

★ **Roll Call Number**

Agenda Item Number

64A

Date June 8, 2020

An Ordinance entitled, "AN ORDINANCE amending the franchise heretofore granted to MidAmerican Energy Company for the production, distribution, transmission and sale of electric energy and amending the franchise heretofore granted to MidAmerican Energy Company for the production, distribution, transmission and sale of gas to repeal the temporary increase to the franchise fee used solely toward payment of the *Kragnes v. City of Des Moines* judgment",

presented.

Moved by _____ that this ordinance be considered and given first vote for passage.

FORM APPROVED:

(First of three required readings)

/s/ Lawrence R. McDowell
Lawrence R. McDowell
Deputy City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				

CERTIFICATE

I, P. Kay Cmelik, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED APPROVED

_____ Mayor

_____ City Clerk

ORDINANCE NO. _____

AN ORDINANCE amending the franchise heretofore granted to MidAmerican Energy Company for the production, distribution, transmission and sale of electric energy and amending the franchise heretofore granted to MidAmerican Energy Company for the production, distribution, transmission and sale of gas to repeal the temporary increase to the franchise fee used solely toward payment of the *Kragnes v. City of Des Moines* judgment.

WITNESSETH:

WHEREAS, pursuant to Ordinance No. 14,341, the City of Des Moines granted unto MidAmerican Energy Company an extended and amended franchise for the production, distribution, transmission and sale of electric energy and pursuant to Ordinance No. 14,342 the City of Des Moines granted unto MidAmerican Energy Company an extended and amended franchise for the production, distribution, transmission and sale of gas; and

WHEREAS, Ordinance No. 15,244 passed by the City Council on December 9, 2013 and approved at a special City election held on March 4, 2014 amended said franchises by enacting a new Section 6A to temporarily increase the franchise fee to be used solely toward payment of the *Kragnes v. City of Des Moines* judgment; and

WHEREAS, the City Manager has determined that the judgment bonds issued to pay the *Kragnes v City of Des Moines* judgment will be paid and redeemed by the temporary increase to the franchise fee and repeal of such temporary increase is appropriate; and

~~WHEREAS, to avoid dramatic property tax increases or devastating cuts to City services, the City Council has determined that it would be in the best interests of the City of Des Moines and its residents to vote upon an amendment to said franchises to temporarily increase the franchise fee to be used solely toward payment of the *Kragnes v. City of Des Moines* judgment.~~

NOW THEREFORE, BE IT ORDAINED, by the City Council of the City of Des Moines, Iowa:

Section 1. That the electric energy franchise and the gas franchise granted to MidAmerican Energy Company by Ordinance No. 14,341 ~~is~~are hereby amended by repealing adding and enacting a new Section 6A thereof to each franchise relating to the temporary increase of the franchise fee, as follows:

Section 6A. Repealed by Ordinance No. 15,--- ~~Temporary increase to franchise fee to be used solely toward payment of the *Kragnes v. City of Des Moines* judgment~~

~~To avoid dramatic property tax increases or devastating cuts to city services, the rate of the franchise fee shall be temporarily increased for only the next seven consecutive fiscal years to seven and one-half percent of gross revenues generated from sales of the Company in the city and, commencing on the first day of the~~

~~fiscal year following approval of this section at election, there is hereby imposed upon the Company to pay to the city a franchise fee in an amount equal to seven and one half percent (7.5%) of the gross revenue of the Company, minus uncollectible accounts, derived from the distribution, transmission, and retail sale of gas or electric energy by the Company to customers within the current or future corporate limits of the city (excluding, however, the sale of gas or electric energy to the city). All such franchise fee amounts assessed and collected during such fiscal years in excess of five percent of gross revenues generated from sales of the Company shall be used solely for the purposes to pay, adjust, renew or extend any part or all of the legal indebtedness of the city as evidenced by bonds, warrants or judgments and the funding or refunding of all amounts ordered refunded by a court of competent jurisdiction for franchise fees assessed and collected by the city prior to June 20, 2013.~~

Section 2. That the gas franchise granted to MidAmerican Company by Ordinance No. 14,342 is hereby amended by repealing Section 6A thereof relating to the temporary increase of the franchise fee, as follows:

Section 6A. Repealed by Ordinance No. 15, ---.

Section 3. All other terms and conditions of the electrical energy franchise contained in Ordinance No. 14,341, as amended, and of the gas franchise contained in Ordinance No. 14,342, as amended, not otherwise amended herein shall remain in full force and effect.

Section 42. This ordinance shall be in full force and effect on August 10, 2020. ~~from and after its passage, publication and~~ In the event a valid petition requesting submission of the ordinance to the voters is accepted for timely filing with the City of Des Moines, this ordinance shall be in full force and effect only after approval at an election by an affirmative majority vote as certified by the county election commissioner all as provided by law.

Passed _____, 2020

Signed _____, 2020

T. M. Franklin Cownie, Mayor

Attest:

I, P. Kay Cmelik, City Clerk of the City of Des Moines, Iowa, hereby certify that the above and foregoing is a true copy of an ordinance, passed by the City Council of said City at a meeting held _____, 2020, signed by the Mayor on _____, 2020, and published as provided by law in the Business Record on _____, 2020. Authorized by Publication Order _____.

P. Kay Cmelik, City Clerk