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FINANCE & RECORDS

MEMO

To: Gregg Mandsager, City Administrator

From: Nancy A. Lueck, Finance Director

Date: March 18, 2019

Re: Ordinance on 1st Reading Amending Ordinance No. 91191-0410 to Increase the Utility Franchise Fee for Interstate Power & Light

Introduction and Background:

The City Council of the City of Muscatine, Iowa, established a utility franchise fee for Interstate Power & Light Company for the natural gas distribution system within the city limits of the City of Muscatine with the adoption of Ordinance 91191-0410 in April of 2010. Section 7 of that ordinance provided that the franchise fee may be increased or decreased by giving a 90-day notice to the utility with the fee limited to a maximum of five percent (5%). The franchise fee rates have been increased and decreased by the City Council since originally implemented with the most recent franchise fee set by Ordinance 94331-0618 at two percent (2%).

The City of Muscatine budget for the fiscal year beginning July 1, 2019 includes an increase in the utility franchise fee from the current 2% to 5% effective July 1, 2019. The Ordinance provides that the City give the Utility a minimum of a 90 day notice when implementing changes in the franchise fee rate.

Recommendation:

While the original ordinance provides that the franchise fee can be set at rates up to 5%, the City Attorney has stated that a public hearing is required and an ordinance amendment is necessary prior to approving any increase in the utility franchise fee. The public hearing is scheduled for March 21, 2019 and the first reading of the ordinance has been included in the agenda for that meeting.

Summary:

Please include the attached ordinance on first reading to increase the utility franchise fee to 5% on the agenda for the April 4, 2019 meeting. It is also proposed that the City Council consider waiving the 2nd and 3rd readings and approve the ordinance amendment on first and final reading at the meeting on April 4th.

Please contact me if you have any questions or need additional information.

**"I remember Muscatine for its sunsets. I have never seen any
on either side of the ocean that equaled them" — Mark Twain**

ORDINANCE NO. 2019-0064

AN ORDINANCE AMENDING ORDINANCE NO. 91191-0410 GRANTING TO INTERSTATE POWER AND LIGHT COMPANY (ALLIANT ENERGY), ITS SUCCESSORS AND ASSIGNS, THE RIGHT AND FRANCHISE TO ACQUIRE, CONSTRUCT, ERECT, MAINTAIN AND OPERATE A NATURAL GAS DISTRIBUTION SYSTEM IN THE CITY OF MUSCATINE, MUSCATINE COUNTY, IOWA FOR THE PURPOSE OF DISTRIBUTING, SUPPLYING AND SELLING NATURAL GAS TO THE CITY AND ITS INHABITANTS BY INCREASING THE FRANCHISE FEE TO FIVE PERCENT (5%)

WHEREAS, pursuant to Ordinance No. 91191-0410, a franchise was granted to Interstate Power and Light Company (Alliant Energy) for the sale and distribution of natural gas within the city limits of the City of Muscatine;

WHEREAS, Section 7 of Ordinance No. 91191-0410 provided that the franchise fee may be increased or decreased by giving a 90-day notice to the utility with the fee limited to a maximum of five percent (5%);

WHEREAS, the franchise fee rates have been increased and decreased by the City Council since originally implemented with the most recent franchise fee set by Ordinance 94331-0618 at two percent (2%);

WHEREAS, the City of Muscatine wishes to amend the franchise ordinance to provide that Interstate Power and Light Company (Alliant Energy) shall remit a franchise fee of five percent (5%) beginning July 1, 2019.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MUSCATINE, IOWA, that Muscatine Ordinance No. 91191-0410, as last amended by Ordinance No. 94331-0618, is hereby amended as follows:

SECTION 1. Section 7(A) of Ordinance No. 91191-0410 is hereby deleted in its entirety. Enacted in lieu thereof is a new Section 7(a) as follows:

14-9-7 Franchise Fee.

(A) In its monthly billing Company shall include a franchise fee of five percent (5%) on the gross receipts from the distribution, supply, or sale of natural gas for customers within the limits of the City of Muscatine, Muscatine County, Iowa. The Company shall make all reasonable effort to commence collecting the 5% franchise fee by the date of July 1, 2019, but no later than August 1, 2019. The franchise fee may be increased or decreased by the City on or after January 1, 2020, provided that the franchise fee shall be limited to a maximum of 5%. The City shall give the Company a minimum 90-day notice prior to the request to implement an increase or decrease in the franchise fee. The City shall

be solely responsible for the proper use of any amounts collected as franchise fees, and shall only use such fees as collected for a purpose as allowed by applicable law. Collection of the franchise fee shall cease at the earlier of the City's repeal of the franchise fee or the end of the Ordinance term.

SECTION 2. Ordinance No. 91191-0410, as amended herein and set forth in Attachment A, attached hereto and by this reference made a part hereof, shall be inserted into the Municipal Code under Title 14, Chapter 1 and made a part of said Code as provided by law.

SECTION 3. All ordinances or parts thereof in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. If any section, provision, sentence, clause, phrase, or part of this Ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of this Ordinance as a whole or any section, subsection, provision, sentence, clause, phrase, or part thereof not adjudged invalid or unconstitutional.

SECTION 5. This ordinance shall be effective from and after its final passage, approval and publication as provided by law.

Passed First and Final Reading and waived Second and Third Reading by the City Council of Muscatine, Iowa, on the 4th Day of April, 2019.

PASSED AND ENACTED the first and final reading by the City Council of Muscatine, Iowa, the 4th day of April, 2019.

Diana Broderson, Mayor

ATTEST:

Gregg Mandsager, City Administrator

1st Reading –

Motion by Council Member _____, seconded by Council Member _____, first and final reading of Ordinance No. 2019-0064.

AYES: _____

NAYS: _____

The Mayor declared Ordinance No. 2019-0064 was passed on April 4th, 2019.

I certify that the foregoing was published as Ordinance No. 2019-0064 on the day of April,
2019.

Gregg Mandsager, City Clerk