



Bend City Council
July 2, 2007 Council Meeting

Issue Summary

Department: Public Works/City Attorney
Staff Member: Ken Fuller / Jim Forbes

Consider Second Reading of an Ordinance Granting a Non-Exclusive Electric Utility Franchise to Pacific Power, and Fixing Terms, Conditions and Compensation of Such Franchise.

Staff Review and Recommendation to Board: Consider first and second readings of the franchise agreement ordinance at the June 20, 2007 and July 2, 2007 City Council meetings for passage.

The franchise agreement between Pacific Power and the city provides that the city grant the electric utility the use of public rights of way for a fee. The proposed agreement specifies the conditions for this use and how the fee will be calculated in language with much more clarity than the current agreement. The franchise fee is charged as a pass through by the utility to its customers within the city limits of the City of Bend.

The proposed agreement is entirely rewritten from the current agreement. While the basic agreement as stated above remains the same, the language has changed almost entirely. The proposed agreement has been reviewed and discussed with a representative with Pacific Power and there are no issues of contention.

Significant changes from the existing agreement:

- Instead of the current 3.5% franchise fee plus 1.5% licensing fee, a 5% franchise fee is agreeable to both parties;
- Instead of a term of 20 years (the current agreement was approved by City Council May, 1987), the term of the proposed agreement is 10 years;
- A listing of definitions is included in the proposed agreement, including a definition of gross revenue;
- Clarity regarding roles, responsibilities, notices and information to be exchanged has been added.

According to a Franchise Fee Survey by the League of Oregon Cities in August, 2005:

- Of the 96 cities surveyed, 73 cities charge 5%; 18 of the cities charge 3%;
- The city of Aumsville charges 7%;
- There are no cities that charge less than 3% or more than 7%;
- Pacific Power notes that the City of Redmond now charges 7%.

The current franchise agreement with Pacific Power expires this month, June, 2007. After second reading and anticipated passage of the ordinance on July 2, 2007, Pacific Power will have 60 days to respond in writing as to acceptance of the agreement. Both parties have acknowledged that the existing terms for use of the rights of way and fee payments to the city will continue unabated until the new agreement is finalized.