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**FINANCE & RECORDS**

**MEMO**

To: Gregg Mandsager, City Administrator

From: Nancy A. Lueck, Finance Director

Date: March 12, 2018

Re: Ordinance on 2<sup>nd</sup> and Final 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 this Ordinance provides that the utility franchise fee was initially set at 2% of the gross receipts from the distribution, supply, or sale of natural gas for customers within the limits of the City of Muscatine. This fee was lowered to 1% effective July 1, 2012. Section 7 of this Ordinance further provides that the franchise fee may be increased or decreased by the City with the fee limited to 5%. The City of Muscatine budget for the fiscal year beginning July 1, 2018 includes an increase in the utility franchise fee from the current 1% to 5% effective July 1, 2018. 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 was held and the first reading of the ordinance was approved at the March 8, 2018 In Depth meeting.

**Summary:**

Please include the attached ordinance on second and final reading to increase the utility franchise fee to 5% on the agenda for the March 15, 2018 In Depth meeting. It is proposed that the City Council approve the ordinance amendment on second and final reading in order to meet the 90-day notice requirement to the utility.

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

**ORDINANCE NO. 94205-0318**

**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**, 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, 2018.

**NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MUSCATINE, IOWA**, that Muscatine Ordinance No. 91191-0410, 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, 2018, but no later than October 1, 2018. The franchise fee may be increased or decreased by the City on or after January 1, 2019, 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 Reading by the City Council of Muscatine, Iowa, 8<sup>th</sup> day of March, 2018.

Passed Second Reading and Waived Third Reading by the City Council of Muscatine, Iowa, the 15<sup>th</sup> day of March, 2018.

**PASSED AND ENACTED** by the City Council of Muscatine, Iowa, the 15<sup>th</sup> day of March, 2018.

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Allen Harvey, Mayor Pro Tem

ATTEST:

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Gregg Mandsager, City Clerk

**1<sup>st</sup> Reading –**

Motion by Council Member Fitzgerald, seconded by Council Member Brackett, first reading of Ordinance No. 94205-0318 (2017/2018).

AYES: 7

NAYS: 0

ABSENT: 0

**2<sup>nd</sup> Reading –**

Motion by Council Member \_\_, seconded Council Member \_\_, to approve the second reading of Ordinance No. 94205-0318 (2017/2018).

AYES: –

NAYS: –

ABSENT: –

**3<sup>rd</sup> Reading –**

Motion by Council Member \_\_, seconded by Council Member \_\_, to approve the third reading of Ordinance No. 94205-0318 (2017/2018)

AYES:           –  
NAYS:           –  
ABSENT:        –

The Mayor declared Ordinance No. 94205-0318 (2017/2018) was passed on March 15, 2018.

I certify that the foregoing was published as Ordinance No. 94205-0318 (2017/2018) on the \_\_\_\_\_ day of \_\_\_\_\_ 2018.

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Gregg Mandsager, City Clerk