon as possible after May 7.

The Records of Facilities and Facilities Relocation Procedure MOU are recommended to remain the same as existing with the same terms as before. No changes are needed other than to re-execute them with the new Franchise (if approved by Council).

The Vegetation Management and Electrical Reliability and Performance MOU should be revised to include changes to policies and procedures adopted by PSE and the City since 2003.

There is an intent to create a new Pole Replacement/Removal MOU. This new MOU would outline policies and procedures to expedite removal of old poles when new poles are installed, including tracking and timelines. This MOU is still in negotiation with PSE, so details are yet to be agreed.

OPTIONS

1. Direct staff to bring a franchise ordinance for Council approval at the May 7 Council Regular Session to re-execute the PSE Electrical Franchise for a period of 10 years.
2. Provide alternative direction to staff.

RECOMMENDATION

Option 1

ATTACHMENTS

- A. Amended and Restated MOU-Electrical System Performance and Reliability Reporting
- B. MOU-Records of Facilities within the Franchise Area
- C. MOU-Vegetation Management Procedure

AVAILABLE IN COUNCIL DOCUMENT LIBRARY

ERS Implementation Status Reporting Tool (2017)
MOU-Utility Relocation (2012), City, PSE, Century Link, Comcast
MOU- Performance and Reliability Reporting (2003)
MOU-Vegetation Management Procedures (2003)
MOU-Facilities Relocation Procedure (2003)
MOU-Records of Facilities within the Franchise Area (2003)