

**ORDINANCE NO. 2009-13**

**CITY OF RICHFIELD  
COUNTY OF HENNEPIN  
STATE OF MINNESOTA**

**AN ORDINANCE MODIFYING THE ELECTRIC FRANCHISE FEE ON  
NORTHERN STATES POWER D/B/A XCEL ENERGY FOR PROVIDING  
ELECTRIC SERVICE WITHIN THE CITY OF RICHFIELD**

THE CITY OF RICHFIELD ORDAINS:

**SECTION 1.** The City of Richfield Municipal Code Appendix E is hereby amended as follows:

**Subdivision 1. Purpose.** The Richfield City Council has determined that it is in the best interest of the City to impose a franchise fee on those public utility companies that provide natural gas and electric services within the City of Richfield.

- (a) Pursuant to City Ordinance No. 2007-5, a Franchise Agreement between the City and Northern States Power Company, d/b/a Xcel Energy, the City has the right to impose a franchise fee on Xcel Energy in amount and fee design as authorized in Section 9.1 of the Xcel Energy Franchise.
- (b) Pursuant to City Ordinance 2007-5, the City exercised its right to impose a franchise fee on Xcel Energy. This includes the right to modify the fee amount with the consent of Xcel Energy as to amount and notice period, to which Xcel Energy has consented.

**Subd. 2. Franchise Fee Statement.** Pursuant to Ordinance 2007-5, the franchise fee imposed on Xcel Energy under its Electric Franchise is hereby amended. The amended fee schedule is attached hereto and made a part of this ordinance, commencing with the Xcel Energy's November 2009 billing month.

**Subd. 3. Payment and Fee Design.** The franchise fee shall be payable to the City in accordance with the terms set forth in Section 9.3 of the Franchise. This fee is an account-based fee on each premise and not a meter-based fee. In the event that an entity covered by this ordinance has more than one meter at a single premise, but only one account, only one fee shall be assessed to that account. If a premise has two or more meters being billed at different rates, the Company may have an account for each rate classification, which will result in more than one franchise fee assessment for electric service to that premise. If the Company combines the rate classifications into a single account, the franchise fee assessed to the account will be the largest franchise fee applicable to a single rate classification for energy delivered to that premise. In the event any entities covered by this ordinance have more than one premise, each premise (address) shall be subject to the appropriate fee. In the event a question arises as to the proper fee amount for any premise, the Company's manner of billing for energy used at all similar premises in the city will control.

**Subd. 4. Surcharge.** The City recognizes that the Minnesota Public Utilities Commission allows the utility company to add a surcharge to customer rates to reimburse such utility company for the cost of the fee and that Xcel Energy will surcharge its customers in the City the amount of the fee.

**Subd. 5. Record Support for Payment** Xcel Energy shall make each payment when due and, if requested by the City, shall provide at the time of each payment a statement summarizing how the franchise fee payment was determined, including information showing any adjustments to the total surcharge billed in the period for which the payment is being made to account for any uncollectibles, refunds or error corrections.

**Subd. 6. Enforcement.** Any dispute, including enforcement of a default regarding this ordinance will be resolved in accordance with Section 2.5 the Franchise Agreement.

**Subd. 7. Effective Date of Franchise Fee.** Notwithstanding the effective date of this ordinance and notwithstanding any contrary provisions in the Franchise, the effective date of the fee collected under Subdivision 2 of this ordinance is the later of ten (10) days after the publication or after the sending of written notice enclosing a copy of this adopted ordinance upon Xcel Energy by certified mail. It has been agreed to in advance by Xcel Energy's representatives that Xcel Energy will abide by the provisions of this Subdivision 7, provided fee collection will not commence before the later of the Company billing month set forth in subdivision 2 or the first billing month commencing 20 days after the foregoing effective date of the franchise fee.

**Subd. 8. Fee Review.** The City Council shall begin a review of this Ordinance by June 30, 2011 to determine whether to continue, terminate or modify the fee. If the Council deems it to be in the City's best interest to continue the fee in its current form, no Council action is necessary. If the Council deems it to be in the City's best interest to terminate or modify the fee, the Council shall give Xcel at least sixty (60) days written notice prior to the proposed change. Subject to the City's rights under Minnesota law, the City shall obtain the consent of Xcel to any proposed increase in the fee but may unilaterally decrease or terminate the fee.

**SECTION 2.** This ordinance takes effect as provided herein.

Read by the City Council of the City of Richfield this 28th day of July 2009.

Read and passed by the City Council of the City of Richfield this 11th day of August, 2009.

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Debra Goettel, Mayor

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Steven Devich, City Manager

APPROVED AS TO FORM:

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Nancy Gibbs, City Clerk

## **EXHIBIT A**

### **XCEL ENERGY ELECTRIC FRANCHISE**

#### **FEE SCHEDULE**

<u><b>Class</b></u>	<u><b>Fee Per Meter</b></u>	
Residential	\$1.65_	_1.88
Sm C & I – Non-Dem	\$5.10_	_5.81
Sm C & I – Demand	\$11.33_	_12.92
Large C & I	\$73.65_	_83.96

Franchise fees are to be collected by the Utility in the amounts set forth in the above schedule, and submitted to the City on a quarterly basis as follows:

- January – March collections due by April 30.
- April – June collections due by July 31.
- July – September collections due by October 31.
- October – December collections due by January 31.