

**CITY OF WEST ST. PAUL
DAKOTA COUNTY, MINNESOTA**

ORDINANCE NO. 19-05

**AN ORDINANCE AMENDING WEST ST. PAUL ORDINANCE 04-05 REGARDING
THE FRANCHISE AGREEMENT WITH XCEL ENERGY FOR
AN ELECTRIC DISTRIBUTION SYSTEM**

The City of West Saint Paul does ordain:

SECTION 1. West St. Paul Ordinance 04-05 is hereby amended as follows:

SECTION 9. ~~FRANCHISE FEE~~GROSS REVENUE TAX.

~~_____~~Gross Revenue Tax. The City at the time of adopting this franchise agreement does not desire to require that Company collect a franchise fee from its customers in the City in lieu of the gross ~~earnings-revenue~~ tax on electric service now being collected for the City by the Company under City Code Section ~~710~~34.07. At a future date during the term of this franchise agreement, the City may determine that it desires Company to collect a franchise fee and repeal the current gross ~~earnings-revenues~~ tax. If so, the City may give Company notice to amend this franchise agreement to authorize collection of a franchise fee by separate ordinance in an amount and upon such terms and conditions as both parties mutually agree. Upon receipt of such Notice Company and City shall negotiate in good faith to so amend this franchise agreement. ~~The City agrees that it will seek amendment of the franchise to replace the current gross earnings tax if any entity is authorized by law to sell electricity to customers within the City using the Company's Electric Facilities and not being subject to collecting a gross earnings tax in the same amount from its customers as must be collected by the Company under said Section 710 of the City Code. In no event shall the Company be required to continue paying the tax assessed under said Section 710 of the City Code based on revenues collected from any customer who can obtain electric service from another supplier which is not obligated to pay the City a gross earnings tax in the same amount as is assessed on the Company, provided the Company shall agree to a franchise fee to offset the loss of revenue to the City due to the loss of the gross earnings tax revenue. In order to assure that the City obtains franchise fee revenues which approximately offset the loss of the gross earnings tax revenue which were being collected when the Company was the only supplier of the electric energy at retail within the City, the Parties recognize that the gross earnings tax may have to be replaced with a flat fee per customer based on metered service or a fee based on units of energy delivered to a class of retail consumers within the City without regard to what entity supplies the electric energy delivered, and that, therefore, the replacement of said loss of revenue may have to be based upon a reasonable estimate of such lost revenue. The gross revenue tax may be changed by ordinance from time to time; however, each change shall meet the same notice requirements and shall not occur more often than annually.~~

SECTION 2. SUMMARY PUBLICATION. Pursuant to Minnesota Statutes Section 412.191, in the case of a lengthy ordinance, a summary may be published. While a copy of the entire ordinance is available without cost at the office of the City Clerk, the following summary is approved by the City Council and shall be published in lieu of publishing the entire ordinance:

The City has an existing electric franchise agreement with Xcel Energy through 2025. This amendment changes the terminology from a gross earnings tax to a gross revenue tax to make it consistent with the changes to the City's electric franchise fee ordinance in City Code Section 34.07.

SECTION 3. EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after its passage and publication according to law.

Passed by the City Council of the City of West St. Paul, Minnesota, this 8th day of April 2019.

Attest:

David J. Napier, Mayor

Shirley R Buecksler, City Clerk