

..Title

Amending the gas and electric franchises granted by the City to Northern States Power Company, a Minnesota corporation ("Company").

..Body

THE COUNCIL OF THE CITY OF SAINT PAUL DOES ORDAIN:

Section 1.

That the Saint Paul Legislative Code, Appendix B, shall be amended as follows:

Appendix B. - Gas Franchise—NSP

Section 1. Grant of franchise.

Northern States Power Company, a corporation organized under the laws of the State of Minnesota, hereinafter designated as "company," being a public service corporation providing gas service for all purposes within the City of Saint Paul, hereinafter designated as "city," under a franchise granted under Ordinance No. _____, which expires on August 30, 2006, is, together with its successors and assigns, hereby granted a franchise in accordance with the terms and conditions of this ordinance to use the streets and other public property located in the city for such purpose for a period covering August 31, 2006, up to August 31 2026, as further described in Section 13 herein. The term "this ordinance" shall refer to the appendix being adopted herewith.

Section 2. Use of right-of-way.

The franchise granted herein shall extend to the company's use of all streets and all public property as defined by Minnesota Statutes Section 237.162, now being used by the company in connection with gas service and of such other streets and public property as may from time to time be designated by the city. Such franchise to use the streets and other public property located in the city shall include such use for the purpose of erecting, laying, constructing, installing, maintaining and operating gas mains and all other necessary and convenient facilities used in conducting, transmitting, distributing and supplying gas to and through the city for public and private use.

Section 3. Location of facilities.

- (a) *General.* In locating its gas facilities, the company shall in no way unreasonably interfere with the safety and convenience of ordinary travel along and over said streets and public property, nor interfere with other uses to which such places may be put by the city. In the event it shall become necessary during the term of this franchise to remove or relocate the physical property of the company located within or upon any of the streets or public property in the city, because of such interference or use by the city, or as a result of any public improvement undertaken by the city, the company shall, when so advised by the city council, remove and relocate said facilities without cost to the city, and shall place the streets or public property in the same condition as they were prior to said removal or relocation. Company shall comply with the requirements of any applicable ordinance of the city relating to relocation of gas facilities in streets or public property to the extent

consistent with Minnesota Rules, Part 7819.3100 and as allowed by law. However, after the company has so relocated its facilities, the company shall not within five (5) years thereafter be required at its own expense to make any further relocation of the same facilities; except that the company may be required to further relocate any such facilities at its own expense where required because of the extension of public utilities to previously unserved areas. Any relocation or removal of the company's facilities made necessary because of the extension through or into the city of a federally aided state trunk highway, included within the National System of Interstate Highways, shall be governed by the provisions of Minnesota Statutes § 161.46, as supplemented or amended. In such case, the city is obligated to pay company only for those portions of its relocation costs for which the city has received state or federal funding specifically allocated for such costs.

- (b) *Company facilities on non-public property.* The removal and relocation provisions of section 3(a) do not apply to gas facilities or equipment which are not located on streets or other public property of and within the city; provided, however, if the result of any removal or relocation of company equipment or facilities on or in streets or public property is that the company finds it necessary or desirable to move, relocate, make adjustments to or otherwise in any way modify its gas facilities or equipment on property which is not a street or other public property, all of such changes are and remain at the sole cost and expense of the company. In addition, the provisions of section 3(a) do not apply to gas facilities or equipment which were located on non-city property for which the company had an easement or other interest or permit which made the use of such non-city property lawful, and which non-city property was thereafter acquired by the city for street or other public use, if the city did not pay compensation or relocation assistance to the company at the time of city acquisition.
- (c) *Rail transit.* This section relates solely to proposed or future light and heavy rail transit projects (collectively, "rail projects.")

The city shall use best efforts to include the company in rail project planning and design meetings where necessary. The company shall use best efforts to attend all such meetings and timely respond and participate in planning and design stages of rail projects. To the extent the city has authority over decisions impacting the company's relocation and operational costs related to rail projects, the city shall reasonably consider the company's proposals for limiting its relocation and operational costs for rail projects.

The city acknowledges that the company may request reimbursement for utility relocation costs from federal and/or state sources. The city will not object to the company's requests for reimbursement from federal or state sources provided such costs do not directly or indirectly reduce funds available to the city from these sources or reduce funds for programs that will benefit the city. The city reserves its right to oppose the company's requests if the city has a reasonable basis to believe such a request will negatively impact the feasibility of a rail project, or negatively affect the city as described above.

The city shall pursue a policy of consistent and equitable treatment of right-of-way users whose facilities are affected by rail projects. This shall not apply to any non-governmental grant application or award or any and all debt issued by the city or its port authority or any other public debt issuers, or to city water or sewer matters. If the city supports a right-of-way user's request, other than city water and sewer, relating to rail projects, the city shall, to the extent practicable, consistently support the company's request for reimbursement. The city reserves its rights under Minn. Stat. §§ 237.162 and 237.163 and relevant ordinances to protect the health, safety, and welfare as such duties may require distinctions among right-of-way users.

Section 4. Compliance with city ordinances and regulations.

City regulation. The company shall be subject to such reasonable regulations as may be provided or authorized by ordinance with respect to its facilities described in section 2. No gas mains or any other gas facilities shall hereafter be erected, laid, constructed or installed in the streets or public property by the company except upon full compliance with the requirements of such regulations as may be adopted or authorized by ordinance. The reasonable regulations of the city may require the payment of appropriate permit and other fees related to such regulations. After undertaking any work requiring the opening of the public right-of-way the company shall restore the right-of-way as required by state law and city ordinance to the extent consistent with applicable state law. However, the company shall not be obligated to pay permit fees under the gas franchise in excess of twenty-five thousand dollars (\$25,000.00) in any calendar year from 2006 through 2016, or in any franchise extension period pursuant to Section 13 unless otherwise agreed.

Section 5. Franchise fee imposed; definitions.

- (a) *Franchise fee imposed.* During the term of the franchise hereby granted, and during any franchise extension period under section 13(b), and, except for permit fees authorized by section 4, in lieu of any permit or other fees relating to the installation, repair, maintenance and operation of its facilities, the company shall pay to the city a franchise fee as provided in this section 5, such fee to be paid for each company billing month on or before the last day of the first full calendar month following the company billing month. The franchise fee shall be the total of the monthly meter fee and volume fee for each company customer which is located within the city and which receives gas service by means of company gas facilities located within the city, regardless of how such facilities are used or classified including, but not limited to, those facilities used for or classified as transmission, delivery or distribution, or any combination thereof. The franchise fee for each company customer shall be determined by applying the meter factor and volume factor as indicated in the schedule, respectively, to (i) each and every customer classified by the company as a separate account, and (ii) the amount of gas in Ccfs delivered to each such customer each month.
- (b) *Definitions.* The following terms, as used in this ordinance, shall have the meanings given. Substantive provisions which may be contained in said definitions shall be given full substantive effect.
 - (1) *Ccf or Ccfs* means one hundred cubic feet of gas, using the standard cubic foot corrected as necessary when the heat content varies from one thousand (1,000) Btu per cubic foot, as provided for in appropriate tariffs in the Gas Rate Book, or an equivalent volumetric measure approved by the commission. A "Therm" is an equivalent to a Ccf adjusted for Btu content.
 - (2) *Commission* means the Minnesota Public Utilities Commission, or any successor agency or agencies, including an agency of the federal government which preempts all or part of the authority to regulate gas service now vested in the Minnesota Public Utilities Commission.
 - (3) *Customer classification or classification* means each and every classification of company customers in the schedule, all of which are based on the tariffs contained in the gas rate book in effect on September 1, 2006. The classifications shall be used for the purpose of computing and determining franchise fees under this ordinance. Such classifications may be amended or added to from time to time only by agreement of the company and the city under section 7(e).

- (4) *Customer of company* or *company customer* or *customer* means any gas user, including company, located within the city which at any time during the term of this franchise takes delivery of gas by means of any company gas facilities located within the city. Each and every customer classified as a separate account by the company shall be deemed a separate customer of the company.
- (5) *Gas rate book* means the company gas rate book, as it may be revised from time to time, which contains company gas service tariffs, general rules and regulations, service rules, standard contract and agreement forms, customer billing forms and notices and technical and special terms and abbreviations, as approved by the commission.
- (6) *Meter factor* is the monthly monetary amount per customer shown in the schedule.
- (7) *Meter fee* means the monthly fee collected from each customer by applying the meter factor to each and every customer.
- (8) *Schedule* means the table in section 16 of this ordinance showing the meter and volume factors for each customer classification for each year of this franchise. All customer classifications shown in the schedule on September 1, 2006, are set forth in or determined by the gas rate book in effect on that date.
- (9) *Tariff* means each and every service schedule, tariff, service rider, surcharge rider, rule contained in the general rules and regulations, rule of service, rider or similar document which has been or is approved by the commission, and includes any modification, amendment or deletion thereof.
- (10) *Volume factor* is the monthly monetary amount per Ccf shown in the schedule.
- (11) *Volume fee* means the monthly fee collected from each customer of the company based on the quantity of Ccfs delivered to each such customer of the company. The monthly volume fee for gas is the product of the amount of gas delivered to each such customer each month expressed in Ccfs times the monthly volume factor specified in the schedule.
- ~~(c) *Residential customer limitation.* For residential customers subject to the limitations contained in Minnesota Laws 1979, Chapter 189, and for so long as such law shall remain in effect, the franchise fee during any calendar year or part thereof shall not be paid or collected during the billing months of January, February, March, April, November and December.~~
- ~~(d)~~(c) *New fees starting date.* The franchise fee imposed in section 5 and in this ordinance ("new fees") shall commence with the bills issued to customers by the company effective with the company's November 2006 billing month, or with bills issued to customers for the first company billing month commencing after the effective date of this franchise, whichever is later.
- ~~(e)~~(d) *Collection; adjustment.* The new fees imposed in this ordinance shall not exceed any amount which the company may recover, prior to payment to the city, by imposing a surcharge equivalent to such fee in its rates for gas service to customers within the city. Both new and past fees are subject to subsequent adjustment to account for uncollectibles, refunds and correction of erroneous billings. If any error in collection of franchise fees is discovered by either party, the parties shall meet as soon as reasonably practical to discuss any strategies to address the error. However, under no circumstances shall the company be obligated to pay the city for fees it cannot collect.

Section 6. Other energy franchises; dispute resolution.

- (a) *Other energy franchises.* The annual dollar amount of the franchise fee collected from a company customer, or a reasonable estimate of the franchise fee that would be collected from a prospective company customer, for gas service provided under this franchise shall not be materially greater than the annual dollar amount of the franchise fee that would be collected for similar service to such customer by another energy supplier under the terms of a new franchise, assuming comparable energy usage by said customer.
- (b) *Definitions.* For the purpose of section 6 only, the following terms shall have the meanings given. "Similar service" shall mean the supply of energy to a customer for the same end-use purpose or function as the gas which is or could be furnished by the company. "New franchise" shall mean a franchise granted to another energy supplier after September 1, 2006, or an amendment to an existing franchise held by another energy supplier after September 1, 2006. "Energy supplier" shall mean a supplier of energy other than the company.
- (c) *Dispute resolution.* The city shall give the company notice by certified mail of the material provisions of a proposed new franchise at least sixty (60) days before it is finally adopted by the city council. The company shall state in writing its position and give the factual bases for that position on whether the adoption of such new franchise would violate the prohibition in section 6(a) above within thirty (30) days of the date of notice. The company's failure to respond will be a waiver of any rights, remedies, or causes of action it may have under section 6. If the company's position is that the adoption of the proposed new franchise would violate section 6(a) above, then at the request of either the company or the city, the issue of whether the proposed new franchise violates section 6(a) shall be submitted to binding arbitration, using an arbitrator selected under the commercial arbitration rules of the American Arbitration Association. The franchise fee terms of any new franchise must be consistent with the decision of the arbitrator.
- (d) *Consent of company.* Section 6 does not apply to any proposed new franchise to which the company consents in writing.
- (e) *Annual cap for negotiated transportation service tariff.* For the term of this franchise and any extension thereof, there is hereby exempted from the franchise fee any requirement that the company pay or collect by such surcharge a franchise fee in excess of fifty thousand dollars (\$50,000.00) in any calendar year ("annual cap") from any negotiated transportation service class customer receiving gas service from the company under that certain negotiated transportation service tariff, as originally approved by the commission on February 3, 1988, in Docket No. G002/M-97-985. Any company customer receiving service from the company under the negotiated transportation service tariff pursuant to a contract effective as of August 1, 1998, shall continue to be eligible for the annual cap. Any company customer which has not received service under the negotiated transportation service tariff is eligible for the annual cap if the company provides written certification to the city that it has verified such customer's eligibility for service under the terms and conditions of the said negotiated transportation service tariff and sets forth the findings and basis for such certification. This annual cap shall not be applicable to any company customer which has not received service under the negotiated transportation service tariff from the company as of August 1, 1998, if the said negotiated transportation service tariff is amended or modified in any way which materially changes the substantive requirements a customer must satisfy to receive gas service under the negotiated transportation service tariff or if such tariff is withdrawn, repealed or for any reason becomes ineffective. The company shall report annually to the city the gas consumption data of any customer eligible

for the annual cap. This reporting requirement does not modify or waive any claim that the consumption data is a trade secret.

- (f) *Annual cap for High Bridge plant.* The parties acknowledge that the company's High Bridge plant will be converted from a coal-powered facility to a natural gas-fired combined-cycle unit. The plant is expected to commence commercial operations as a natural gas-fired facility in May, 2008. The date the High Bridge plant goes into service as a natural gas-fired facility shall hereinafter be the "Service Date."

The company shall pay franchise fees on gas usage at the High Bridge plant beginning on the service date. There shall be exempt from the franchise fee any requirement that the company pay or collect by surcharge a franchise fee in excess of one hundred fifty thousand dollars (\$150,000) in any calendar year for the High Bridge plant.

Section 7. Reports to be filed; audits; tariffs.

- (a) *Monthly reports.* The company shall file monthly with the director of the office of financial services a report showing gas consumption and revenues by classes of service for the preceding company billing month, and shall file a quarterly report containing such further information as may be agreed to by the company and the city, based upon the company's gas operations within the city. Such monthly reports shall show on a monthly and cumulative year-to-date basis (i) company revenues by customer classification from customers in the city, exclusive of sales tax and franchise fees, and (ii) the meter and volume fees and the corresponding billing units (customer accounts and delivered Ccfs) for each category of fees, by customer classification. Such monthly reports shall show any monthly adjustments as provided for in section 5(e). In the event there is a significant fluctuation in the amount of franchise fees being collected and remitted, the company will at the city's request meet and discuss with the city the cause or causes of such fluctuations. The company and the city mutually agree to provide reasonable documentation to assist in determining such cause or causes.
- (b) *Auditor's opinion.* The company will provide the city with an annual opinion from the company's independent auditors that, in connection with the company's annual audit, the auditors have reviewed the company's computation of franchise fees consistent with generally accepted auditing practice and that such computation is in accordance with the terms and conditions of this ordinance. The auditor shall audit a sample that includes customer(s) from each customer class. The company and the city will each pay one-half ($\frac{1}{2}$) of the company's independent auditor's incremental fees for providing this opinion in connection with the company's annual audit, based on reasonable and verifiable fees billed by the auditor. The city may at its option, not more than once a year, require that the company's compliance with the terms and conditions of this franchise, including but not limited to the computation of franchise fees, be verified by a certified public accountant or comparably qualified consultant at the expense of the city.
- (c) *Placement of customers.* Every company customer, on the effective date of this ordinance, is subject to a tariff in the gas rate book, and based on such tariff each such customer is included in a customer classification in the schedule, and shall remain in that customer classification, subject to the provisions of section 7(d) and section 7(e).

The company shall place each new customer in a tariff on the basis of the new customer's reasonably expected character of service and gas consumption, and shall on the basis of that tariff place the new customer in the most comparable customer classification in the schedule for the purpose of collection of meter and volume fees.

- (d) *Movement of a customer.* Subject to section 7(e), if a customer moves from one (1) company tariff to another company tariff, where such movement is permitted by such tariffs, the franchise fees to be collected from such customer shall be computed on the basis of the franchise fees for the customer classification which is applicable to the tariff to which such customer has moved. Subject to section 7(e), if a customer changes service characteristics relating to gas consumption, and such changes cause the customer to both (i) take a different gas service from the company under the same tariff, and (ii) meet the criteria for a different customer classification in the schedule, then the customer shall also be moved, for the purpose of collecting franchise fees, to the classification in the schedule most comparable to the customer's tariff and new service characteristics.
- (e) (i) *New tariff or classification.* When the commission orders or approves a new tariff or tariff revision (a "new tariff") for inclusion in the gas rate book, for which no customer classification exists, each customer taking gas service under such new tariff shall be placed in the customer classification in the schedule most comparable to the new tariff. The placement shall be based on the reasonably expected character of service and gas consumption established for such new tariff. The new tariff shall be one for which there is an approved surcharge rider, so the collection of meter and volume fees from a customer taking service under the new tariff shall be, to the fullest extent practical, comparable to the fees collected if the customer received gas service under the former tariff. If there is no approved surcharge rider for the new tariff, the company shall continue to collect the meter and volume fees based on the customer's former customer classification.
- (ii) *Amended tariff or classification.* It is understood by the parties that the rate or customer classifications within the fee schedule may be subject to change from time to time by approval of the commission. When company files a petition for a classification change, it shall provide timely written notice to the city, pursuant to the notice provisions of section 17 herein, setting forth the proposed changes. Upon request of the city, company shall provide additional information regarding the potential impact of these changes upon the franchise fee schedule. Should such changes be approved by the commission, company shall promptly provide a revised franchise fee schedule to the director of the office of financial services, setting forth such changes.

It shall be the responsibility of the city to maintain an updated franchise fee schedule at the office of financial services at all times. Upon mutual agreement of the company and the city, this ordinance may be amended to establish a new customer classification for any such new tariff.

- (f) *Customer and franchise fee retention.* The city and the company agree that situations in which company customers may switch to alternate energy sources or relocate their facilities could cause both the loss of city franchise fee revenues and the loss of company revenues and margins. In such situations it may be to the mutual best interests of the city and the company to discuss strategies to prevent or ameliorate such losses, among which could be the amendment of franchise provisions relating to the fees hereunder and company rate options or energy management and conservation programs. It is the intent of the city and the company to enter into such discussions as the need may arise in the future.
- (g) *Charter requirement.* The company and the city recognize that the new fees provided for in this ordinance do not collect a franchise fee based on the gross earnings of the company derived from providing gas service within the city. If in any particular calendar year, the franchise fees collected under this franchise in the aggregate or for any customer classification or customer do not equal five (5) percent of the said gross earnings of the

company, the company as franchise holder is specifically relieved, as required and permitted in chapter 16 of the Charter, of the obligation to make a franchise fee payment of five (5) percent of company gross earnings.

- (h) *Commission approval.* The company shall use its best efforts to obtain the approval of the commission for a surcharge rider tariff implementing the provisions of this ordinance relating to the time and manner of collection of the franchise fees provided for herein.

Section 8. Public utilities commission.

The gas service of the company and the rates to be charged by the company for gas service in the city shall be subject to the jurisdiction of the state public utilities commission. The company shall provide reasonably efficient and adequate service to members of the public within the city who apply for such service in accordance with the rules and regulations of the commission and of the company.

Section 9. Gas rate book.

Certification and filing of gas rate book. Within thirty (30) days after the effective date of this ordinance, the company will file with the city clerk a copy of the gas rate book in effect on September 1, 2006 with a certification as to its accuracy. During the term of this franchise, the company shall file with the city clerk any proposed tariff or tariff change filed with the commission and any revisions to its gas rate book approved by the commission.

Section 10. Vacation.

Except where required for a public improvement project, the vacation of any street or public property, after the installation of gas facilities, shall not operate to deprive company of its rights to operate and maintain such gas facilities, until the reasonable cost of relocating the same and the loss and expense resulting from such relocation are first paid to company. In no case, however, shall the city be liable to the company for failure to specifically preserve a right-of-way, pursuant to Minnesota Statutes § 160.29 as supplemented or amended. In accordance with Minnesota Rules, Part 7819.3200, if the city's order directing vacation of the street or public property does not require relocation of the company's gas facilities to prevent interference with a current public improvement, the vacation proceedings shall not be deemed to deprive company of its right to continue to use the right-of-way of the former street or public property for its gas facilities installed prior to such order of vacation.

Section 11. Public hearing.

Before this ordinance shall be finally adopted by the city council, a public hearing shall be held upon ten (10) days' published notice in the official newspaper and after said hearing the city council may pass this ordinance, revise or amend the same. The company shall bear the costs of publication of the franchise ordinance and shall make a sufficient deposit with the city clerk to guarantee publication before the ordinance~~appendix~~ is passed.

Section 12. Indemnification; insurance.

The company shall indemnify and save the city whole and harmless from any and all claims for injury or damage to persons or property occasioned by or arising out of the construction, maintenance, operation or repair of said transmission and distribution system or by the conduct of the company's business in the city. The foregoing does not indemnify the city for its own negligence, except for claims arising out of or alleging the city's negligence where such negligence arises out of or is primarily related to the construction, operation, maintenance or repair of said system, including, but not limited to, the issuance of permits and inspection of

plans or work. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the company; and the company, in defending any action on behalf of the city, shall be entitled to assert in any action every defense or immunity that the city could assert in its own behalf.

Throughout the term of this franchise the company shall be fully insured as required by state law and/or by public utilities commission rules and regulations.

Section 13. Severability; extension/duration.

- (a) *Cure of invalidity.* If any section, provision or part of this ordinance shall be held invalid, the company and the city shall meet and discuss amendments to the ordinance to cure the invalidity consistent with the intent of t, which meetings and discussion shall be without prejudice to the lawful rights of the company and the city.
- (b) *Franchise termination or renewal notice.* Either party may give written notice of its intention to either:
 - (1) Negotiate the terms of a new or renewal franchise ("renewal notice") or
 - (2) Terminate this franchise ("termination notice") at any time between the date of final adoption of this franchise by the city and August 31, 2016, except such termination or renewal notice must be provided at least eighteen (18) months prior to the effective termination date, and the effective termination date must be after August 31, 2016.

Such termination or renewal notice shall be provided via certified mail to the other party. The filing of a termination or renewal notice by either party shall preclude extension in the manner described below, unless the parties agree otherwise.

If neither party has filed a termination or renewal notice by August 31, 2016, or the city and company have not extended or superseded this franchise with a new franchise agreement before its expiration date on August 31, 2016, then this franchise will automatically extend for an initial five-year franchise extension period ("initial franchise extension period"), to expire August 31, 2021. The franchise will automatically extend for a second five-year franchise extension period ("second franchise extension period") to expire August 31, 2026, if neither party has filed a termination or renewal notice by August 31, 2021, or the city and company have not extended or superseded this franchise with a new franchise agreement by August 31, 2021.

Unless otherwise agreed, during all periods described above, the franchise fee to be paid to the city during the initial franchise extension period, and the second franchise extension period, by the company shall continue to be computed, collected, and paid to the city, but shall be in accordance with the schedule as set forth in Section 16.

- (c) *Commission jurisdiction.* Nothing in this ordinance confers or is intended to confer jurisdiction or powers on the commission or any other administrative agency or court of law, which it does not otherwise have by law.

Section 14. Passage; effect of ordinance.

The company shall, within thirty (30) days after the passage, approval and publication of this ordinance, file with the city clerk its written acceptance thereof in form to be approved by the city attorney, and therein shall agree to abide by, keep and perform all the terms, limitations, conditions and provisions of this ordinance. The ordinance shall take effect and be in force after the public hearing prescribed in section 11 and thirty (30) days after its passage, approval and publication, and upon its acceptance as provided herein.

Section 15. Failure to comply.

Upon any breach or failure to comply with any of the terms or conditions of this franchise ordinance, either party may bring an action at law or in equity to seek compliance by the other with the said terms and conditions, money damages or any other appropriate relief which may include, but is not limited to, termination and forfeiture of the franchise granted herein.

Section 16. Schedule of customer classifications.

The table shown herein is the schedule defined in section 5.b(12) of this ordinance and is a part and provision of this ordinance. The schedule provides, for each year of the franchise and for each of the customer classifications listed, the meter and volume factors for that year or group of years. Any modifications to this schedule shall be made in accordance with section 7 herein.

Schedule for Xcel Energy Gas Franchise Fees for Saint Paul
Amended ~~July 12, 2006~~ September 12, 2006

	Meter Factor Monthly Charge per Account									
	2007- 2008 <u>11/01/2006 10/31/2008</u>	2009- 2010 <u>11/01/2008 10/31/2010</u>	2011- 2012 <u>11/01/2010 10/31/2012</u>	2013- 2014 <u>11/01/2012 10/31/2014</u>	2015- 2016 <u>11/01/2014 10/31/2016</u>	2017- 2018 <u>11/01/2016 10/31/2018</u>	2019- 2020 <u>11/01/2018 10/31/2020</u>	2021- 2022 <u>11/01/2020 10/31/2022</u>	2023- 2024 <u>11/01/2022 10/31/2024</u>	2025- 2026 <u>11/01/2024 08/31/2026</u>
Residential	\$ 3.70 <u>May-Oct</u>	\$ 3.70 <u>May-Oct</u>	\$ 3.70 <u>May-Oct</u>	\$ 3.70 <u>May-Oct</u>	\$ 3.70 <u>May-Oct</u>	\$ 3.85 <u>May-Oct</u>	\$ 4.00 <u>May-Oct</u>	\$ 4.16 <u>May-Oct</u>	\$ 4.33 <u>May-Oct</u>	\$ 4.50 <u>Apr-Oct 2025- Apr-Aug 2026</u>
Small commercial firm	\$ 3.72	\$ 3.72	\$ 3.72	\$ 3.72	\$ 3.72	\$ 3.87	\$ 4.02	\$ 4.18	\$ 4.35	\$ 4.53
Large commercial firm	\$ 3.72	\$ 3.72	\$ 3.72	\$ 3.72	\$ 3.72	\$ 3.87	\$ 4.02	\$ 4.18	\$ 4.35	\$ 4.53
Small commercial demand billed	3.72	3.72	3.72	3.72	3.72	3.87	4.02	4.18	4.35	4.53
Large commercial demand billed	11.17	11.17	11.17	11.17	11.17	11.62	12.08	12.56	13.07	13.59
Small interruptible	8.17	8.17	8.17	8.17	8.17	8.50	8.84	9.19	9.56	9.94
Medium interruptible	11.17	11.17	11.17	11.17	11.17	11.62	12.08	12.56	13.07	13.59
Large interruptible	11.17	11.17	11.17	11.17	11.17	11.62	12.08	12.56	13.07	13.59
Large firm transportation	11.17	11.17	11.17	11.17	11.17	11.62	12.08	12.56	13.07	13.59
Interruptible transportation - Small	8.17	8.17	8.17	8.17	8.17	8.50	8.84	9.19	9.56	9.94

Interruptible transportation - Medium	11.17	11.17	11.17	11.17	11.17	11.62	12.08	12.56	13.07	13.59
Interruptible transportation - Large	11.17	11.17	11.17	11.17	11.17	11.62	12.08	12.56	13.07	13.59
Negotiated transportation**	-	-	-	-	-	-	-	-	-	-

	Volume Factor Monthly Charge per Ccf/Therm Account									
	2007-2008 <u>11/01/2006</u> <u>10/31/2008</u>	2009-2010 <u>11/01/2008</u> <u>10/31/2010</u>	2011-2012 <u>11/01/2010</u> <u>10/31/2012</u>	2013-2014 <u>11/01/2012</u> <u>10/31/2014</u>	2015-2016 <u>11/01/2014</u> <u>10/31/2016</u>	2017-2018 <u>11/01/2016</u> <u>10/31/2018</u>	2019-2020 <u>11/01/2018</u> <u>10/31/2020</u>	2021-2022 <u>11/01/2020</u> <u>10/31/2022</u>	2023-2024 <u>11/01/2022</u> <u>10/31/2024</u>	2025-2026 <u>11/01/2024</u> <u>08/31/2026</u>
Residential	\$0.0467 May-Oct	\$0.0635 May-Oct	\$0.0806 May-Oct	\$0.0977 May-Oct	\$0.1148 May-Oct	\$0.1194 May-Oct	\$0.1242 May-Oct	\$0.1291 May-Oct	\$0.1343 May-Oct	\$0.1397 <u>Apr-Oct</u> <u>2025-</u> <u>Apr-Aug</u> <u>2026</u>
Small commercial firm	0.0489	0.0509	0.0529	0.0549	0.0569	0.0592	0.0615	0.0640	0.0666	0.0692
Large commercial firm	0.0489	0.0509	0.0529	0.0549	0.0569	0.0592	0.0615	0.0640	0.0666	0.0692
Small commercial demand billed	0.0489	0.0509	0.0529	0.0549	0.0569	0.0592	0.0615	0.0640	0.0666	0.0692
Large commercial demand billed	0.0254	0.0274	0.0294	0.0314	0.0334	0.0347	0.0361	0.0376	0.0391	0.0406
Small interruptible	0.0275	0.0295	0.0315	0.0335	0.0355	0.0369	0.0384	0.0399	0.0415	0.0432
Medium interruptible	0.0084	0.0089	0.0094	0.0099	0.0104	0.0108	0.0112	0.0117	0.0122	0.0127
Large interruptible	0.0084	0.0089	0.0094	0.0099	0.0104	0.0108	0.0112	0.0117	0.0122	0.0127
Large firm transportation	0.0254	0.0274	0.0294	0.0314	0.0334	0.0347	0.0361	0.0376	0.0391	0.0406
Interruptible transportation - Small	0.0275	0.0295	0.0315	0.0335	0.0355	0.0369	0.0384	0.0399	0.0415	0.0432
Interruptible transportation - Medium	0.0084	0.0089	0.0094	0.0099	0.0104	0.0108	0.0112	0.0117	0.0122	0.0127

Interruptible transportation - Large	0.0084	0.0089	0.0094	0.0099	0.0104	0.0108	0.0112	0.0117	0.0122	0.0127
Negotiated transportation**	-	-	-	-	-	-	-	-	-	-

* ~~The six summer months are: May, June, July, August, September and October, per Minnesota Laws 1979, Chapter 189.~~

** Franchise fee is based on customer's prior rate schedule before transferring to this service. If none, large interruptible transportation service fee applies.

Section 17. Notification provisions.

Unless otherwise provided, all notices which may be required to be or are given by either company or the city to the other shall be in writing and shall be either (a) delivered by hand and receipted or (b) sent by first class United States mail, unless a different class of mail is required by a specific provision in t, postage paid, to the representatives at the addresses below:

(a) *To the company:*

President, ~~and CEO~~, NSP- Minnesota
Northern States Power Company
414 Nicollet Mall
Minneapolis, Minnesota 55401

with a copy to:

General Counsel
Law Department, ~~401-8Fifth Floor~~
Northern States Power Company
414 Nicollet Mall
Minneapolis, Minnesota 55401

(b) *To the city:*

Director of Office of Financial Services
(or its successor department or office)
City of Saint Paul
15 West Kellogg Boulevard
Saint Paul, Minnesota 55102-1616

with a copy to:

City Attorney
Office of the City Attorney
City of Saint Paul
15 West Kellogg Boulevard #400
Saint Paul, Minnesota 55102-1616

Either the company or the city may change the above designated representatives and addresses by written notice as provided in this section 17.

Section 18. Amendment procedure.

Either party to this franchise agreement may at any time propose that the agreement be amended to address a subject of concern, and the other party will consider whether it agrees that the amendment is mutually appropriate. If an amendment is agreed upon, this franchise may be amended in accordance with Chapter 16 of the City Charter and accepted by company pursuant to Section 14 herein.

Section 2.

That the Saint Paul Legislative Code, Appendix C, shall be amended as follows:

Appendix C. - Electric Franchise—NSP

Section 1. Grant of franchise.

Northern States Power Company, a corporation organized under the laws of the state, hereinafter designated as "company," being a public service corporation providing electric service for all purposes within the City of Saint Paul, hereinafter designated as "city," under a franchise granted under Ordinance No. _____, which expires on August 30, 2006, is, together with its successors and assigns, hereby granted a franchise in accordance with the terms and conditions of this ordinance to use the streets and other public property located in the city for such purpose for a period covering August 31, 2006, up to August 30, 2026, as further described in Section 13 herein. The term "this ordinance" shall refer to the ordinance being adopted herewith.

Section 2. Use of right-of-way.

The franchise granted herein shall extend to the company's use of all streets and all public property, as defined by Minnesota Statutes § 237.162, now being used by the company in connection with electric service and of such other streets and public property as may from time to time be designated by the city. Such franchise to use the streets and other public property located in the city shall include such use for the purpose of erecting, laying, constructing, installing, maintaining and operating poles, posts, wires, conduits, subways, pipes, manholes, service boxes, cables, conductors and all other necessary and convenient facilities used in conducting, transmitting, distributing and supplying electric energy to and through the city for public and private use.

Section 3. Location of facilities.

- (a) *General.* In locating its electric facilities, the company shall in no way unreasonably interfere with the safety and convenience of ordinary travel along and over said streets and public property, nor interfere with other uses to which such places may be put by the city. In the event it shall become necessary during the term of this franchise to remove or relocate the physical property of the company located within or upon any of the streets or public property in the city, because of such interference or use by the city, or as a result of any public improvement undertaken by the city, the company shall, when so advised by the city council, remove and relocate said facilities without cost to the city, and shall place the streets or public property in the same condition as they were prior to said removal or relocation. Company shall comply with the requirements of any applicable ordinance of the city relating to relocation of electric facilities in streets or public property to the extent consistent with Minnesota Rules, Part 7819.3100 and as allowed by law. However, after the company has so relocated its facilities, the company shall not within five (5) years thereafter be required at its own expense to make any further relocation of the same facilities; except that the company may be required to further relocate any such facilities at its own expense where required because of the extension of public utilities to previously unserved areas. Any relocation or removal of the company's facilities made necessary because of the extension through or into the city of a federally aided state trunk highway, included within the National System of Interstate Highways, shall be governed by the provisions of Minnesota Statutes § 161.46, as supplemented or amended. In such case, the city is obligated to pay company only for those portions of its relocation costs for which the city has received state or federal funding specifically allocated for such costs.
- (b) *Company facilities on non-public property.* The removal and relocation provisions of section 3(a) do not apply to electric facilities or equipment which are not located on streets or other public property of and within the city; provided, however, if the result of any removal or

relocation of company equipment or facilities on or in streets or public property is that the company finds it necessary or desirable to move, relocate, make adjustments to or otherwise in any way modify its electric facilities or equipment on property which is not a street or other public property, all of such changes are and remain at the sole cost and expense of the company. In addition, the provisions of section 3(a) do not apply to electric facilities or equipment which were located on non-city property for which the company had an easement or other interest or permit which made the use of such non-city property lawful, and which non-city property was thereafter acquired by the city for street or other public use, if the city did not pay compensation or relocation assistance to the company at the time of city acquisition.

- (c) *Rail transit* This section relates solely to proposed or future light and heavy rail transit projects (collectively, "rail projects").

The city shall use best efforts to include the company in rail project planning and design meetings where necessary. The company shall use best efforts to attend all such meetings and timely respond and participate in planning and design stages of rail projects. To the extent the city has authority over decisions impacting the company's relocation and operational costs related to rail projects, the city shall reasonably consider the company's proposals for limiting its relocation and operational costs for rail projects.

The city acknowledges that the company may request reimbursement for utility relocation costs from federal and/or state sources. The city will not object to the company's requests for reimbursement from federal or state sources provided such costs do not directly or indirectly reduce funds available to the city from these sources or reduce funds for programs that will benefit the city. The city reserves its right to oppose the company's requests if the city has a reasonable basis to believe such a request will negatively impact the feasibility of a rail project, or negatively affect the city as described above.

The city shall pursue a policy of consistent and equitable treatment of right-of-way users whose facilities are affected by rail projects. This shall not apply to any non-governmental grant application or award or any and all debt issued by the city or its port authority or any other public debt issuers, or to city water or sewer matters. If the city supports a right-of-way user's request, other than city water and sewer, relating to rail projects, the city shall, to the extent practicable, consistently support the company's request for reimbursement. The city reserves its rights under Minn. Stat. §§ 237.162 and 237.163 and relevant ordinances to protect the health, safety, and welfare as such duties may require distinctions among right-of-way users.

Section 4. Compliance with city ordinances and regulations.

- (a) *City regulation.* The company shall be subject to such reasonable regulations as may be provided or authorized by ordinance with respect to its facilities described in section 2. No poles, masts or conduits, or any other electric facilities shall hereafter be installed, erected or laid in the streets or public property by the company except upon full compliance with the requirements of such regulations as may be adopted or authorized by ordinance. The reasonable regulations of the city may require the payment of appropriate permit and other fees related to such regulations. After undertaking any work requiring the opening of the public right-of-way the company shall restore the right-of-way as required by state law and city ordinance to the extent consistent with applicable state law. However, the company shall not be obligated to pay permit fees under the electric franchise in excess of twenty-five thousand dollars (\$25,000.00) in any calendar year from 2006 through 2016 or in any franchise extension period pursuant to Section 13 unless otherwise agreed.

- (b) *Pole space and street lights.* The company shall reasonably make available to the city space on its utility poles for city fire, water utility, and police facilities. Whenever directed by the city council by resolution, the company shall make reasonable extensions of its street lighting facilities for the installation of street lights, without cost to the city, but said facilities shall remain the property of the company.

Section 5. Franchise fee imposed; definitions.

- (a) *Franchise fee imposed.* During the term of the franchise hereby granted, and during any franchise extension period under section 13(b), and, except for permit fees authorized by section 4(a), in lieu of any permit or other fees relating to the installation, repair, maintenance and operation of its facilities, the company shall pay to the city a franchise fee as provided in this section 5, such fee to be paid for each company billing month on or before the last day of the first full calendar month following the company billing month. The franchise fee shall be the total of the monthly meter fee, energy fee and demand fee, where applicable, for each company customer which is located within the city and which receives electric service by means of company electric facilities located within the city, regardless of how such facilities are used or classified including, but not limited to, those facilities used for or classified as transmission, delivery or distribution, or any combination thereof. The franchise fee for each company customer shall be determined by applying the meter factor, energy factor and demand factor as indicated in the schedule, respectively, to:
- (i) Each and every customer classified by the company as a separate account, and
 - (ii) The amount of electricity in kilowatt hours delivered to each such customer each month, and
 - (iii) The billing demand for each such customer to which a demand factor applies under the schedule and the terms of this ordinance.
- (b) *Definitions.* The following terms, as used in this ordinance, shall have the meanings given. Substantive provisions which may be contained in said definitions shall be given full substantive effect.
- (1) *Billing demand* means demand in kilowatts as determined by the company for billing purposes in accordance with the tariffs approved by the commission and contained in the electric rate book from time to time, including but not limited to contracted demands billed by the company at a billing demand rate per kilowatt greater than or equal to zero.
 - (2) *Commission* means the Minnesota Public Utilities Commission, or any successor agency or agencies, including an agency of the federal government which preempts all or part of the authority to regulate electric service now vested in the Minnesota Public Utilities Commission.
 - (3) *Customer classification or classification* means each and every classification of company customers in the schedule, all of which are based on the tariffs contained in the electric rate book in effect on September 1, 2006. The classifications shall be used for the purpose of computing and determining franchise fees under this ordinance. Such classifications may be amended or added to from time to time only by agreement of the company and the city under section 7(e).
 - (4) *Customer of company or company customer or customer* means any electricity user, including company, located within the city which at any time during the term of this

franchise takes delivery of electricity by means of any company electric facilities located within the city. Each and every customer classified as a separate account by the company shall be deemed a separate customer of the company.

- (5) *Demand factor* is the monthly monetary amount per kilowatt shown in the schedule.
 - (6) *Demand fee* means the monthly fee collected from each company customer which is subject to billing demand from the company. The monthly demand fee is the product of the billing demand as defined in section 5(b)(1) above for each such customer times the demand factor specified in the schedule.
 - (7) *Electric rate book* means the company electric rate book, as it may be revised from time to time, which contains company electric service tariffs, general rules and regulations, service rules, standard contract and agreement forms, customer billing forms and notices and technical and special terms and abbreviations, as approved by the commission.
 - (8) *Energy factor*, is the monthly monetary amount per kilowatt hour shown in the schedule.
 - (9) *Energy fee* means the monthly fee collected from each customer of the company based on the quantity of kilowatt hours of electricity delivered to each such customer of the company. The monthly energy fee for electricity is the product of the amount of electricity delivered to each such customer each month expressed in kilowatt hours times the monthly energy factor specified in the schedule.
 - (10) *Meter factor* is the monthly monetary amount per customer in the schedule.
 - (11) *Meter fee* means the monthly fee collected from each customer by applying the meter factor to each and every customer.
 - (12) *Schedule* means the table in section 16 of this ordinance showing the meter, energy and demand factors, where applicable, for each customer classification for each year of this franchise. All customer classifications shown in the schedule on September 1, 2006, are set forth in or determined by the electric rate book in effect on that date.
 - (13) *Tariff* means each and every service schedule, tariff, service rider, surcharge rider, rule contained in the general rules and regulations, rules of service, rider or similar document which has been or is approved by the commission, and includes any modification, amendment or deletion thereof.
- ~~(c) *Residential customer limitation.* For residential customers subject to the limitations contained in Minnesota Laws 1979, Chapter 189, and for so long as such law shall remain in effect, the franchise fee during any calendar year or part thereof shall not be paid or collected during the billing months of January, February, March, April, November and December.~~
- ~~(d)~~(c) *New fees starting date.* The franchise fee imposed in section 5 and in this ordinance ("new fees") shall commence with the bills issued to customers by the company effective with the company's November 2006 billing month, or with bills issued to customers for the first company billing month commencing sixty (60) days after the effective date of this franchise, whichever is later.
- ~~(e)~~(d) *Collection; adjustment.* The new fees imposed in this ordinance shall not exceed any amount which the company may recover, prior to payment to the city, by imposing a surcharge equivalent to such fee in its rates for electric service to customers within the city. Both new and past fees are subject to subsequent adjustment to account for uncollectibles,

refunds and correction of erroneous billings. If any error in collection of franchise fees is discovered by either party, the parties shall meet as soon as reasonably practical to discuss strategies to address the error. However, under no circumstances shall the company be obligated to pay the city for fees it cannot collect.

Section 6. Other energy franchises; dispute resolution.

- (a) *Other energy franchises.* The annual dollar amount of the franchise fee collected from a company customer, or a reasonable estimate of the franchise fee that would be collected from a prospective company customer, for electric service provided under this franchise shall not be materially greater than the annual dollar amount of the franchise fee that would be collected for similar service to such customer by another energy supplier under the terms of a new franchise, assuming comparable energy usage by said customer.
- (b) *Definitions.* For the purposes of section 6 only, the following terms shall have the meanings given. "Similar service" shall mean the supply of energy to a customer for the same end-use purpose or function as the electricity which is or could be furnished by the company. "New franchise" shall mean a franchise granted to another energy supplier after September 1, 2006, or an amendment to an existing franchise held by another energy supplier September 1, 2006. "Energy supplier" shall mean a supplier of energy other than the company.
- (c) *Dispute resolution.* The city shall give the company notice by certified mail of the material provisions of a proposed new franchise at least sixty (60) days before it is finally adopted by the city council. The company shall state in writing its position and give the factual bases for that position on whether the adoption of such new franchise would violate the prohibition in section 6(a) above within thirty (30) days of the date of notice. The company's failure to respond will be a waiver of any rights, remedies, or causes of action it may have under section 6. If the company's position is that the adoption of the proposed new franchise would violate section 6(a) above, then at the request of either the company or the city, the issue of whether the proposed new franchise violates section 6(a) shall be submitted to binding arbitration, using an arbitrator selected under the commercial arbitration rules of the American Arbitration Association. The franchise fee terms of any new franchise must be consistent with the decision of the arbitrator.
- (d) *Consent of company.* Section 6 does not apply to any proposed new franchise to which the company consents in writing.
- (e) *Annual cap for competitive market rider.* There is hereby exempted from the franchise fee any requirement that the company pay or collect by such surcharge a franchise fee in excess of six hundred twenty thousand dollars (\$620,000.00) in any calendar year ("annual cap") from any large commercial and industrial class customer receiving electric service from the company under that certain competitive market rider, as originally approved by the commission on June 18, 1993, Docket No. E-002/M-93-301. Any company customer receiving service from the company under the competitive market rider before the effective date of this ordinance shall continue to be eligible for the annual cap. Any company customer which has not received service under the competitive market rider from the company before the effective date of this ordinance which thereafter receives service under the competitive market rider is eligible for the annual cap if the company provides written certification to the city that it has verified such customer's eligibility for service under the terms and conditions of the said competitive market rider and sets forth the findings and basis for such certification. This annual cap shall not be applicable to any company customer which has not received service under the competitive market rider from the

company before the effective date of this ordinance if the said competitive market rider is amended or modified in any way which materially changes the substantive requirements a customer must satisfy to receive electric service under such rider, or if such rider is withdrawn, repealed or for any reason becomes ineffective.

Section 7. Reports to be filed; audits; tariffs.

- (a) *Monthly reports.* The company shall file monthly with the director of the office of financial services a report showing electric consumption and revenues by classes of service for the preceding company billing month, and shall file a quarterly report containing such further information as may be agreed to by the company and the city, based upon the company's electric operations within the city. Such monthly reports shall show on a monthly and cumulative year-to-date basis:
 - (i) Company revenues by customer classification from customers in the city, exclusive of sales tax and franchise fees, and
 - (ii) The meter, energy and demand fees and the corresponding billing units (customer accounts, delivered kilowatt hours and billing demand) for each category of fees, by customer classification.

Such monthly reports shall show any monthly adjustments as provided for in section 5(e). In the event there is a significant fluctuation in the amount of franchise fees being collected and remitted, the company will at the city's request meet and discuss with the city the cause or causes of such fluctuations. The company and the city mutually agree to provide reasonable documentation to assist in determining such cause or causes.

- (b) *Auditor's opinion.* The company will provide the city with an annual opinion from the company's independent auditors that, in connection with the company's annual audit, the auditors have reviewed the company's computation of franchise fees consistent with the terms and conditions of this ordinance. The company and the city will each pay one-half of the company's independent auditor's incremental fees for providing this opinion in connection with the company's annual audit, based on reasonable and verifiable fees billed by the auditor. The auditor shall audit a sample that includes customer(s) from each customer class. The city may at its option, not more than once a year, require that the company's compliance with the terms and conditions of this franchise, including but not limited to the computation of franchise fees, be verified by a certified public accountant or comparably qualified consultant at the expense of the city.
- (c) *Placement of customers.* Every company customer, on the effective date of this ordinance, is subject to a tariff in the electric rate book, and based on such tariff each such customer is included in a customer classification in the schedule, and shall remain in that customer classification, subject to the provisions of section 7(d) and section 7(e).

The company shall place each new customer in a tariff on the basis of the new customer's reasonably expected character of service, voltage, electricity consumption and billing demand, and shall on the basis of that tariff place the new customer in the most comparable customer classification in the schedule for the purpose of collection of meter, energy and demand fees.

- (d) *Movement of a customer.* Subject to section 7(e), if a customer moves from one (1) company tariff to another company tariff, where such movement is permitted by such tariffs, the franchise fees to be collected from such customer shall be computed on the basis of the franchise fees for the customer classification which is applicable to the tariff to which such customer has moved. Subject to section 7(e), if a customer changes service characteristics relating to voltage or electric consumption or both, and such changes cause

the customer to both (i) take a different electric service from the company under the same tariff, and (ii) meet the criteria for a different customer classification in the schedule, then the customer shall also be moved, for the purpose of collecting franchise fees, to the classification in the schedule most comparable to the customer's tariff and new service characteristics.

- (e) (i) *New or amended tariff or classification.* When the commission orders or approves a new tariff or tariff revision (a "new tariff") for inclusion in the electric rate book, for which no customer classification exists, each customer taking electric service under such new tariff shall be placed in the customer classification in the schedule most comparable to the new tariff. The placement shall be based on the reasonably expected character of service, voltage, electricity consumption and billing demand established for such new tariff. The new tariff shall be one for which there is an approved surcharge rider, so the collection of meter, energy and demand fees from a customer taking service under the new tariff shall be, to the fullest extent practical, comparable to the fees collected if the customer received electric service under the former tariff. If there is no approved surcharge rider for the new tariff, the company shall continue to collect the meter, energy and demand fees based on the customer's former customer classification.
- (ii) *Amended tariff or classification.* It is understood by the parties that the rate or customer classifications within the fee schedule may be subject to change from time to time by approval of the commission. When company files a petition for a classification change, it shall provide timely written notice to the city, pursuant to the notice provisions of section 17 herein, setting forth the proposed changes. Upon request of the city, company shall provide additional information regarding the potential impact of these changes upon the franchise fee schedule. Should such changes be approved by the commission, company shall promptly provide a revised franchise fee schedule to the director of the office of financial services, setting forth such changes.

It shall be the responsibility of the city to maintain an updated franchise fee schedule at the office of financial services at all times. Upon mutual agreement of the company and the city, this ordinance may be amended to establish a new customer classification for any such new tariff.

- (f) *Customer and franchise fee retention.* The city and the company agree that situations in which company customers may switch to alternate energy sources or relocate their facilities could cause both the loss of city franchise fee revenues and the loss of company revenues and margins. In such situations it may be to the mutual best interests of the city and the company to discuss strategies to prevent or ameliorate such losses, among which could be the amendment of franchise provisions relating to the fees hereunder and company rate options or energy management and conservation programs. It is the intent of the city and the company to enter into such discussions as the need may arise in the future.
- (g) *Charter requirement.* The company and the city recognize that the new fees provided for in this ordinance do not collect a franchise fee based on the gross earnings of the company derived from providing electric service within the city. If in any particular calendar year, the franchise fees collected under this franchise in the aggregate or for any customer classification or customer do not equal five (5) percent of the said gross earnings of the company, the company as franchise holder is specifically relieved, as required and permitted in chapter 16 of the Charter, of the obligation to make a franchise fee payment of five (5) percent of company gross earnings.

- (h) *Commission approval.* The company shall use its best efforts to obtain the approval of the commission for a surcharge rider tariff implementing the provisions of this ordinance relating to the time and manner of collection of the franchise fees provided for herein.

Section 8. Public utilities commission.

The electric service of the company and the rates to be charged by the company for electric service in the city shall be subject to the jurisdiction of the state public utilities commission. The company shall provide reasonably efficient and adequate service to members of the public within the city who apply for such service in accordance with the rules and regulations of the Commission and of the company.

Section 9. Electric rate book.

Certification and filing of electric rate book. Within thirty (30) days after the effective date of this ordinance, the company will file with the city clerk a copy of the electric rate book in effect on September 1, 2006, with a certification as to its accuracy. During the term of this franchise, the company shall file with the city clerk any proposed tariff or tariff change filed with the commission and any revisions to its electric rate book approved by the commission.

Section 10. Vacation.

Except where required for a public improvement project, the vacation of any street or public property, after the installation of electric facilities, shall not operate to deprive company of its rights to operate and maintain such electric facilities, until the reasonable cost of relocating the same and the loss and expense resulting from such relocation are first paid to company. In no case, however, shall the city be liable to the company for failure to specifically preserve a right-of-way, pursuant to Minnesota Statutes § 160.29 as supplemented or amended. In accordance with Minnesota Rules, part 7819.3200, if the city's order directing vacation of the street or public property does not require relocation of the company's electric facilities to prevent interference with a current public improvement, the vacation proceedings shall not be deemed to deprive company of its right to continue to use the right-of-way of the former street or public property for its electric facilities installed prior to such order of vacation.

Section 11. Public hearing.

Before this ordinance shall be finally adopted by the city council, a public hearing shall be held upon ten (10) days' published notice in the official newspaper and after said hearing the city council may pass this ordinance, revise or amend the same. The company shall bear the costs of publication of the franchise ordinance and shall make a sufficient deposit with the city clerk to guarantee publication before the ordinance is passed.

Section 12. Indemnification; insurance.

The company shall indemnify and save the city whole and harmless from any and all claims for injury or damage to persons or property occasioned by or arising out of the construction, maintenance, operation or repair of said transmission and distribution system or by the conduct of the company's business in the city. The foregoing does not indemnify the city for its own negligence, except for claims arising out of or alleging the city's negligence where such negligence arises out of or is primarily related to the construction, operation, maintenance or repair of said system, including, but not limited to, the issuance of permits and inspection of plans or work. This section is not, as to third parties, a waiver of any defense or immunity

otherwise available to the company; and the company, in defending any action on behalf of the city, shall be entitled to assert in any action every defense or immunity that the city could assert in its own behalf.

Throughout the term of this franchise the company shall be fully insured as required by state law and/or by public utilities commission rules and regulations.

Section 13. Severability; extension/duration.

- (a) *Cure of invalidity.* If any section, provision or part of this ordinance shall be held invalid, the company and the city shall meet and discuss amendments to the ordinance to cure the invalidity consistent with the intent of this ordinance, which meetings and discussion shall be without prejudice to the lawful rights of the company and the city.
- (b) *Franchise termination or renewal notice.* Either party may give written notice of its intention to either:
 - (1) Negotiate the terms of a new or renewal franchise ("renewal notice") or
 - (2) Terminate this franchise ("termination notice") at any time between the date of final adoption of this franchise by the city and August 31, 2016, except such termination or renewal notice must be provided at least 18 months prior to the effective termination date, and the effective termination date must be after August 31, 2016.

Such termination or renewal notice shall be provided via certified mail to the other party. The filing of a termination or renewal notice by either party shall preclude extension in the manner described below, unless the parties agree otherwise.

If neither party has filed a termination or renewal notice by August 31, 2016, or the city and company have not extended or superseded this franchise with a new franchise agreement before its expiration date on August 31, 2016, then this franchise will automatically extend for an initial five-year franchise extension period ("initial franchise extension period"), to expire August 31, 2021. The franchise will automatically extend for a second five-year franchise extension period ("second franchise extension period") to expire August 31, 2026, if neither party has filed a termination or renewal notice by August 31, 2021, or the city and company have not extended or superseded this franchise with a new franchise agreement by August 31, 2021.

Unless otherwise agreed, during all periods described above, the franchise fee to be paid to the city during the initial franchise extension period, and the second franchise extension period, by the company shall continue to be computed, collected, and paid to the city, but shall be in accordance with the schedule as set forth in section 16.

- (c) *Commission jurisdiction.* Nothing in this ordinance confers or is intended to confer jurisdiction or powers on the commission or any other administrative agency or court of law, which it does not otherwise have by law.

Section 14. Passage; effect of ordinance.

The company shall, within thirty (30) days after the passage, approval and publication of this ordinance, file with the city clerk its written acceptance thereof in form to be approved by the city attorney, and therein shall agree to abide by, keep and perform all the terms, limitations, conditions and provisions of this ordinance. This ordinance shall take effect and be in force after the public hearing prescribed in section 11 and thirty (30) days after its passage, approval and publication, and upon its acceptance as provided herein.

Section 15. Failure to comply.

Upon any breach or failure to comply with any of the terms or conditions of this franchise ordinance, either party may bring an action at law or in equity to seek compliance by the other with the said terms and conditions, money damages or any other appropriate relief which may include, but is not limited to, termination and forfeiture of the franchise granted herein.

Section 16. Schedule of customer classifications.

The table shown herein is the schedule defined in section 5(b)(12) of this ordinance and is a part and provision of this ordinance. The schedule provides, for each year of the franchise and for each of the customer classifications listed, the meter, energy and demand factors for that year or group of years. Any modifications to this schedule shall be made in accordance with section 7 herein.

Schedule for Xcel Energy Electric Franchise Fees for Saint Paul
Amended ~~July 12, 2006~~ September 12, 2006

	Meter Factor Monthly Charge per Account									
	<u>2007- 2008</u> <small>11/01/2006 10/31/2008</small>	<u>2009- 2010</u> <small>11/01/2008 10/31/2010</small>	<u>2011- 2012</u> <small>11/01/2010 10/31/2012</small>	<u>2013- 2014</u> <small>11/01/2012 10/31/2014</small>	<u>2015- 2016</u> <small>11/01/2014 10/31/2016</small>	<u>2017- 2018</u> <small>11/01/2016 10/31/2018</small>	<u>2019- 2020</u> <small>11/01/2018 10/31/2020</small>	<u>2021- 2022</u> <small>11/01/2020 10/31/2022</small>	<u>2023- 2024</u> <small>11/01/2022 10/31/2024</small>	<u>2025- 2026</u> <small>11/01/2024 10/31/2026</small>
Residential	<u>\$2.63</u> <u>May-Oct</u>	<u>\$2.70</u> <u>May-Oct</u>	<u>\$2.77</u> <u>May-Oct</u>	<u>\$2.84</u> <u>May-Oct</u>	<u>\$2.91</u> <u>May-Oct</u>	<u>\$3.03</u> <u>May-Oct</u>	<u>\$3.15</u> <u>May-Oct</u>	<u>\$3.27</u> <u>May-Oct</u>	<u>\$3.40</u> <u>May-Oct</u>	<u>\$3.54</u> <u>Apr-Oct</u> <u>2025- Apr-Aug</u> <u>2026</u>
Small commercial and industrial										
Non-demand	2.96	3.09	3.22	3.35	3.48	3.62	3.76	3.91	4.07	4.23
Firm secondary	2.96	3.09	3.22	3.35	3.48	3.62	3.76	3.91	4.07	4.23
Firm primary	2.96	3.09	3.22	3.35	3.48	3.62	3.76	3.91	4.07	4.23
Interruptible secondary	2.96	3.09	3.22	3.35	3.48	3.62	3.76	3.91	4.07	4.23
Interruptible primary	2.96	3.09	3.22	3.35	3.48	3.62	3.76	3.91	4.07	4.23
Large commercial and industrial										
Special	5.04	5.11	5.18	5.25	5.32	5.53	5.75	5.98	6.22	6.47

Firm secondary	5.04	5.11	5.18	5.25	5.32	5.53	5.75	5.98	6.22	6.47
Firm primary	5.04	5.11	5.18	5.25	5.32	5.53	5.75	5.98	6.22	6.47
Firm trans. transf.	5.04	5.11	5.18	5.25	5.32	5.53	5.75	5.98	6.22	6.47
Interruptible secondary	5.04	5.11	5.18	5.25	5.32	5.53	5.75	5.98	6.22	6.47
Interruptible primary	5.04	5.11	5.18	5.25	5.32	5.53	5.75	5.98	6.22	6.47
Interruptible TT	5.04	5.11	5.18	5.25	5.32	5.53	5.75	5.98	6.22	6.47
Standby service	None	None	None	None	None	None	None	None	None	None
Public street and highway lighting	6.74	6.81	6.88	6.95	7.02	7.30	7.59	7.90	8.21	8.54
Small municipal pumping										
Non-demand	2.96	3.09	3.22	3.35	3.48	3.62	3.76	3.91	4.07	4.23
Demand secondary	2.96	3.09	3.22	3.35	3.48	3.62	3.76	3.91	4.07	4.23
Demand primary	2.96	3.09	3.22	3.35	3.48	3.62	3.76	3.91	4.07	4.23
Large municipal pumping										
Demand primary (sec cust)	2.96	3.09	3.22	3.35	3.48	3.62	3.76	3.91	4.07	4.23
Fire and Civil Defense Siren Service	<u>2.96</u>	<u>3.09</u>	<u>3.22</u>	<u>3.35</u>	<u>3.48</u>	<u>3.62</u>	<u>3.76</u>	<u>3.91</u>	<u>4.07</u>	<u>4.23</u>

	VolumeEnergy Factor Monthly Charge per kWh Account									
	2007-2008 <u>11/01/2006</u> <u>10/31/2008</u>	2009-2010 <u>11/01/2008</u> <u>10/31/2010</u>	2011-2012 <u>11/01/2010</u> <u>10/31/2012</u>	2013-2014 <u>11/01/2012</u> <u>10/31/2014</u>	2015-2016 <u>11/01/2014</u> <u>10/31/2016</u>	2017-2018 <u>11/01/2016</u> <u>10/31/2018</u>	2019-2020 <u>11/01/2018</u> <u>10/31/2020</u>	2021-2022 <u>11/01/2020</u> <u>10/31/2022</u>	2023-2024 <u>11/01/2022</u> <u>10/31/2024</u>	2025-2026 <u>11/01/2024</u> <u>08/31/2026</u>

Residential	\$0.0094 <u>May-Oct</u>	\$0.0095 <u>May-Oct</u>	\$0.0096 <u>May-Oct</u>	\$0.0097 <u>May-Oct</u>	\$0.0098 <u>May-Oct</u>	\$0.0102 <u>May-Oct</u>	\$0.0106 <u>May-Oct</u>	\$0.0110 <u>May-Oct</u>	\$0.0115 <u>May-Oct</u>	\$0.0119 <u>Apr-Oct</u> <u>2025-</u> <u>Apr-Aug</u> <u>2026</u>
Small commercial and industrial										
Non-demand	0.0040	0.0040	0.0040	0.0040	0.0040	0.0042	0.0043	0.0045	0.0047	0.0049
Firm secondary	0.0018	0.0018	0.0018	0.0018	0.0018	0.0019	0.0019	0.0020	0.0021	0.0022
Firm primary	0.0018	0.0018	0.0018	0.0018	0.0018	0.0019	0.0019	0.0020	0.0021	0.0022
Interruptible secondary	0.0018	0.0018	0.0018	0.0018	0.0018	0.0019	0.0019	0.0020	0.0021	0.0022
Interruptible primary	0.0018	0.0018	0.0018	0.0018	0.0018	0.0019	0.0019	0.0020	0.0021	0.0022
Large commercial and industrial										
Special	0.0028	0.0028	0.0028	0.0028	0.0028	0.0029	0.0030	0.0031	0.0033	0.0034
Firm secondary	0.0013	0.0013	0.0013	0.0013	0.0013	0.0014	0.0014	0.0015	0.0015	0.0016
Firm primary	0.0013	0.0013	0.0013	0.0013	0.0013	0.0014	0.0014	0.0015	0.0015	0.0016
Firm trans. transf.	0.0013	0.0013	0.0013	0.0013	0.0013	0.0014	0.0014	0.0015	0.0015	0.0016
Interruptible secondary	0.0013	0.0013	0.0013	0.0013	0.0013	0.0014	0.0014	0.0015	0.0015	0.0016
Interruptible primary	0.0013	0.0013	0.0013	0.0013	0.0013	0.0014	0.0014	0.0015	0.0015	0.0016
Interruptible TT	0.0013	0.0013	0.0013	0.0013	0.0013	0.0014	0.0014	0.0015	0.0015	0.0016
Standby service	None	None	None	None	None	None	None	None	None	None
Public street and highway lighting	0.0040	0.0040	0.0040	0.0040	0.0040	0.0042	0.0043	0.0045	0.0047	0.0049

Small municipal pumping										
Non-demand	0.0040	0.0040	0.0040	0.0040	0.0040	0.0042	0.0043	0.0045	0.0047	0.0049
Demand secondary	0.0018	0.0018	0.0018	0.0018	0.0018	0.0019	0.0019	0.0020	0.0021	0.0022
Demand primary	0.0018	0.0018	0.0018	0.0018	0.0018	0.0019	0.0019	0.0020	0.0021	0.0022
Large municipal pumping										
Demand primary (sec cust)	0.0018	0.0018	0.0018	0.0018	0.0018	0.0019	0.0019	0.0020	0.0021	0.0022
<u>Fire and Civil Defense Siren Service</u>	<u>0.0018</u>	<u>0.0018</u>	<u>0.0018</u>	<u>0.0018</u>	<u>0.0018</u>	<u>0.0019</u>	<u>0.0019</u>	<u>0.0020</u>	<u>0.0021</u>	<u>0.0022</u>

[illegible]

Firm secondary	1.10	1.10	1.10	1.10	1.10	1.14	1.19	1.24	1.29	1.34
Firm primary	1.06	1.06	1.06	1.06	1.06	1.10	1.15	1.19	1.24	1.29
Firm trans. transf.	1.06	1.06	1.06	1.06	1.06	1.10	1.15	1.19	1.24	1.29
Interruptible secondary	0.81	0.81	0.81	0.81	0.81	0.84	0.88	0.91	0.95	0.99
Interruptible primary	0.71	0.71	0.71	0.71	0.71	0.74	0.77	0.80	0.83	0.86
Interruptible TT	0.51	0.54	0.57	0.60	0.63	0.66	0.68	0.71	0.74	0.77
Standby service	0.30	0.33	0.36	0.39	0.42	0.44	0.45	0.47	0.49	0.51
Public street and highway lighting	None	None	None	None	None	None	None	None	None	None
Small municipal pumping										
Non-demand	None	None	None	None	None	None	None	None	None	None
Demand secondary	1.10	1.10	1.10	1.10	1.10	1.14	1.19	1.24	1.29	1.34
Demand primary	1.06	1.06	1.06	1.06	1.06	1.10	1.15	1.19	1.24	1.29
Large municipal pumping										
Demand primary (sec cust)	1.06	1.06	1.06	1.06	1.06	1.10	1.15	1.19	1.24	1.29
Fire and civil defense siren service	1.06	1.06	1.06	1.06	1.06	1.10	1.15	1.19	1.24	1.29

* ~~The six summer months are: May, June, July, August, September and October, per Minnesota Laws 1979, Chapter 189.~~

Section 17. Notification provisions.

Unless otherwise provided, all notices which may be required to be or are given by either company or the city to the other shall be in writing and shall be either (a) delivered by hand and

receipted or (b) sent by first class United States mail, unless a different class of mail is required by a specific provision in this ordinance, postage paid, to the representatives at the addresses below:

(a) *To the company:*

President and ~~CEO~~, NSP - Minnesota
Northern States Power Company
414 Nicollet Mall
Minneapolis, Minnesota 55401
with a copy to:

General Counsel
Law Department, ~~401-8Fifth Floor~~
Northern States Power Company
414 Nicollet Mall
Minneapolis, Minnesota 55401

(b) *To the city:*

Director of Office of Financial Services
(or its successor department or office)
City of Saint Paul
15 West Kellogg Boulevard
Saint Paul, Minnesota 55102-1616

with a copy to:

City Attorney
Office of the City Attorney
City of Saint Paul
15 West Kellogg Boulevard #400
Saint Paul, Minnesota 55102-1616

Either the company or the city may change the above designated representatives and addresses by written notice as provided in this section 17.

Section 18. Amendment procedure.

Either party to this franchise agreement may at any time propose that the agreement be amended to address a subject of concern, and the other party will consider whether it agrees that the amendment is mutually appropriate. If an amendment is agreed upon, this franchise may be amended in accordance with Chapter 16, City Charter and accepted by the company pursuant to Section 14 herein.

Section 3.

This ordinance shall take effect and be in force at least thirty (30) days after the public hearing required by Chapter 16 of the City's Charter and its subsequent acceptance, passage, approval, and publication.