

# Resolution

R-1718-20

A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, GIVING THE SECRETARY OF THE CLEVELAND COUNTY ELECTION BOARD NOTICE OF A SPECIAL ELECTION TO BE HELD ON NOVEMBER 14, 2017, TO ALLOW THE VOTERS OF THE CITY OF NORMAN TO CONSIDER WHETHER TO GRANT OKLAHOMA GAS AND ELECTRIC COMPANY (OG&E) A FRANCHISE AGREEMENT.

- § 1. WHEREAS, Title 26 of the Oklahoma Statutes, §13-102, requires Notice of Election be given to the Secretary of the Cleveland County Election Board by Resolution of the City Council; and
- § 2. WHEREAS, the purpose of the Special Election is set forth in Ordinance O-1718-1 which are incorporated herein by reference; and
- § 3. WHEREAS, the Special Election is to be conducted on the 14th day of November, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:

- § 4. That notice be given of the Special Election by transmittal of this Resolution to the Secretary of the Cleveland County Election Board.

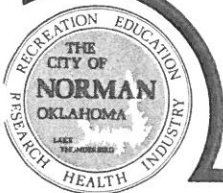
PASSED AND ADOPTED this 22nd day of August, 2017.



  
\_\_\_\_\_  
Mayor

ATTEST:

  
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City Clerk



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.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:

- § 1. The word “City” as hereinafter used shall mean and designate the City of Norman, Cleveland County, Oklahoma, and the word “Company” as hereinafter used shall mean and designate the Oklahoma Gas and Electric Company, a corporation organized and existing under and by virtue of the laws of the State of Oklahoma and its successors and assigns.
- § 2. (a) The City hereby grants to the Company the right, privilege and authority to produce, transmit, distribute and sell electricity within the corporate limits of the City for all purposes for which it may be used, to the City, its inhabitants and the public generally, 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 in each and every part of said City for the purpose of producing, transmitting, distributing and selling electricity to the City, its inhabitants, and to the public generally.
- (b) The franchise hereby granted shall be effective from and after the date of approval of this Ordinance by the registered voters of the City and acceptance by the Company, and shall remain in full force and effect for a term no longer than twenty-five years beginning on December 14, 2018 and ending no later than December 13, 2043; provided however, the City will have five (5) opt out options from this franchise after each successive five (5) year periods. In order to facilitate the opt out discussions, the Company shall provide to the City six (6) months before each five-year anniversary from December 14, 2018, a report that shall address, at a minimum: (1) the results of a verifiable customer satisfaction survey by class of customers for each of said five years; (2) a demonstrated measurable increase by total number and percentage in each class of customers in the use of renewable sources of energy and whether such supply of renewable

energy sources is sufficient to meet customer requests in the City; (3) an increased investment in the infrastructure in the City with a separately identified investment that addresses the capacity, sustainability, timeline of completion for improvements to the downtown Norman power grid; and (4) a shorter response time to replace burned out bulbs. To provide a baseline for future assessment, the Company shall provide to the City no later than October 14, 2018, a report containing then current (and, if desired by the Company, historical) data for each of these four factors. Nothing in this Ordinance shall be construed to prevent the City from granting an electric franchise to any other person, firm or corporation; or, to opt out of this Franchise at any one of the five-year opt out points based on changes in the law that allows for a municipal based electric utility, the condemnation of utility infrastructure or the deregulation of the electric utility market in the City. The City Council will affirmatively vote on or before the passage of each successive five-year point as to whether to opt out of this franchise.

- § 3. The Company shall construct, operate and maintain its property in such manner as will, consistent with necessity, not obstruct nor impede traffic unduly.
- § 4. The Company shall defend and indemnify the City against all liability for injury to any person or property caused by the negligence of the Company in the construction, operation and maintenance of its property within the City.
- § 5. Electric service provided hereunder to the City, its inhabitants, and to the public generally, and rates charged therefor shall be in accordance with orders, rules and regulations of the Corporation Commission of the State of Oklahoma or other governmental authority having jurisdiction.
- § 6. The Company shall have the right to assign this franchise and the assignee by written acceptance thereof shall be bound by all the provisions hereof. An authenticated copy of such assignment and acceptance shall be filed with the Clerk of the City.
- § 7.
  - (a) From and after the approval and acceptance of this franchise, and in consideration of the granting of this franchise, the Company agrees to pay and shall pay to the City an annual franchise tax in an amount equal to three percent (3%) of its gross revenues arising from the sale of electricity within the corporate limits of the City, such payment to be made on or before the 25<sup>th</sup> day of July of each year, after deducting therefrom any amount due the Company from the City.
  - (b) The Company shall abide by an order, rule or regulation of the Corporation Commission of the State of Oklahoma requiring the listing separately of all or any portion of such franchise tax on electric bills to customers.

(c) Such franchise taxes paid by the Company to the City shall be in lieu of all other franchise, excise, license, occupation, privilege, inspection, permit, or other fees, taxes or assessments, except ad valorem taxes and sales taxes.

- § 8. The Company shall furnish to the City without charge each fiscal year during the term hereof electric current to be used exclusively by the City for operation of traffic signal lights and buildings occupied and operated by the City for municipal purposes, to be applied by the Company as a credit to billings to the City, provided that such electric current shall not exceed one-half of one per cent (0.5%) of the kilowatt-hours sold by the Company to customers within the corporate limits of the City during the preceding fiscal year.
- § 9. A special election is hereby called for the purpose of submitting this Ordinance to the registered voters of the City residing within its corporate limits for their approval or disapproval, provided the Company shall pay the cost of such election. The election shall be held on the 14<sup>th</sup> day of November, 2017, between the hours of 7:00 a.m. and 7:00 p.m. The Mayor of the City of Norman is authorized and directed to issue an election proclamation calling such election and is further directed to take all steps that may be necessary for holding the election and for the submission of this Ordinance to the registered voters of the City. If a majority of the registered voters of the City voting thereon fail to approve this franchise at said election, no rights shall accrue hereunder.
- § 10. In case the franchise hereby granted is approved at said election, the Company shall, within thirty (30) days from the date of such approval, file with the Clerk of the City, in writing, its acceptance. In the event the Company fails to accept within the said period, such failure shall be deemed a rejection of the franchise.
- § 11. The franchise hereby granted shall, on its effective date, supersede and terminate any previous franchise granted to or held by the Company.
- § 12. Unless otherwise prohibited by law from imposing the following the restrictions on the Company for its activities in the places covered by this franchise, the Company agrees to the following restrictions: (1) No chemicals shall be sprayed that are used for the primary purpose to kill trees, or other vegetation, unless said chemical(s) and the spraying process is approved by City council; (2) No trees shall be removed that have a diameter of more than fifteen (15) inches as measured at a point of four and one-half feet above ground without the prior written permission from the property owner; and (3) No vegetation, shrubs, and smaller trees shall be trimmed, removed, or mowed without prior written notice posted no less than one hundred twenty hours (5 days) in advance of said action at the primary entrance to the structure on the property or a location visible to the public from the main traveled roadway adjacent to the property. These restrictions are expressly waived by the City in the circumstances of an emergency, a natural disaster, or a threat to public safety.

PASSED AND ADOPTED this 22nd day of August, 2017.

CITY OF NORMAN, OKLAHOMA

By:   
Mayor

ATTEST:

  
City Clerk



**SPECIAL ELECTION  
PROCLAMATION AND NOTICE OF ELECTION**

Under and by virtue of the Statutes of the State of Oklahoma and acts complimentary, supplementary and enacted pursuant thereto, and Ordinance No. O-1718-1 dated August 22, 2017, authorizing the calling of an election on the Proposition hereinafter set forth, I, the undersigned Mayor of the City of Norman, Oklahoma, hereby call a special election and give notice thereof to be held in the City of Norman, Oklahoma, on the 14<sup>th</sup> day of November, 2017, for the purpose of submitting to the registered qualified voters in said City the proposed Proposition:

PROPOSITION I

Shall a franchise be granted to the Oklahoma Gas and Electric Company, a corporation, its successors and assigns giving it the right to produce, transmit and distribute electricity within the City and to sell electricity therein for all purposes for which it may be used, to the City, 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 December 14, 2018 and ending on December 13, 2043; providing compensation to the City; in accordance with the terms of Ordinance Number O-1718-1?

The ballot used at said election shall set out the Proposition as above set forth and shall also contain the words:

- |                 |                          |     |                                 |
|-----------------|--------------------------|-----|---------------------------------|
| 1 <sup>st</sup> | <input type="checkbox"/> | YES | - FOR THE ABOVE PROPOSITION     |
| 2 <sup>nd</sup> | <input type="checkbox"/> | NO  | - AGAINST THE ABOVE PROPOSITION |

(If the voter desires to vote for the above Proposition, he shall mark the ballot accordingly; if he desires to vote against the above Proposition, he shall mark the ballot accordingly.)

That only the registered qualified voters of the City of Norman, Oklahoma, may vote upon the Proposition as above set forth.

The polls shall be opened at 7:00 o'clock a.m. and shall remain open continuously until and be closed at 7:00 o'clock p.m.

The special election shall be held at the same places and in the same manner prescribed by law for conducting county and state elections and the numbers and locations of the polling places and the persons who shall conduct said election shall be the same as for county and state elections, all as respectively designated and prescribed by the County Election Board of Cleveland County, Oklahoma.

Proclamation and Notice of Election


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WITNESS my hand as Mayor of the City of Norman, Oklahoma, and the Seal of said City affixed hereto on the 22nd day of August, 2017.



  
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Mayor

ATTEST:

  
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City Clerk