



City of Norman, OK

Municipal Building
Council Chambers
201 West Gray
Norman, OK 73069

Master

File Number: O-1718-1

File ID: O-1718-1

Type: Ordinance

Status: Non-Consent Items

Version: 1

Reference: Item 50

In Control: City Council

Department: Legal Department

Cost:

File Created: 07/26/2017

File Name: OG&E Franchise

Final Action:

Title: CONSIDERATION OF ORDINANCE O-1718-1 UPON SECOND AND FINAL READING: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, GRANTING TO THE OKLAHOMA GAS AND ELECTRIC COMPANY, AN OKLAHOMA CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE RIGHT TO PRODUCE, TRANSMIT AND DISTRIBUTE ELECTRICITY WITHIN THE CITY LIMITS AND TO SELL ELECTRICITY THEREIN FOR ALL PURPOSES FOR WHICH IT MAY BE USED, TO THE CITY OF NORMAN, CLEVELAND COUNTY, OKLAHOMA, ITS INHABITANTS AND THE PUBLIC GENERALLY, AND THE RIGHT TO CONSTRUCT, MAINTAIN AND OPERATE A SYSTEM OF POLES, WIRES, CONDUITS AND OTHER FACILITIES AND EQUIPMENT IN, UPON, ACROSS, UNDER AND OVER THE STREETS, ALLEYS, PUBLIC GROUNDS AND OTHER PLACES IN THE CITY FOR SUCH PURPOSES FOR A PERIOD OF TWENTY-FIVE (25) YEARS BEGINNING ON DECEMBER 14, 2018 AND ENDING ON DECEMBER 13, 2043 SUBJECT TO THE APPROVAL OF THE VOTERS AND ACCEPTANCE OF THIS ORDINANCE; PROVIDING COMPENSATION TO THE CITY; AND CALLING A SPECIAL ELECTION ON NOVEMBER 14, 2017.

Notes: ACTION NEEDED: Motion to adopt or reject Ordinance O-1718-1 upon Second Reading section by section.

ACTION TAKEN: _____

ACTION NEEDED: Motion to adopt or reject Ordinance O-1718-1 upon Final Reading as a whole.

ACTION TAKEN: _____

Agenda Date: 08/22/2017

Agenda Number: 50

Attachments: Text File OG&E, O-1718-1, Proclamation and Notice of Election, Pert Excerpts from July 11 Conf. Minutes

Project Manager: Kathryn Walker, Assisstant City Attorney

Entered by: kathryn.walker@normanok.gov

Effective Date:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
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1	City Council	08/08/2017	Introduced and adopted on First Reading by title only	Pass
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Action Text: That this Ordinance be Introduced and adopted on First Reading by title only. by consent roll call

Text of Legislative File O-1718-1

Body

BACKGROUND: Article 18, Section 5(a) of the Oklahoma Constitution requires voter approval of a franchise in order for the City to grant the right to use its streets to sell and distribute utility services to its residents to a public utility company. A franchise is achieved by putting forth a franchise agreement to the voters in the form of an ordinance and calling a city-wide election. Franchise agreements are typically longer term and provide for a franchise fee to be paid to the City in exchange for access to the City streets and rights of way for utility services. In Norman, we have voter approved franchises with Oklahoma Gas and Electric Company (OG&E), Oklahoma Electric Cooperative (OEC) and Oklahoma Natural Gas (ONG).

Recently, OG&E representatives approached the City about renewing its franchise. The current franchise with OG&E (Ordinance O-9394-12) expires in 2018. Franchises in general, and this franchise specifically, were discussed at a Council Conference on July 11, 2017 and at a Study Session on July 18, 2017.

DISCUSSION: The proposed franchise provides for the annual payment of a franchise fee equal to three percent (3%) of OG&E's gross revenues arising from the sale of electricity within the city limits of Norman. The franchise fee collected from OG&E for fiscal year 2016-2017 (FYE 2017) was \$2,793,294. In addition to the franchise fee, OG&E furnishes free electricity to the City for operation of traffic signal lights and municipal buildings in an amount of up to one-half of one percent (0.5%) of the kilowatt hours sold to Norman customers within the preceding fiscal year. This provision resulted in the City receiving free electricity for traffic signal lights and municipal buildings for 10 months of the last fiscal year, a value of over \$534,000 in FYE17. OG&E also collected and remitted over \$2.8 million in sales taxes to the City in FYE17.

With this agreement, the City grants to OG&E the "right, privilege and authority to produce, transmit, distribute, and sell electricity" within Norman's City limits, and the "right, privilege and authority to construct, maintain and operate a system of poles, wires, conduits, transformers, substations, and other facilities and equipment in, upon, across, under and over the streets, alleys, public grounds and other places" for the purpose of producing, transmitting, distributing and selling the electricity to the City of Norman and its inhabitants.

As discussed during the July 18, 2017 Study Session, the Oklahoma Constitution reserves the decision of granting a franchise to the voters. OG&E has requested that the City put the franchise before the voters in the November 14, 2017 election. In order to give the required notice to the County Election Board, Ordinance O-1718-1 forwarding this issue to the voters would need to be approved by Council on Second and Final Reading on August 22, 2017.

OG&E feels strongly that the franchise proposed to the voters should match the franchises it has in other cities and towns across Oklahoma; however, OG&E has publicly expressed a willingness to work with the City to address concerns related to tree trimming outside of the franchise process and have conveyed a corporate dedication to continuing to make strides toward the use of more renewable energy sources in its electricity generation portfolio.

RECOMMENDATION: Ordinance O-1718-1 is being forwarded for Council's consideration upon Second and Final Reading.