



**CITY OF BAYPORT**  
294 NORTH THIRD STREET  
BAYPORT, MINNESOTA 55003  
PHONE 651-275-4404 FAX 651-275-4411

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DATE: September 27, 2010 (AMENDED 11-5-2010)  
TO: Mayor and City Council  
FROM: Mitchell Berg, City Administrator  
RE: Franchise Fees

***BACKGROUND***

Staff was directed to begin the implementation of gas and electric franchise fees as a means to establish another revenue stream to counter the decline in market values and state aid. Franchise fees can also be seen as a more equitable approach to generating revenue for a city that has multiple properties that are not on the tax roll or are paying a less proportionate share of taxes.

In accordance with the city's electric and gas franchise ordinances, prior to a franchise fee taking effect, the City needs to send Northern States Power, d/b/a Xcel Energy, a certified letter noticing the City's intent to amend the franchise ordinance and incorporate a franchise fee (see Sections 58-234(a) and (b) and 58-259(a) and (b) of the Bayport Code), along with two corresponding franchise fee ordinances. Therefore, attached to this memo is a draft of the certified letter and ordinances that can be mailed out the day after City Council approval.

The ordinances cannot be adopted until a 60-day waiting period has occurred. City staff has communicated with Xcel Energy on the differences in the language between the Franchise Ordinance, which states a "flat fee per meter/per class", and the proposed Franchise Fee ordinance which states a "account-based fee and not a meter-based fee."

According to John Wertish, the Community Relations Representative from Xcel Energy, there is no real difference in how the revenues will be collected. Although, there is still a difference in the language, after meeting with both the City Attorney and the attorney for Xcel, staff is comfortable adopting their language as their language does not really deviate from how Xcel would be collecting the revenue.

***RECOMMENDATION***

As such, staff is recommending the City Council adopt a motion accepting the proposed ordinances amending Chapter 58-Utilities, Article VII and Article VIII, to implement an electric and gas franchise fee, effective February 1, 2011, and to authorize City Administrator Mitch Berg to formally notify Northern States Power, d/b/a Xcel Energy, of the City of Bayport's intent to impose a gas and electric franchise fee, effective February 1, 2011.

Attachments: Letter to Xcel  
Draft gas and electric franchise fee ordinances



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November 9, 2010

Jon Wertish  
Xcel Energy  
414 Nicollet Mall 7th Floor  
Minneapolis, MN 55401

*VIA CERTIFIED MAIL*

Dear Mr. Wertish:

Pursuant to Chapter 58, Articles VII and VIII, of the City of Bayport Municipal Code, this letter shall serve as official company notice that the City of Bayport intends to amend its franchise agreement to authorize the collection of a franchise fee negotiated between Northern States Power Company, a Minnesota Corporation, D/B/A Xcel Energy and the City of Bayport, a recognized Minnesota municipality.

Therefore, attached please find two adopted franchise fee ordinances, one for electrical and the other for gas, which cannot go into effect until at least 60 days after receipt of this letter by certified mail.

Should you have any questions, please contact me directly at 651-275-4414.

Sincerely,

Mitchell Berg  
City Administrator

Attachments - 2

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,  
AMENDING CHAPTER 58 – UTILITIES, ARTICLE 8 OF THE BAYPORT CITY CODE TO  
IMPLEMENT A GAS SERVICE FRANCHISE FEE

**Section 1.** Chapter 58, Article 8 of the Bayport Municipal Code is hereby amended to include the following:

**Sec. 58-262. Franchise fee adopted.**

(a) *Purpose.* The Bayport 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 natural gas services within the City of Bayport. A franchise fee is hereby imposed on NorthernStates Power Company, a Minnesota Corporation, d/b/a Xcel Energy, its successors and assigns, under its gas franchise in accordance with this Ordinance, commencing with the Xcel Energy February, 2011 billing month.

(b) *Fees.* Pursuant to City Ordinance 798, a Franchise Agreement between the City of Bayport 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 based on the fee design as set forth in Section 58- 259 but with the fees as delineated within the below fee schedule.

This fee is an account-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 and/or structure) 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.

The franchise fees are to 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 as follows:

<u>Class</u>	<u>Amount per month</u>
Residential	\$1.25
Commercial Firm-Non demand	\$10.00
Commercial Firm-Demand	\$25.00
Small Interruptible	\$10.00
Medium and Large interruptible	\$50.00
Firm Transportation	\$10.00
Interruptible Transportation	\$10.00

(c) *Payment.* The said franchise fee shall be payable to the City in accordance with the terms set forth in Section 58-259 and this section of the Bayport City Code.

(d) *Record support for payment.* Xcel Energy shall make each payment when due and, if required by the City, shall provide at the time of each payment a statement summarizing how the franchise fee payment was determined, including information showing any adjustments to the total surcharge billed in the period for which the payment is being made to account for any uncollectibles, refunds or error corrections.

(e) *Surcharge.* The City recognizes that the Minnesota Public Utilities Commission allows the utility company to add a surcharge to customer rates to reimburse such utility company for the cost of the fee and that Xcel Energy will surcharge its customers in the City the amount of the fee.

(f) *Collection.* 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:

February – 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.

(g) *Enforcement.* Any dispute, including enforcement of a default regarding this ordinance will be resolved in accordance with Section 58-252 of the Bayport City Code.

(h) *Sunset clause.* This ordinance shall automatically sunset on December 31, 2013.

(i) *Effective date.* The effective date of this Ordinance shall be after its publication and sixty (60) 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 in section (f) of this ordinance.

**Section 2.** Passed by the City Council for the City of Bayport this 8<sup>th</sup> day of November, 2010.

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Jonathan Nowaczek, Mayor

Attest:

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Mitch Berg, City Administrator

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF BAYPORT, WASHINGTON COUNTY,  
MINNESOTA, AMENDING CHAPTER 58 - UTILITIES, ARTICLE 7 OF THE BAYPORT  
CITY CODE TO IMPLEMENT AN ELECTRIC SERVICE FRANCHISE FEE**

**SECTION 1.** Chapter 58, Article 7 of the Bayport Municipal Code is hereby amended to include the following:

**Sec. 58-237. Franchise fee adopted.**

(a) Purpose. The Bayport 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 Bayport. 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 this Ordinance, commencing with the Xcel Energy February, 2011 billing month.

(b) Fees. Pursuant to City Ordinance 799, a Franchise Agreement between the City of Bayport and Northern States Power Company, a Minnesota corporation, d/b/a Xcel Energy, its successors and assigns, in an amount based on the fee design as set forth in Section 58-234 but with the fees as delineated within the below fee schedule.

This fee is an account-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 and/or structure) 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.

The franchise fees are to 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 as follows:

<u>Class</u>	<u>Amount per month</u>
Residential	\$1.50
C & I – Non-Dem	\$3.00
C & I – Demand	\$25.00
Small interruptible	\$10.00
Medium and Large interruptible	\$10.00
Firm Transportation	\$10.00
Interruptible Transportation	\$10.00

(c) Payment. The said franchise fee shall be payable to the City in accordance with the terms set forth in Section 58-234 and this section of the Bayport City Code.

(d) Record Support for Payment. Xcel Energy shall make each payment when due and, if required by the City, shall provide at the time of each payment a statement summarizing how the franchise fee payment was determined, including information showing any adjustments to the total surcharge billed in the period for which the payment is being made to account for any uncollectibles, refunds or error corrections.

(e) Surcharge. The City recognizes that the Minnesota Public Utilities Commission allows the utility company to add a surcharge to customer rates to reimburse such utility company for the cost of the fee and that Xcel Energy will surcharge its customers in the City the amount of the fee.

(f) Collection. 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:

- February – 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.

(g) Enforcement. Any dispute, including enforcement of a default regarding this ordinance will be resolved in accordance with Section 58-227 of the Bayport City Code.

(h) Sunset Clause. This ordinance shall automatically sunset on December 31, 2013.

(i) Effective Date of Franchise Fee. The effective date of this Ordinance shall be after its publication and sixty (60) 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 in section (f) of this ordinance.

**Section 2.** Passed by the City Council for the City of Bayport this 8<sup>th</sup> day of November, 2010.

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Jonathan Nowaczek, Mayor

Attest:

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Mitch Berg, City Administrator

SEAL