

ORDINANCE NO. 119

AN ORDINANCE IMPLEMENTING AN ELECTRIC FRANCHISE FEE ON OTTER TAIL POWER COMPANY FOR PROVIDING ELECTRIC SERVICE WITHIN THE CITY OF NEW YORK MILLS

City of New York Mills, Otter Tail County, Minnesota

THE CITY COUNCIL OF THE CITY OF NEW YORK MILLS, OTTER TAIL COUNTY, MINNESOTA, ORDAINS:

SECTION 1. Purpose. The 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 New York Mills. Pursuant to City Ordinance No. 114, a franchise agreement between the City and Otter Tail Power Company (“Company”), the City has the right to impose a franchise fee on the Company.

SECTION 2. Franchise Fee Statement. A franchise fee is hereby imposed on the Company on a per meter basis in accordance with the schedule attached hereto as Exhibit A and made a part of this ordinance. Fee collection will commence with the Company’s April 2009 billing month.

SECTION 3. Collection and Payment. The franchise fee shall be payable at least quarterly. The payment shall be made to the City within 60 days after the last day of each calendar quarter, or on a more frequent and timely schedule if the Company deems it preferable. The fee may be changed by ordinance from time to time; however, each change shall meet the same notice requirements and may not occur more often than annually. The Company may pay the City the fee based upon the surcharge billed subject to subsequent reductions to account for uncollectibles or customer refunds. The time and manner of collecting the franchise fee is subject to approval of the Public Utilities Commission, which the Company agrees to use best efforts to obtain. The Company agrees to make its records available for inspection by the City at reasonable times, provided that the City and its designated representative agree in writing not to disclose any information that is not public data which would indicate the amount paid by any identifiable customer or any other information regarding specific customers.

SECTION 4. 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 the Company will surcharge its customers in the City the amount of the fee.

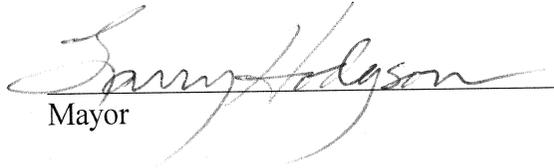
SECTION 5. Record Support for Payment. The Company shall make each payment when due and, if requested by the City, shall provide at the time of each payment a statement summarizing how the franchise fee payment was determined, including information showing any adjustments to the total surcharge billed in the period for which the payment is being made to account for any uncollectibles, refunds or error corrections.

SECTION 6. Enforcement. Any dispute, including enforcement of a default regarding this ordinance will be resolved in accordance with Section 2.5 of the Electric Franchise Ordinance No. 114.

SECTION 7. Effective Date of Franchise Fee. Notwithstanding the effective date of this ordinance and notwithstanding any contrary provisions in the franchise, the effective date of the fee imposed and collected under Section 2 of this ordinance is the later of ten (10) days after the publication or after the sending of written notice enclosing a copy of this adopted ordinance upon the Company by regular mail. It has been agreed to in advance by the Company's representatives that the Company will abide by the provisions of this Section 7, provided fee collection will not commence before the later of the Company billing month set forth in Section 2 of this Ordinance or the first billing month commencing ten (10) days after the foregoing effective date of the franchise fee.

SECTION 8. Fee Review. If, at any time, the Council deems it to be in the City's best interest to terminate or modify the fee, the Council shall give the Company at least sixty (60) days written notice prior to the proposed change. Subject to the City's rights under Minnesota law, the City shall obtain the consent of the Company to any proposed increase in the fee but may unilaterally decrease or terminate the fee after notice to the Company.

Passed by the City of New York Mills this 10th day of February 2009.



Mayor

Attest:



City Clerk

EXHIBIT A

TO ORDINANCE NO. 119

OTTER TAIL POWER COMPANY ELECTRIC FRANCHISE

FEE SCHEDULE

<u>Class</u>	<u>Monthly Fee Per Meter</u>
Residential*	\$1.00
Commercial	\$1.00
Public Buildings	\$1.00

*A residential customer having a second, separate off-peak meter shall be subject to only one monthly meter fee.