


MEMORANDUM

TO: Mayor O'Brien
Vice Mayor George
Commissioner Snodgrass
Commissioner England
Commissioner Kostka

FROM: Max Royle, City Manager 

DATE: August 23, 2017

SUBJECT: Ordinance 17-02, Final Reading: to Adopt New Franchise Agreement with Florida Power and Light

INTRODUCTION

The City's current 30-year franchise agreement with FPL will expire on April 4, 2018.

You discussed the Ordinance, which is the franchise agreement, at your August 7th meeting, when you passed it on first reading.

ATTACHMENTS

Attached for your review is the following information:

- a. Pages 1-5, the minutes of that part of your August 7th meeting when you discussed the franchise agreement.
- b. Pages 6-17, Ordinance 17-02, which is the agreement to renew the franchise with FPL.
- c. Page 18, a comparison of key provisions of our City's new franchise agreement with the agreements of 13 other small Florida cities.
- d. Page 19, a May, 2017, comparison of residential electric rates of city-owned utilities compiled by the Florida Municipal Electric Association, a trade association for Florida's 34 community-owned and locally managed public power organizations, with rates charged by investor-owned utilities, such as FPL and Duke Energy.

ACTION REQUESTED

It is that you hold the public hearing and then pass Ordinance 17-02 on its second and final reading.

I. OLD BUSINESS

2. Electric Franchise Agreement with Florida Power and Light: Discussion of Ordinance to Renew (Presenter Mr. Jim Wilson, City Attorney)

Mayor O'Brien introduced Item 2 and asked City Attorney Wilson for a report.

City Attorney Wilson explained that this Florida Power and Light (FPL) agreement has some revisions from the last agreement the Commission reviewed, such as the most favored nation clause, underground utilities at a cost, a clause that ensures the solar power being purchased by FPL, and an audit of the franchise fees. He explained that if another electric company or the City wanted to do their own electric system, they would have to purchase the infrastructure from FPL.

Discussion ensued regarding this agreement being non-exclusive and being flexible if there was another option that was better for the City; the law in Florida only allows the City or FPL to produce the electricity for the City; FPL's service availability is 98.9%; FPL affordability is 25% below the national average and among the lowest in Florida; FPL has a robust safety program and the top safety program in the industry; FPL having diverse sources of energy, such as coal, oil, natural gas, and nuclear; FPL is planning to have renewables to be the third largest energy mix over the next three years; if FPL's cost decrease, the City's franchise fees would decrease; FPL operates solar farms in northeast Florida and will increase four farms per year for the next four years; the use of smart meters and street lights; January 1, 2017 rate increase to customers; the more solar use will lower rates for customers; what was the profit for FPL last year; rate of return being set by the Florida Public Service Commission; solar power for residents' homes would reduce the consumption, which in turn would reduce the rates; and whether electric cars will be prevalent in the future and will FPL be ready with charging stations.

Mayor O'Brien opened the Public Comment section. The following addressed the Commission:

Robert Kahler, 29 Sunfish Drive, St. Augustine Beach, FL explained that he likes FPL and the City should let the experts take care of the City's electricity.

Tom Reynolds, 880 A1A Beach Blvd., St. Augustine Beach, FL, advised that he didn't understand the City tax part of FPL's bill, but likes FPL. He commented that City Attorney Wilson negotiated the contract well if the City has the flexibility to get out of the franchise agreement.

Ann Palmquist, 213 10th Street, St. Augustine Beach, FL, advised that the comparison of St. Johns County's and the City had no relevant services. She requested to have comparisons of services that were more relevant to our City. She also asked what process will be made for providing solar lighting for bike paths and walkways.

Rosetta Bailey, 403 A Street, St. Augustine Beach, FL, advised that a franchise agreement for 30 years is a long time and requested five-year increments to renegotiate. She requested that the six cents that goes into the general ledger should go towards the residents. She advised that the solar farms took away for agriculture and would be more cautious about that. She asked if there was a penalty to get out of the contract.

Ed Slavin, P.O. Box 3084, St. Augustine, FL, commented that this agreement was an electricity tax at .09% for 30 years and is unacceptable. He advised that there was supposed to be a workshop and to establish a Citizens Advisory Board. He requested to table this item in order to do a study of other options.

Dr. Patricia Gill, 218 B Street, St. Augustine Beach, FL, explained that a citizens group and the League of Women Voters are trying to establish a co-op for solar power and advised that there will be a meeting tomorrow in St. Johns County at 10:30 a.m. She advised if they can get a community of 30 residents or more to purchase solar power, they negotiate with a solar power company, which would be 20% less than purchasing solar power on your own. She suggested looking for alternative powers and help with the environment.

Mayor O'Brien closed the Public Comment section and asked City Manager Royle to answer the questions from the public.

City Manager Royle advised that contract has all of the northeastern cities in Florida who did not have their own electric facilities in the comparison because other cities in other areas would not apply. He advised that he gave this comparison for the length of the agreement as well as the franchise fee with the favored nation clause and electric generation provision clause. He advised that our City is the only one with the electric generation provision clause. He explained that he and staff put the report together.

Mayor O'Brien asked about the question regarding solar pathway lighting.

Jim Bush, FPL Manager, advised that he didn't know of any solar pathway lighting. He explained that FPL has outdoor lighting and street lighting; however, he was not familiar with any solar pathway lighting.

Vice Mayor George asked if there was a program for installation of solar power outdoor lighting.

Mr. Bush advised that FPL provides outdoor lighting and street lighting, but he was not familiar with any solar outdoor lighting.

Mayor O'Brien advised that FPL does a good job and the City is not an expert on furnishing electricity to its residents.

Vice Mayor George asked if the list of counties supplied by City Manager Royle's a reduced list.

City Manager Royle advised that it is a list of cities for this local area instead of in south Florida where the cities are more highly populated. He advised that most cities have the same or lower franchise fees. He commented that our City has one of the maximum franchise fees listed.

Vice Mayor George asked if it would require a statutory amendment to exceed the six percent that the city is getting.

City Manager Royle advised yes.

Vice Mayor George advised that it would be very unlikely that that would become an option.

City Manager Royle agreed.

Mayor O'Brien asked if this was only the First Reading of the ordinance.

City Manager Royle advised yes; however, he reminded the Commission that he would like to add several counties to the favored nation clause. He explained that FPL only included two and he would like to add more.

Vice Mayor George asked if there was a penalty for getting out of the franchise agreement.

Attorney Patrick O'Brien, FPL, advised that the out provision was not a unilateral provision, but only for cause or another retailer providing service at a lesser cost, there would be no penalty.

Commissioner Snodgrass asked if there would be any other legal actions that could be taken against the City.

Attorney O'Brien advised that FPL has never had a city want to try to get out of franchise agreement and advised that there is no discussion until the City renews the agreement in 30 years so he cannot predict the future. He advised that he wanted to correct Mayor O'Brien that the six percent franchise agreement was not statutorily imposed, but there is case law on franchise agreements.

Vice Mayor George asked if there were any other cities that have a franchise fee higher than six percent.

Attorney O'Brien advised no. He explained that out of 180 franchise agreements, six percent is the highest.

Commissioner Snodgrass asked if there were any other franchise agreements shorter than 30 years.

Attorney O'Brien advised no. He explained that historically franchise agreements have been 30 years. He commented that only the City and FPL can produce the City's electricity, unless the law changes and if so then other companies could come in and compete against us.

Vice Mayor George advised that the Commission instruction to City Attorney Wilson was to negotiate the ability to terminate.

City Attorney Wilson advised that the Commission has the ability to get power from other places, but FPL has the ability to compete with the other companies coming in.

Vice Mayor George advised that there are no other options today, but if the City wants to change companies, who would be paying the costs for the infrastructure.

City Attorney Wilson advised that the City would not be removing it, but they would have to purchase it from FPL or another provider would move around it.

Attorney O'Brien advised that that provision assumes that the law would change to allow other competing companies to come in. He advised that FPL would have the right to match the other competitors' offer. He explained if FPL cannot match it, then the City would go to that other provider.

Commissioner Snodgrass asked if there have been any recent attempts to deregulate the regulation in Florida.

Attorney O'Brien advised no. He explained that in 1980 – 1990's there were attempts to deregulate, but no strong efforts since then.

Discussion ensued regarding whether this was the First Reading of the ordinance.

City Attorney Wilson advised that this meeting could be considered as First Reading.

Commissioner England advised that the Commission has done their homework and looked at additional research, but at this time the City cannot create our own electric company.

Commissioner Snodgrass agreed that the City cannot get into the electric business and advised that FPL was the best in the country.

Commissioner England advised that in order to keep the millage rate the same next year, the Commission has to make a decision whether to reduce the six percent franchise fees, which would affect the revenues.

Vice Mayor George agreed to leave the franchise fees at the negotiated rate because the City has the lowest rates in the state and thanked FPL for maintaining that.

Commissioner Snodgrass advised that the Commission needs to focus on other matters like ensuring public safety, providing greenspace, developing parks and recreation, providing essential city services, etc. He mentioned the purchase of the Maratea property leaving the City in debt; however, that would be reimbursed but we still don't have a lot of money in the bank to do this.

Commissioner Kostka advised that the franchise fee is a tax to our residents and does not agree with taxes and especially increasing taxes, but agrees with keeping it the same for now. She encouraged designating the funds to be used for resident activities. She advised that having an agreement for 30 years is difficult, but doesn't know any way around that issue.

City Attorney Wilson read the title of the ordinance.

Motion: to approve Ordinance 17-02 and amend it to add the following counties: Nassau, Baker, St. Johns, Bradford, Clay, and Putnam as most favored nation status. **Moved by** Mayor O'Brien, **Seconded by** Commissioner Snodgrass. Motion passed unanimously.

ORDINANCE NO. 17-02

AN ORDINANCE GRANTING TO FLORIDA POWER & LIGHT COMPANY, ITS SUCCESSORS AND ASSIGNS, AN ELECTRIC FRANCHISE, IMPOSING PROVISIONS AND CONDITIONS RELATING THERETO, PROVIDING FOR MONTHLY PAYMENTS TO THE CITY OF ST. AUGUSTINE BEACH, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of St. Augustine Beach, Florida recognizes that the City of St. Augustine Beach and its citizens need and desire the continued benefits of electric service; and

WHEREAS, the provision of such service requires substantial investments of capital and other resources in order to construct, maintain and operate facilities essential to the provision of such service in addition to costly administrative functions, and the City of St. Augustine Beach does not desire to undertake to provide such services; and

WHEREAS, Florida Power & Light Company (FPL) is a public utility which has the demonstrated ability to supply such services; and

WHEREAS, there is currently in effect a franchise agreement between the City of St. Augustine Beach and FPL, the terms of which are set forth in City of St. Augustine Beach Ordinance No. 174, passed and adopted April 4, 1988, and FPL's written acceptance thereof dated April 28, 1988 granting to FPL, its successors and assigns, a thirty (30) year electric franchise ("Current Franchise Agreement"); and

WHEREAS, FPL and the City of St. Augustine Beach desire to enter into a new agreement (New Franchise Agreement) providing for the payment of fees to the City of St. Augustine Beach in exchange for the nonexclusive right and privilege of supplying

electricity and other services within the City of St. Augustine Beach free of competition from the City of St. Augustine Beach, pursuant to certain terms and conditions, and

WHEREAS, the City Commission of the City of St. Augustine Beach deems it to be in the best interest of the City of St. Augustine Beach and its citizens to enter into the New Franchise Agreement prior to expiration of the Current Franchise Agreement;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF ST. AUGUSTINE BEACH, FLORIDA:

Section 1. There is hereby granted to Florida Power & Light Company, its successors and assigns (hereinafter called the "Grantee"), for the period of 30 years from the effective date hereof, the nonexclusive right, privilege and franchise (hereinafter called "franchise") to construct, operate and maintain in, under, upon, along, over and across the present and future roads, streets, alleys, bridges, easements, rights-of-way and other public places (hereinafter called "public rights-of-way") throughout all of the incorporated areas, as such incorporated areas may be constituted from time to time, of the (City of St. Augustine Beach, Florida, and its successors (hereinafter called the "Grantor"), in accordance with the Grantee's customary practice with respect to construction and maintenance, electric light and power facilities, including, without limitation, conduits, poles, wires, transmission and distribution lines, and all other facilities installed in conjunction with or ancillary to all of the Grantee's operations (hereinafter called "facilities"), for the purpose of supplying electricity and other services to the Grantor and its successors, the inhabitants thereof, and persons beyond the limits thereof.

Section 2. The facilities of the Grantee shall be installed, located or relocated so as to not unreasonably interfere with traffic over the public rights-of-way or with reasonable

egress from and ingress to abutting property. To avoid conflicts with traffic, the location or relocation of all facilities shall be made as representatives of the Grantor may prescribe in accordance with the Grantor's reasonable rules and regulations with reference to the placing and maintaining in, under, upon, along, over and across said public rights-of-way; provided, however, that such rules or regulations (a) shall not prohibit the exercise of the Grantee's right to use said public rights-of-way for reasons other than unreasonable interference with motor vehicular traffic, (b) shall not unreasonably interfere with the Grantee's ability to furnish reasonably sufficient, adequate and efficient electric service to all of its customers, and (c) shall not require the relocation of any of the Grantee's facilities installed before or after the effective date hereof in public rights-of-way unless or until widening or otherwise changing the configuration of the paved portion of any public right-of-way used by motor vehicles causes such installed facilities to unreasonably interfere with motor vehicular traffic. Such rules and regulations shall recognize that above-grade facilities of the Grantee installed after the effective date hereof should be installed near the outer boundaries of the public rights-of-way to the extent possible. When any portion of a public right-of-way is excavated by the Grantee in the location or relocation of any of its facilities, the portion of the public right-of-way so excavated shall within a reasonable time be replaced by the Grantee at its expense and in as good condition as it was at the time of such excavation. The Grantor shall not be liable to the Grantee for any cost or expense in connection with any relocation of the Grantee's facilities required under subsection (c) of this Section, except, however, the Grantee shall be entitled to reimbursement of its costs from others and as may be provided by law.

Section 3. The Grantor shall in no way be liable or responsible for any accident or damage that may occur in the construction, operation or maintenance by the Grantee of its facilities hereunder, and the acceptance of this ordinance shall be deemed an agreement on the part of the Grantee to indemnify the Grantor and hold it harmless against any and all liability, loss, cost, damage or expense which may accrue to the Grantor by reason of the negligence, default or misconduct of the Grantee in the construction, operation or maintenance of its facilities hereunder.

Section 4. All rates and rules and regulations established by the Grantee from time to time shall be subject to such regulation as may be provided by law.

Section 5(a). As a consideration for this franchise, the Grantee shall pay to the Grantor, commencing 90 days after the effective date hereof, and each month thereafter for the remainder of the term of this franchise, an amount which added to the amount of all licenses, excises, fees, charges and other impositions of any kind whatsoever (except ad valorem property taxes and non-ad valorem tax assessments on property) levied or imposed by the Grantor against the Grantee's property, business or operations and those of its subsidiaries during the Grantee's monthly billing period ending 60 days prior to each such payment will equal 6.0 percent of the Grantee's billed revenues, less actual write-offs, from the sale of electrical energy to residential, commercial and industrial customers (as such customers are defined by FPL's tariff) within the incorporated areas of the Grantor for the monthly billing period ending 60 days prior to each such payment, and in no event shall payment for the rights and privileges granted herein exceed 6.0 percent of such revenues for any monthly billing period of the Grantee.

The Grantor understands and agrees that such revenues as described in the preceding paragraph are limited, as in the existing franchise Ordinance No. 174, to the precise revenues described therein, and that such revenues do not include, by way of example and not limitation: (a) revenues from the sale of electrical energy for Public Street and Highway Lighting (service for lighting public ways and areas); (b) revenues from Other Sales to Public Authorities (service with eligibility restricted to governmental entities); (c) revenues from Sales to Railroads and Railways (service supplied for propulsion of electric transit vehicles); (d) revenues from Sales for Resale (service to other utilities for resale purposes); (e) franchise fees; (f) Late Payment Charges; (g) Field Collection Charges; (h) other service charges.

Section 5(b). If during the term of this franchise the Grantee enters into a franchise agreement with any other municipalities located in St. Johns County, Nassau, Baker, Bradford, Clay, Putnam or Flagler County, Florida, the terms of which provide for the payment of franchise fees by the Grantee at a rate greater than 6.0% of the Grantee's residential, commercial and industrial revenues (as such customers are defined by FPL's tariff) under the same terms and conditions as specified in Section 5 hereof, then the Grantee, upon written request of the Grantor, shall enter into a new franchise agreement with the Grantor in which the percentage to be used in calculating monthly payments under Section 5, utilizing the same terms and conditions as set forth in Section 5 hereof, shall be that greater rate provided for such other counties as St. Johns, Nassau, Baker, Bradford, Clay, Putnam or Flagler County municipalities; provided, however, that if the franchise with such other counties as St. Johns, Nassau, Baker, Bradford, Clay, Putnam or Flagler County municipalities contains additional benefits given to Grantee in exchange for

the increased franchise rate, which such additional benefits are not contained in this franchise, such new franchise agreement shall include those additional benefits to the Grantee.

Section 6. As a further consideration, during the term of this franchise or any extension thereof, the Grantor agrees: (a) not to engage in the distribution and/or sale, in competition with the Grantee, of electric capacity and/or electric energy to any ultimate consumer of electric utility service (herein called a "retail customer") or to any electrical distribution system established solely to serve any retail customer formerly served by the Grantee, (b) not to participate in any proceeding or contractual arrangement, the purpose or terms of which would be to obligate the Grantee to transmit and/or distribute, electric capacity and/or electric energy from any third party(ies) to any other retail customer's facility(ies), and (c) not to seek to have the Grantee transmit and/or distribute electric capacity and/or electric energy generated by or on behalf of the Grantor at one location to the Grantor's facility(ies) at any other location(s). Nothing specified herein shall prohibit the Grantor from engaging with other utilities or persons in wholesale transactions which are subject to the provisions of the Federal Power Act.

Nothing herein shall prohibit the Grantor, if permitted by law, (i) from purchasing electric capacity and/or electric energy from any other person, or (ii) from seeking to have the Grantee transmit and/or distribute to any facility(ies) of the Grantor electric capacity and/or electric energy purchased by the Grantor from any other person; provided, however, that before the Grantor elects to purchase electric capacity and/or electric energy from any other person, the Grantor shall notify the Grantee. Such notice shall include a summary of the specific rates, terms and conditions which have been offered by

the other person and identify the Grantor's facilities to be served under the offer. The Grantee shall thereafter have 90 days to evaluate the offer and, if the Grantee offers rates, terms and conditions which are equal to or better than those offered by the other person, the Grantor shall be obligated to continue to purchase from the Grantee electric capacity and/or electric energy to serve the previously-identified facilities of the Grantor for a term no shorter than that offered by the other person. If the Grantee does not agree to rates, terms and conditions which equal or better the other person's offer, all of the terms and conditions of this franchise shall remain in effect.

Section 7. If the Grantor grants a right, privilege or franchise to any other person or otherwise enables any other such person to construct, operate or maintain electric light and power facilities within any part of the incorporated areas of the Grantor in which the Grantee may lawfully serve or compete on terms and conditions which the Grantee determines are more favorable than the terms and conditions contained herein, the Grantee may at any time thereafter terminate this franchise if such terms and conditions are not remedied within the time period provided hereafter. The Grantee shall give the Grantor at least 60 days advance written notice of its intent to terminate. Such notice shall, without prejudice to any of the rights reserved for the Grantee herein, advise the Grantor of such terms and conditions that it considers more favorable. The Grantor shall then have 60 days in which to correct or otherwise remedy the terms and conditions complained of by the Grantee. If the Grantee determines that such terms or conditions are not remedied by the Grantor within said time period, the Grantee may terminate this franchise agreement by delivering written notice to the Grantor's Clerk and termination shall be effective on the date of delivery of such notice.

Section 8. If as a direct or indirect consequence of any legislative, regulatory or other action by the United States of America or the State of Florida (or any department, agency, authority, instrumentality or political subdivision of either of them) any person is permitted to provide electric service within the incorporated areas of the Grantor to a customer then being served by the Grantee, or to any new applicant for electric service within any part of the incorporated areas of the Grantor in which the Grantee may lawfully serve, and the Grantee determines that its obligations hereunder, or otherwise resulting from this franchise in respect to rates and service, place it at a competitive disadvantage with respect to such other person, the Grantee may, at any time after the taking of such action, terminate this franchise if such competitive disadvantage is not remedied within the time period provided hereafter. The Grantee shall give the Grantor at least 90 days advance written notice of its intent to terminate. Such notice shall, without prejudice to any of the rights reserved for the Grantee herein, advise the Grantor of the consequences of such action which resulted in the competitive disadvantage. The Grantor shall then have 90 days in which to correct or otherwise remedy the competitive disadvantage. If such competitive disadvantage is not remedied by the Grantor within said time period, the Grantee may terminate this franchise agreement by delivering written notice to the Grantor's Clerk and termination shall take effect on the date of delivery of such notice.

Section 9. Failure on the part of the Grantee to comply in any substantial respect with any of the provisions of this franchise shall be grounds for forfeiture, but no such forfeiture shall take effect if the reasonableness or propriety thereof is protested by the Grantee until there is final determination (after the expiration or exhaustion of all rights of appeal) by a court of competent jurisdiction that the Grantee has failed to comply in a

substantial respect with any of the provisions of this franchise, and the Grantee shall have six months after such final determination to make good the default before a forfeiture shall result with the right of the Grantor at its discretion to grant such additional time to the Grantee for compliance as necessities in the case require.

Section 10. Failure on the part of the Grantor to comply in substantial respect with any of the provisions of this ordinance, including but not limited to: (a) denying the Grantee use of public rights-of-way for reasons other than unreasonable interference with motor vehicular traffic; (b) imposing conditions for use of public rights-of-way contrary to Florida law or the terms and conditions of this franchise; (c) unreasonable delay in issuing the Grantee a use permit, if any, to construct its facilities in public rights-of-way, shall constitute breach of this franchise and entitle the Grantee to withhold all or part of the payments provided for in Section 5 hereof until such time as a use permit is issued or a court of competent jurisdiction has reached a final determination in the matter. The Grantor recognizes and agrees that nothing in this franchise agreement constitutes or shall be deemed to constitute a waiver of the Grantee's delegated sovereign right of condemnation and that the Grantee, in its sole discretion, may exercise such right.

Section 11. The Grantor may, upon reasonable notice and within 90 days after each anniversary date of this franchise, at the Grantor's expense, examine the records of the Grantee relating to the calculation of the franchise payment for the year preceding such anniversary date. Such examination shall be during normal business hours at the Grantee's office where such records are maintained. Records not prepared by the Grantee in the ordinary course of business may be provided at the Grantor's expense and as the Grantor and the Grantee may agree in writing. Information identifying the Grantee's

customers by name or their electric consumption shall not be taken from the Grantee's premises. Such audit shall be impartial and all audit findings, whether they decrease or increase payment to the Grantor, shall be reported to the Grantee. The Grantor's right to examine the records of the Grantee in accordance with this Section shall not be conducted by any third party employed by the Grantor whose fee, in whole or part, for conducting such audit is contingent on findings of the audit.

Grantor waives, settles and bars all claims relating in any way to the amounts paid by the Grantee under the Current Franchise Agreement embodied in Ordinance No. 174.

Section 12. Grantee understands and acknowledges that Grantor's policies strongly favor undergrounding of utilities and improvements of safety and aesthetics. Grantee has filed undergrounding tariffs with the Florida Public Service Commission. Requests made by Grantor for undergrounding shall be implemented by Grantee in accordance with the applicable tariffs in effect on the date of Grantor's request.

Section 13(a). Grantor may, if permitted by law, (i) generate electric capacity and/or energy at any facility owned by the Grantor for storage or utilization at that facility or other Grantor facilities, operations or equipment; (ii) use renewable energy sources to generate electric capacity and/or energy for use in demonstration projects or at Grantor's facilities, operations or its equipment; and (iii) sell electric capacity and/or energy to Grantee or other wholesale purchaser in compliance with applicable rules and regulations controlling such transactions.

Section 13(b). Nothing herein shall prohibit or limit a customer of FPL, including the City, if permitted by law or regulation, from installing a renewable generation system to

generate electric energy for use at the customer's or the City's premises respectively. Furthermore, nothing herein shall prohibit or limit a person, including the City, if permitted by law or regulation, from selling renewable energy or capacity to FPL.

Section 14. The provisions of this ordinance are interdependent upon one another, and if any of the provisions of this ordinance are found or adjudged to be invalid, illegal, void or of no effect, the entire ordinance shall be null and void and of no force or effect.

Section 15. As used herein "person" means an individual, a partnership, a corporation, a business trust, a joint stock company, a trust, an incorporated association, a joint venture, a governmental authority or any other entity of whatever nature.

Section 16. Ordinance No. 174, passed and adopted April 4, 1988 and all other ordinances and parts of ordinances and all resolutions and parts of resolutions in conflict herewith, are hereby repealed.

Section 17. As a condition precedent to the taking effect of this ordinance, the Grantee shall file its acceptance hereof with the Grantor's Clerk within 30 days of adoption of this ordinance. The effective date of this ordinance shall be the date upon which the Grantee files such acceptance.

PASSED on first reading this 7th day of August, 2017.

PASSED AND ADOPTED on second reading this _____ day of _____,
2017.

CITY OF ST. AUGUSTINE BEACH, FLORIDA

By: _____
Rich O'Brien, Mayor

ATTEST:

By: _____ (SEAL)
Max Royle, City Manager

APPROVED AS TO FORM AND LEGALITY

Jim Wilson, City Attorney

COMPARISON OF CITY'S PROPOSED FRANCHISE AGREEMENT WITH AGREEMENTS FOR 13 OTHER FLORIDA CITIES

Bunnell	2,875	30 yrs.	6/28/2010	5.9%	No	No
Callahan	1,185	30 yrs.	3/15/2010	6.0%	Yes	No
Crescent City	1,540	30 yrs.	3/10/2011	5.9%	No	No
Flagler Beach	4,563	30 yrs.	9/24/2009	5.9%	No	No
Hilliard	3,032	30 yrs.	11/6/2008	5.9%	Yes	No
Holly Hill	11,712	30 yrs.	9/12/2011	5.9%	No	No
Interlachen	1,337	30 yrs.	2/14/2012	5.9%	No	No
Marineland	6	30 yrs.	4/19/2001	6.0%	No	No
Palatka	10,418	30 yrs.	3/23/2006	5.9%	No	No
Penney Farms	746	30 yrs.	9/20/2011	5.9%	No	No
Pomona Park	873	30 yrs.	6/14/2005	5.9%	No	No
St. Augustine	13,590	30 yrs.	2/23/2009	5.9%	No	No
Welaka	712	30 yrs.	3/8/2005	5.9%	No	No
St. Augustine Beach	6,555	30 yrs. (proposed)		6.0%	Yes	Yes

COMPARISON OF RESIDENTIAL ELECTRIC RATES COMPILED BY FLORIDA MUNICIPAL ELECTRIC ASSOCIATION, INC. - TALLAHASSEE, FLORIDA

CITY	Customer Charge	1,000 KWH			*** Total with franchise or transfer fee payment	1,200 KWH			*** Total with franchise or transfer fee payment	2,500 KWH			*** Total with franchise or transfer fee payment	Additional Tax
		Base Rate (Includes Customer Charge)	Fuel or Cost Adjustment	Total		Base Rate (Includes Customer Charge)	Fuel or Cost Adjustment	Total		Base Rate (Includes Customer Charge)	Fuel or Cost Adjustment	Total		
ALACHUA	9.14	102.40	11.00	113.40		123.12	13.20	136.32		257.80	27.50	285.30		
BARTOW	8.00	54.70	75.50	130.20		64.04	90.60	154.64		124.75	188.75	313.50		10%
BLOUNTSTOWN	3.50	118.85	0.00	118.85		142.62	0.00	142.62		297.13	0.00	297.13		10%
BUSHNELL	7.40	98.05	27.00	125.05		116.18	27.60	143.78		234.03	67.50	301.53		5%
CHATTAHOOCHEE	6.50	90.10	24.00	114.10		100.32	28.80	129.12		209.00	60.00	269.00		10%
CLEWISTON	6.50	93.20	13.71	106.91		110.54	16.45	126.99		223.50	34.28	257.78		NONE
FORT MEADE	12.96	89.56	36.00	125.56		104.88	43.20	148.08		204.46	90.00	294.46		10%
FORT PIERCE	6.01	116.84	0.00	116.84		140.56	0.00	140.56		294.80	0.00	294.80		10%
GAINESVILLE	G 14.25	60.40	70.00	130.40		73.20	84.00	157.20		156.40	175.00	331.40		10%
GREEN COVE SPRINGS	12.00	95.00	29.00	124.00		112.40	34.80	147.20		225.50	72.50	298.00		10%
HAVANA	6.00	89.50	41.42	130.92		106.20	49.70	155.90		214.75	103.55	318.30		NONE
HOMESTEAD	G 5.60	77.60	36.63	114.23		92.00	43.96	135.96		185.60	91.58	277.18		NONE
JACKSONVILLE	G 5.50	76.00	32.50	108.50		90.10	39.00	129.10		181.75	81.25	263.00		10%
JACKSONVILLE BEACH	4.50	83.07	33.84	116.91		98.78	40.61	139.39		200.93	84.60	285.53		10%
KEY WEST	G 15.03	137.03	-10.03	127.00		161.43	-12.04	149.39		320.03	-25.08	294.96		NONE
KISSIMMEE	G 10.17	133.27	-35.10	98.17	109.23	173.07	-42.12	130.95	144.22	349.55	-87.75	261.80	289.43	NONE
LAKE WORTH	G 10.53	75.73	39.00	114.73		93.53	46.80	140.33		209.23	97.50	306.73		8%
LAKELAND	G 9.50	63.02	37.75	100.77		74.85	45.30	120.15		157.33	94.38	251.71		10%
LEESBURG	12.30	105.09	10.00	115.09		128.04	12.00	140.04		277.25	25.00	302.25		10%
MOORE HAVEN	8.50	83.30	19.50	102.80		98.26	23.40	121.66		195.50	48.75	244.25		10%
MOUNT DORA	8.95	49.24	62.83	112.07		57.30	75.40	132.69		109.67	157.08	266.75		10%
NEW SMYRNA BEACH	G 5.65	82.10	22.68	104.78		97.39	27.22	124.61		196.77	56.70	253.47		10%
NEWBERRY	7.50	107.50	20.00	127.50		127.50	24.00	151.50		257.50	50.00	307.50		9.25%
OCALA	9.33	93.64	18.96	112.60		110.50	22.75	133.25		220.11	47.40	267.51		10%
ORLANDO	G 8.00	72.18	33.82	106.00		87.02	42.58	129.60		183.45	99.55	283.00		10%
QUINCY	6.00	98.41	12.90	111.31		116.89	15.48	132.37		237.03	32.25	269.28		10%
ST. CLOUD	G 8.32	75.07	35.17	110.24		90.50	44.28	134.78		190.80	103.53	294.32		10%
STARKE	N/A	75.95	45.55	121.50		96.00	54.66	150.66		230.02	113.88	343.90		8%
TALLAHASSEE	G 7.41	75.98	32.90	108.88		89.69	39.48	129.17		178.84	82.25	261.09		10%
VERO BEACH	G 8.33	54.43	61.65	116.08		68.89	73.98	142.87		162.89	154.13	317.02		10%
WAUCHULA	11.50	89.90	13.00	102.90		107.58	15.60	123.18		222.50	32.50	255.00		10%
WILLISTON	8.00	89.84	24.40	114.24		106.21	29.28	135.49		212.60	61.00	273.60		10%
WINTER PARK	9.55	75.80	26.74	102.54	108.69	91.43	34.09	125.52	133.05	193.03	81.86	274.89	291.38	5%
FL POWER & LIGHT *	G 7.87	75.07	24.91	99.98	105.98	90.51	31.89	122.40	129.74	190.88	77.28	268.16	284.25	APPL
GULF POWER *	G 18.60	96.51	31.63	128.14	135.83	112.09	37.96	150.05	159.05	213.38	79.08	292.46	310.01	TAXES
DUKE ENERGY*	G 8.76	80.54	33.77	114.31	121.17	97.73	42.52	140.25	148.67	209.45	99.43	308.88	327.41	ADD
TAMPA ELECTRIC**	G 16.62	68.62	26.42	102.06	108.18	81.24	33.70	123.37	130.77	163.24	81.05	261.85	277.56	FEES
FLORIDA PUBLIC UTILITIES-NE*	G 14.00	33.60	100.55	134.15	142.20	40.02	123.16	163.18	172.97	81.75	270.13	351.88	372.99	TAXES
FLORIDA PUBLIC UTILITIES-NW*	G 14.00	33.60	100.55	134.15	142.20	40.02	123.16	163.18	172.97	81.75	270.13	351.88	372.99	TAXES

*Rates for municipal utilities INCLUDE payment-in-lieu of tax to the city's general fund. Rates for investor-owned utilities DO NOT INCLUDE franchise fee payments, which average 6% across Florida. G = Generating utility **Total includes conservation, capacity, environmental and refund credit (if applicable). ***Total include 6% franchise fee for IOUs For municipal utilities, total include actual transfer payment