



Memorandum

TO: Vail Town Council

FROM: Greg Clifton, Vail Town Manager
Greg Hall, Director of Public Works and Transportation

DATE: February 19, 2019

SUBJECT: Holy Cross Energy Franchise Fee

I. PURPOSE

The purpose of this item is to:

- Solicit Public input prior to the Council discussing the Holy Cross Franchise Fee being adjusted from 3% to 4%
- Direct staff on the amount of the franchise fee to be collected by Holy Cross Energy on Vail users to be distributed to the Town of Vail. The fee will be included in the new Franchise Agreement between the Town of Vail and Holy Cross Energy.

II. BACKGROUND

The franchise agreement between the Town of Vail and Holy Cross Energy is nearing its renewal period. It is a 20-year agreement. The last agreement was executed in 1999.

As background, the franchise agreement is a contract between Vail, as the municipality, and Holy Cross Energy, as the utility service provider. It outlines certain terms and conditions related to the utility's installation and relocation of "Company Facilities" in municipal streets and municipal property. We enter into this agreement not as a customer, but in our capacity as a governmental entity that owns the streets and properties encumbered by the utility.

Franchise agreements regarding electric utilities typically deal with terms, franchise fees, relocations, undergrounding, audits, and related.

The Town Charter provides that the Town Council exercises all powers concerning the granting, amending, revoking, or otherwise dealing in franchises. The term cannot exceed 20 years. See Article XII, Section 12 of the Town of Vail Charter.

- During the last Franchise Agreement in 1999, the formulation of the Community Enhancement Fund was separate from the Franchise Fee imposed on Vail Electric Bills (3%). The value of the fund each year was 1% of all gross charges. The value for 2018 (paid in February 2019) was \$208,946.
- The Town of Vail has used the Community Enhancement fund exclusively to underground electric utility lines over the entire term of the franchise agreement. In addition we are extended out three more years going forward with the latest projects underway (allowed pursuant to terms re advancement of funds).
- The Town of Vail had requested the community enhancement fund to be increased to cover the cost of undergrounding as any undergrounding is an upgrade to the Holy Cross facilities as new lines are installed with each project. Holy Cross Energy has stated that these funds are voluntary and would unduly favor the Town of Vail over other franchises as well as the many coop members who are not recipient to such funds, but are eligible for coop rebates each year. Those rebates would be reduced by any additional obligation to Vail.
- The current undergrounding project the Town has undertaken is budgeted at \$2,138,066 for 7,500 feet of undergrounding or \$285/lineal feet. There are approximately 38,000 lineal feet of overhead lines remaining in Vail. At these current costs, it could take close to 52 years to underground the remaining lines based solely upon use of the Community Enhancement Funds. The cost of construction has increased at a higher rate than the increase in the community enhancement fund. The attached provide the locations of the remaining overhead lines in Vail.
- The current Franchise Fee is 3% franchise fee in addition to 4% sales tax on electric consumption. This is in line with the Xcel franchise agreement, and is also in line with the industry standard throughout Colorado. The franchise fee funds and sales tax currently go toward General Fund with Sales Tax split with the Capital Projects Fund.
- Since Holy Cross will justifiably not increase the community enhancement fund percentage, staff is asking council if there is a desire to increase the Franchise Fee by 1% to be used to offset the cost of undergrounding overhead lines. This would not be, according to our discussions, an issue with Holy Cross, which simply collects the fee as a surcharge to the utility customers.
- The interface with overhead electric power lines and the interface with surrounding combustibles can be a safety risk.

III. SAFETY RISKS OF WILDFIRE AND OVERHEAD POWER LINES

Wildfire ignition with combustibles caused from overhead powerlines can happen from a variety of ways. Below are some of the different ways wildfires are started.

Downed lines—Power distribution systems contain protective devices (e.g. fuses, circuit breakers) that detect short-circuit fault conditions and operate to limit damage to the system. These devices are intended to clear faults quickly, but in as many as 30% of cases in which a single energized line conductor breaks and falls to earth, surface contact resistance causes the resulting fault to draw too little electrical current to blow a fuse or trip a circuit breaker. Such a condition is known as a high-impedance fault, sometimes abbreviated as a HiZ (pronounced “high zee”) fault. A line with a HiZ fault can remain energized on or near the earth for an arbitrarily long period of time.

It is common for a downed line conductor to remain energized and arcing until a customer calls the utility company to report a lights-out condition . An arcing downed conductor readily ignites proximate vegetation and other materials, particularly if it occurs in an area of elevated fire risk. Even if conventional protection finally operates, the period of arcing already may have started a fire.

Vegetation Contact – Trees and other vegetation intruding into power lines can cause fires in multiple ways. A tree falling across a line can tear the line down and result in a downed line. A branch spanning two line conductors for a sufficient period of time may ignite the branch and also may produce high-energy, high-temperature Jacob’s Ladder arcs multiple feet in length. If the branch remains in contact and arcing, it can cause progressive damage that eventually breaks the line.

Conductor Slap – Power lines are designed with sufficient clearance between conductors to keep them from contacting each other under most operating conditions. Certain unusual circumstances, however, can cause line conductors to slap together. Conductor slap creates high-energy arcing and ejects hot metal particles capable of igniting ground-level combustibles. In addition, where line conductors are made of aluminum, the ejected particles may burn as they fall.

Repetitive Faults – Each power line fault creates some risk of fire. Most faults are isolated events (e.g. animal contact, etc.) that do not repeat. Some faults, however, will occur multiple times unless a utility takes corrective action. Repetitive faults can be caused by vegetation, conductor slap, or equipment that is in the process of failing, such as a cracked insulator.

Apparatus Failures – Many power line components (e.g., switches, insulators, transformers, ...) provide trouble-free service for decades. A typical circuit may have hundreds or even thousands of components, making it impractical to inspect or test all components on a frequent basis. Components eventually fail. As they do, they often go through a pre-failure period, during which they continue to serve load until progressive deterioration causes complete failure. Pre-failures often involve arcing and sparking at levels too small to be detected by conventional technologies. Over time the arcing and sparking may increase in intensity and, under the right conditions, can ignite proximate combustibles. More commonly these pre-failures cause progressive damage that eventually evolves into high-energy arcing or even burns conductors in two, resulting in an energized wire on the ground, which provides a ready source of ignition, as discussed above.

The threat of overhead lines being a source of wildfires has escalated in recent years. An acceleration in undergrounding overhead lines is seen as improving the safety of the Town of Vail. In project selection moving forward more emphasis on the prioritization of which lines to underground will be in combination to potential financial partners as has been the case in the past, reduction of risk and then aesthetics. It should be noted, there may be certain sections of overhead lines in which it is impractical to underground.

RECOMMENDED FRANCHISE FEE ADJUSTMENT

The staff requests the Town Council consider raising the Holy Cross franchise fee from the current 3% to 4%. The additional funds raised would be used for the exclusive use to offset construction costs to underground overhead electric lines in the Town of Vail. The funding and acceleration of construction is to address the safety issues of overhead electric lines and with the surrounding vegetated areas. If in the future all lines which are practical have been undergrounded, the fee would resort back to 3%.

IV. RECOMMENDED ACTIONS COSTS AND BUDGET IMPLICATIONS

The increase in Franchise fee would generate approximately in \$208,000 in 2018 dollars and approximately \$4,160,000 over the of the agreement. These funds would be used for the exclusive use to offset construction costs to underground overhead electric lines in the Town of Vail. The funding and acceleration of construction is to address the safety issues of overhead electric lines interface with combustibles in and the surrounding vegetated areas.

VI. ACTION REQUESTED

Provide direction to the staff regarding the Holy Cross Energy Franchise Fee for inclusion in the Holy Cross Energy Franchise Agreement adoption ordinance, scheduled for April of this year.

VII. STAFF RECOMMENDATION

Staff recommends the Town Council raise the franchise fee from 3% to 4%, generating approximately \$208,000 in 2018 dollars annually to be used for the undergrounding of overhead electric lines.