

MINUTES
THE TOWN OF PATAGONIA
COMMITTEE TO STUDY THE FEASIBILITY OF CREATING A MUNICIPAL
ELECTRIC UTILITY MEETING,
AUGUST 29, 2012
6:00PM

CALL TO ORDER: Meg Gilbert called the meeting to order 6:04pm.

PRESENT: Carolyn Shafer, Ted Piper, Town Manager Dave Teel, Council member Meg Gilbert.

MINUTES APPROVED: Carolyn motioned to accept the minutes of July 17th, Ted seconded it, all present voted aye.

DISCUSSION AND POSSIBLE ACTION ON RELEVANT ITEMS FROM FRANCHISE AGREEMENTS FOR JEROME, BENSON AND NOGALES: The committee discussed the above franchise agreements relative to what was considered important to include in the Town's new agreement. It was determined that much of Patagonia's old agreement and the agreements from Jerome and Benson contain standard electric utility franchise language our lawyer can draw up (including such things as 'relocation and conflicts with service', 'project design modifications', 'dispute resolution', etc). The following are particulars the committee chose to consider in our new agreement with SSVEC. This is a working draft with some quite incomplete sections. Comments that are underlined and in parentheses signal areas that need more language. Italicized areas are areas in question as to whether we want to include them.

DEFINITIONS: 'Company' means SSVEC or its successors. 'Town' means the Town of Patagonia.

IN TOWN OFFICE: The Company shall maintain an office within the corporate limits of the Town, provide a local telephone number, and provide a minimum of 3 days a week, 4 hours a day staffing. The Company's storage of poles and equipment shall not be in the flood plane.

EXCHANGE OF PROPERTY: The Company shall exchange their lot on McKeown Rd. in Patagonia, minus the Company office building on such lot, for an equivalent equipment storage area currently owned by the Town, not in the flood plane, entered off San Antonia Rd (off Hwy 82). The Company is given ____ (so much time, a phase out period) to move their yard out of Town.

SERVICE BILLING and RESPONSE TIME: Travel time on installation or maintenance will be based on travel time from Patagonia Office or no further than the Sierra Vista office. The Company shall provide engineering and scheduling of crews within 60 days of a request for new service installation. The Company is obligated to provide service to anyone in the Town that wants it.

ACTIVITIES OTHER THAN ELECTRIC SALES: If the Company engages in other activities, including leasing on poles for any purpose, the income generated will be included in the gross revenue that our franchise fee is based on.

NON-EXCLUSIVITY: The right to use and occupy the Right-of-way for the purposes set forth in this agreement is not and shall not be deemed an exclusive franchise. The Town reserves the right to itself to make or grant a similar use in the Right-of-way to any person, form, or corporation.

THIRD PARTY ACCESS TO COMPANY'S SYSTEM: Entities other than the Town and Company may occupy or use the Company's Facilities only if: 1) the entity obtains the permission of the Town and Company and pays all appropriate fees to the Town; 2) such use or occupation of the Facilities by the entity does not interfere with the Company or Town's use of the Facilities or the use of such Facilities by entities holding a valid franchise from the Town; 3) such use or occupation does not endanger public health or safety; 4) the entity indemnifies and holds the City and Company harmless for any such use or occupation and the Company incurs no additional expense in connection therewith.

FRANCHISE FEE: a) Imposition and Payment of Fee. The Company agrees to pay the Town a fee (franchise fee) equal to 5% of gross receipts of all income generated by the Company in Town, including but not limited to pole usage fees and delivery of electricity. Such payments are due and payable monthly within 30 days after the end of each calendar month (the Delinquent Date). If payment is later than the Delinquent Date, a 2% penalty will be added, and interest at the then current rate charged by the Arizona Department of Revenue for delinquent transaction privilege taxes on the entire amount due. The Town will not charge permit fees for work in Town the Company needs to do on its infrastructure, but the Company must submit to the Town all plans for work they intend to do. There will be no TPT offset against the Franchise fee. *Do not owe franchise fee on municipal fee (?). (we need language here)*

b) Highest Rate. Notwithstanding the provisions of this Franchise, if during the term of this Franchise Company enters into any electric franchise with any other municipality in Arizona during the term of this Franchise that provides for a higher percentage of Company's revenues than 5% or includes more categories of revenues than set forth in this Franchise, the Company shall notify Town Council of such higher percentage or expanded revenue base. Town Council, at its sole discretion, shall have the option to, as applicable: i) increase the Company's franchise fee to the higher percentage rate: and/or ii) include other revenue categories set forth in the franchise agreement the Company has with the other entity of this State. The Company agrees to promptly, after Town Council's action, pay to Town as its new franchise fee the higher franchise percentage or include the additional revenue categories.

c) Lien: For the purpose of securing to the Town the payments required to be made under this Section The Town shall have a lien and the same shall be charged upon all the property, estate, and effects of the Company in any form, real, personal or mixed. The Town may enforce this lien by civil action in a court of competent jurisdiction.

RATES: 1) All Town meters shall be charged at one rate, the lowest rate. (or combine meters were ever possible). 2) All PV grid tie paid to Town at Net metering rate (retail) not on avoided cost (wholesale).

INDEMNIFICATION AND INSURANCE: (do we want the language from Nogales or Jerome?)

AUDIT AND INFORMATION REQUIREMENTS: The Company shall keep and maintain complete and accurate books and records of its business and operations for the purpose of insuring compliance with this agreement.

The Town can audit and inspect the records above.

The Town may request in writing copies of any and all reports, data and any other type of information which the Company is required to submit to any other governmental body, including but not limited to the United States of America, the Federal Energy Regulatory Commission, The State of Arizona, And the Arizona Corporation Commission, reports, data, and any other types of information filed confidentially and not available to the public do not have to be submitted to the Town.

The Company shall upon request provide to the Town all information it maintains with respect to energy usage by the Town at each location in which electricity is delivered to the Town.

RELIABILITY: The company shall provide to the Town a report of all service outages that last for longer than 20 minutes (length, duration, location and cause), technical upgrades made to its distribution system, and efforts made to improve the reliability of the distribution system.

Coal. To minimize rate increases and CO₂ emissions the town would like every opportunity to become more sustainable. (what do we really want to say here?, 'carbon tax and its impact on rates' ?)

CONSERVATION: 1) All street lights in Patagonia leased from The Company shall be converted to solar with LED and be dark skies compliant. 2) The Town wells shall be converted to on site generated solar. 3) The Company shall prioritize to the top of the list Town applications to the solar Loan Program. 4) Reduce waste (Need more language here) 5) The Company will install a free electrical vehicle charging station in Patagonia.

EMERGENCY PROCEDURES: The Company shall cooperate with the Town to develop joint standard operating procedures for emergencies (a Hazard Mitigation Plan) requiring the collective response of Town departments, such as Police and Fire (including Patagonia Fire and Rescue) and the Company.

INTERCONNECTIONS/RENEWABLE ENERGY: 1) The Company shall conduct Level 2 engineering study and work with the ACC to raise the 15% threshold on new photo-voltaic (PV) installations in the Town, so that the Town and its residents can install and use solar or renewable energy production to potentially meet all their electricity needs. 2) The Company shall make installation of PV at the Sonoita Substation a priority.

REPAIR OF RIGHT OF WAY: If, in the installation, use, or maintenance of its facilities, the Company damages or disturbs the surface or subsurface of any public road or adjoining public property of the public improvement located thereon, therein, or hereunder, the Company shall promptly, at its own expense and in a manner acceptable to the Town and in accordance with applicable Town regulations and standards, restore the surface or subsurface of the public road or public property or repair or replace the public improvement thereon, therein, or hereunder in as good of condition as before such damage or disturbance. *If such restoration, repair, or replacement of the surface, subsurface, or any structure located thereon, therein, or thereunder is not completed within a reasonable time, or such repair or replacement does not meet the Town's duty*

adopted standards, the Town shall, following reasonable notice to the Company, have the right to perform the necessary restoration, repair, or replacement either through its own forces or through a hired contractor, and the Company shall reimburse the Town for its expenses in so doing with thirty (30) days after its receipt of the Town's invoice. The Company will bear the full reasonable costs of all barricades, signing, rerouting of traffic, or other actions which the Town considers necessary in the interest of public safety during the opening or alteration within the public right of way.

-The Company will clean up any debris, excessive wires, poles, or other unused material within 48 hours of any repair, maintenance or service.

PRIOR RIGHT OF TOWN TO RIGHT OF WAY: The Town reserves the prior and superior right to lay, construct, erect, install, use, operate, repair, replace, remove, relocate, regrade, widen, realign, or maintain any street and public way, aerial, surface, or subsurface improvement for all public purpose, including but not limited to water mains, traffic control conduits, cable and device, storm sewers, tunnels, bridges, viaducts, or any other public construction within the Rights-of-way of the Town. The Company shall, following reasonable notice from the Town of its plans, move its Facilities in the Right-of-way at its own cost to such a location as the Town may direct within another portion of the Right-of-way.

TOWN ACCESS TO COMPANY INFRASTRUCTURE: The Company shall, without cost to the Town, permit use by the Town of space in excess of the Company's existing or projected requirements upon its Facilities for Wires for fire alarm, police, and communications purposes of the Town. The Company shall furnish, string on the available space on its poles, and draw in and maintain in the available space in the conduits and subways of the Company, all Wires and fixtures necessary for fire alarm, police, and communication purposes of the Town and the Patagonia Volunteer Fire Department or any future ancillary public safety function as approved by the Town. The Town shall pay the Company's actual cost for providing access to its infrastructure.

DE-AGGRAGATION: In the event that fees unbundled the Town has the opportunity to take advantage of it. Utility generating but not distributing (We need language Here)

RENEWAL OF AGREEMENT: The Town, at the option of the Council, may re-evaluate this agreement at 10years, and 5 year increments thereafter up to a total of 25 years. If the Town takes no action the agreement stands for 25 years. The Town reserves the right at the time of these evaluations to terminate if the Company fails to provide adequate number of renewables. If terminated the Company has a 2 year period to remove their property from Town. (We need language and content here).

TERMINATION OF AGREEMENT: In the event the Town chooses to buy out the Company's facilities/infrastructure the cost of the franchise is \$1 (one dollar). The cost of the Company's facilities/infrastructure would be determined based on appraisals made by an independent energy related consultant. Depreciation would be included. (more here?)

NOTICES: The company shall provide to the Town, within thirty (30) days after the effective date of this Agreement, the name, position, and address of the individual who is designated by the Company to receive notices from the Town pursuant to or concerning this agreement. The Company will maintain current contact info throughout the term of the agreement.

NEXT MEETING: The Next Meeting is set for 6pm, September 19th, Wednesday at Town Hall.

ADJOURN: Carolyn made a motion to adjourn at 7:45pm, Dave seconded it, all present voted aye.