



WASHOE COUNTY

"Dedicated To Excellence in Public Service"

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DA _____

Risk Mgt. _____

Treasurer _____

Comptroller _____

STAFF REPORT

BOARD MEETING DATE: December 8, 2015

DATE: December 2, 2015

TO: Board of County Commissioners

FROM: Kevin Schiller, Assistant County Manager
328-2080, kschiller@washoecounty.us

THROUGH: John Slaughter, County Manager

SUBJECT: Public Hearing and possible action:

- 1) To consider an application by NV Energy, doing business as Sierra Pacific Power Company for a franchise agreement to provide natural and other gas service to portions of Washoe County, including any objections on the matter;
- 2) If determined to be in the best interests of the residents of Washoe County, to approve a Franchise Agreement between NV Energy, doing business as Sierra Pacific Power Company and the County of Washoe, retroactive to April 24, 2015, effective for a period of twenty (20) years from the effective date of the agreement, with upon review by the County an extension of the term of the franchise for five (5) years, fixing the terms and prescribing the conditions pursuant to which the franchise is to be granted, the character or kinds of service to be rendered, the maximum rates to be charged for the service, and such other matters as may be properly connected therewith;
- 3) If the Franchise Agreement is approved, to adopt a Resolution Authorizing and Approving the Issuance of a Franchise to NV Energy, doing business as Sierra Pacific Power Company to Supply Natural Gas to Portions of Washoe County, Nevada; and
- 4) If the Franchise Agreement is approved, to approve an associated Agreement to Pay Annually to Washoe County 2% of the franchisee's Net Profits under the franchise for the Benefit of the County School District Fund of Washoe County, State of Nevada; and approve an associated franchise fee to be determined by the Board of gross profits up to 5 %. (All Commission Districts.)

SUMMARY

This public hearing was set pursuant to an application submitted by Sierra Pacific Power Company d/b/a NV Energy to provide natural gas service to portions of Washoe County. On October 13, 2015, the Board of County Commissioners (Board) directed the Washoe County Clerk to cause notice to be given of the public hearing to be held December 8, 2015, at which time all objections to the granting of such franchise shall be presented to the Board.

AGENDA ITEM # 23

Pursuant to NRS 709.070, notice of this hearing was duly advertised in the Reno Gazette Journal for four consecutive weeks beginning October 16, 2015 and concluding on November 6, 2015. In addition, Notice of this hearing was posted in three public places at least 10 days prior to this hearing.

Washoe County Strategic Objective supported by this item: Stewardship of our community.

PREVIOUS ACTION

On April 24, 1990, the Board approved and entered into a franchise agreement with Sierra Pacific Power Company for a period of twenty-five (25) years to provide gas service and distribution to Washoe County.

On October 13, 2015, the Board directed the Washoe County Clerk to cause notice to be published and to post an application by NV Energy for a Franchise Agreement to provide natural gas service to portions of Washoe County and to set the date for a hearing on the application to include any objections for December 8, 2015.

BACKGROUND

The power to grant franchise agreements by the Board is contained within the Nevada Revised Statutes (NRS) 709.050 to 709.170 and requires the Board to cause notice of the application upon receipt. Washoe County received the attached letter (application – See Attachment A) for franchise agreement from NV Energy. The process for granting a franchise agreement has distinct steps, the first of which is to cause notice of the application to be published and to set a public hearing. The notice must contain pertinent information about the application and explain the process for making objections. The notice must be published once each week for a total of four consecutive weeks in a general circulation newspaper in the county, in this case the Reno Gazette Journal. The notice must also be posted in three public locations in the county at least 10 days prior to the application hearing, and the County Clerk will prove that notice was given at the meeting when the application hearing occurs and will make that a part of the record. Attachment B is the public notice prepared for this application from NV Energy.

The primary goals of the hearing are for the commission to hear objections, if any, to the granting of the franchise, and to determine if granting the franchise is in the best interests of the residents of the county. If granted, a franchise must fix the terms and prescribe the conditions pursuant to which the franchise is to be granted, the character or kinds of service to be rendered, the maximum rates to be charged for the service, and other matters properly connected therewith.

Currently NV Energy is operating within Washoe County under a 25 year franchise which expired. Due to timing required under NRS chapter 709, the current franchise if approved by the Board is to be effective retroactive to April 24, 2015 and through April 24, 2035, with a possible five year extension through April 24, 2040. .

Like its predecessor agreement, the new proposed agreement would also be effective for a period of 25 years. This is the maximum term allowed by statute (NRS 709.060) for new franchises. The actual length of the franchise is a matter within the discretion of the county commission, meaning that franchises could be granted for less than that amount of time.

FISCAL IMPACT

Per NRS 709.070, the cost of the publication for the public hearing, approximately \$480, is born by the applicant.

Per Section 11 of the Franchise Agreement and Washoe County Code, NV Energy is obligated to pay any fees required of it under chapter 25 of the Washoe County Code. While the fee amount is currently set in the code at 5% for electric franchises, the maximum amount allowed by law (NRS 354.59883(3)(b)(1)), there is no fee amount set for gas franchises. Imposition of a fee would therefore require insertion of a franchise fee provision in the agreement itself, or enactment of an ordinance in the future applying such a fee in the same manner as has been done with electric franchises. Imposition of a fee under either approach would require further analysis, however, in light of the 5% cap mentioned above and the fact that NV Energy is already paying 5% of its gross revenue in the unincorporated county for operation under its electric franchise. In any event, if a fee were imposed, it typically is passed along to end users as an item in their bills.

In addition to the franchise fee, per NRS 709.110, every applicant for a franchise for any of the purposes mentioned in NRS 709.050 shall, within 10 days after such franchise is granted, file with the county recorder of such county an agreement properly executed by the grantee of such franchise, right or privilege to pay annually on the first Monday of July of each year to the county treasurer of the county wherein such franchise, right or privilege is to be exercised, for the benefit of the county school district fund, 2 percent of the net profits made by such grantee in the operation of any public utility for which such franchise is granted.

RECOMMENDATION

It is recommended that the Commission hold a public hearing and take the following possible action:

Public Hearing and possible action:

- 1) To consider an application by NV Energy for a franchise agreement to provide natural and other gas service to portions of Washoe County, including any objections on the matter;
- 2) If determined to be in the best interests of the residents of Washoe County, to approve a Franchise Agreement between NV Energy and the County of Washoe, retroactive to April 24, 2015, effective for a period of twenty (20) years from the effective date of the agreement, with upon review by the County an extension of the term of the franchise for five (5) years, fixing the terms and prescribing the conditions pursuant to which the franchise is to be granted, the character or kinds of service to be rendered, the maximum rates to be charged for the service, and such other matters as may be properly connected therewith;
- 3) If the Franchise Agreement is approved, to adopt a Resolution Authorizing and Approving the Issuance of a Franchise to NV Energy to Supply Natural Gas to Portions of Washoe County, Nevada; and
- 4) If the Franchise Agreement is approved, to approve an associated Agreement to Pay Annually to Washoe County 2% of the franchisee's Net Profits under the franchise for the Benefit of the County School District Fund of Washoe County, State of Nevada.

POSSIBLE MOTION

Should the Board agree with staff's recommendation and determine after the public hearing on the matter that it is in the best interests of the residents of Washoe County, a possible motion would be: "Move to:

- 1) Approve a Franchise Agreement between NV Energy and the County of Washoe, retroactive to April 24, 2015 effective through April 24, 2035, with a possible extension to April 24, 2040, to provide natural and other gas to portions of Washoe County, according to the terms and the conditions specified as a result of the hearing, including the character or kinds of service to be rendered, the maximum rates to be charged for the service, and such other matters as may be properly connected therewith;
- 2) Adopt a Resolution Authorizing and Approving the Issuance of a Franchise to NV Energy to Supply gas service to Portions of Washoe County, Nevada, pursuant to the Franchise Agreement; and
- 3) Approve an associated Agreement to Pay Annually to Washoe County 2% of the franchisee's Net Profits derived from gas services provided under the franchise for the Benefit of the County School District Fund of Washoe County, State of Nevada."



BCC 12/08/15 #23
Attachment A

RECEIVED

JUL 02 2015

OFFICE OF
C.S.D. ENGINEERING & CAPITAL PROJECTS

June 30, 2015

Mr. Dave Solaro
Washoe County
P.O. Box 11130
Reno, NV 89520

Dear Mr. Solaro:

Re: NV Energy Application for Renewal of Gas Franchise

NV Energy, doing business as Sierra Pacific Power Company, ("NV Energy") is a public utility qualified to do business under the laws of the State of Nevada and qualified to transact business in Washoe County, Nevada (the "County").

NV Energy currently provides gas service in the County pursuant to the Franchise granted April 24, 1990 by the Washoe County Board of County Commissioners, which according to its terms expired on April 24, 2015.

In accordance with NRS 709.050 through 709.170, and to permit the uninterrupted service and distribution of natural gas in Washoe County, NV Energy respectfully requests the renewal of its gas franchise to maintain, use, operate, install, construct, repair and replace its gas system of mains, pipelines and conduits, together with all the appurtenances and facilities within all present and future public rights-of-way of the County, including all streets, roads, highways, bridges, public utility easements and public places in the County. NV Energy requests that the franchise be granted for a term of twenty-five years (25) commencing on or before September 7, 2015.

Enclosed for your consideration is a proposed Franchise agreement between the County and NV Energy. We respectfully require that this application be set for hearing at the Board's next regular meeting or as soon as possible thereafter.

If you have any questions please do not hesitate to contact me at (702)334-5601.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Caudill".

Paul Caudill
NV Energy President and CEO

Enc: Draft Gas Franchise

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Publishers of

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STATE OF NEVADA
COUNTY OF WASHOE

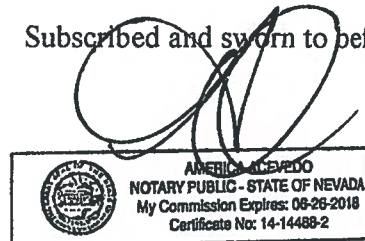
MCCOMP NOV12*15 9:21

Being first duly sworn, deposes and says: That as the legal clerk of the Reno Gazette-Journal, a daily newspaper of general circulation published in Reno, Washoe County, State of Nevada, that the notice referenced below has published in each regular and entire issue of said newspaper between the dates: 10/16/2015 - 11/4/2015, for exact publication dates please see last line of Proof of Publication below.

Subscribed and sworn to before me

Signed: _____

Kim Bird



Proof of Publication

NOTICE OF FILING NOTICE IS HEREBY GIVEN that the Board of County Commissioners of Washoe County, Nevada, will hold a public hearing at the County Commission Chambers, Washoe County Administration Complex, 1001 East Ninth Street, Building A, in Reno, Washoe County, Nevada on Tuesday, December 8, 2015, for the purpose of consideration of an application filed by NV Energy, doing business as Sierra Pacific Power Company, ("NV Energy") for a Franchise Agreement with Washoe County. NV Energy, has filed an application with the Board of County Commissioners of Washoe County, Nevada for a franchise permitting the said applicant to permit the service and distribution of natural gas in Washoe County to maintain, use, operate, install, construct, repair and replace its gas system of mains, pipelines, and conduits, together with all the appurtenances and facilities within all present and future public rights-of way of the County, including all streets, roads, highways, bridges, public utility easements and public places in the County, as more fully set forth in the application of NV Energy on file in the Washoe County Clerk's office. Any and all interested parties are hereby notified that on the 8th day of December 2015, a public hearing will be conducted in the Commissioner's Chambers, first floor, Washoe County Administrative Building, A, located at 1001 East Ninth Street, Reno, Washoe County, Nevada commencing at 10:00 A.M. to hear any

objections any person may have to the granting of said franchise, right or privilege. Objectors are notified that their objections must be filed in writing with the County Clerk prior to said date, or objectors may appear at the meeting and present their objections at the meeting at that time.
DATED: October 14, 2015 NANCY PARENT, Washoe County Clerk and Clerk of the Board of County Commissioners No 64318 Oct 16, 23, 30, Nov 4, 2015

LEGALS LEGALS

NOTICE OF FILING

NOTICE IS HEREBY GIVEN that the Board of County Commissioners of Washoe County, Nevada, will hold a public hearing at the County Commission Chambers, Washoe County Administration Complex, 1001 East Ninth Street, Building A, in Reno, Washoe County, Nevada on Tuesday, December 8, 2015, for the purpose of consideration of an application filed by NV Energy, doing business as Sierra Pacific Power Company, ("NV Energy") for a Franchise Agreement with Washoe County. NV Energy, has filed an application with the Board of County Commissioners of Washoe County, Nevada for a franchise permitting the said applicant to permit the service and distribution of natural gas in Washoe County to maintain, use, operate, install, construct, repair and replace its gas system of mains, pipelines, and conduits, together with all the appurtenances and facilities within all present and future public rights-of way of the County, including all streets, roads, highways, bridges, public utility easements and public places in the County, as more fully set forth in the application of NV Energy on file in the Washoe County Clerk's office. Any and all interested parties are hereby notified that on the 8th day of December 2015, a public hearing will be conducted in the Commissioner's Chambers, first floor, Washoe County Administrative Building, A, located at 1001 East Ninth Street, Reno, Washoe County, Nevada commencing at 10:00 A.M. to hear any objections any person may have to the granting of said franchise, right or privilege. Objectors are notified that their objections must be filed in writing with the County Clerk prior to said date, or objectors may appear at the meeting and present their objections at the meeting at that time.

DATED: October 14, 2015

NANCY PARENT, Washoe County Clerk and Clerk of the Board of County Commissioners

No 64318 Oct 16, 23, 30, Nov 4, 2015

RESOLUTION

**A RESOLUTION AUTHORIZING AND APPROVING THE ISSUANCE OF A
NON-EXCLUSIVE FRANCHISE TO SIERRA PACIFIC POWER COMPANY
D/B/A NV ENERGY TO SUPPLY NATURAL AND OTHER GAS TO PORTIONS
OF WASHOE COUNTY, NEVADA**

BE IT RESOLVED that Sierra Pacific Power Company, d/b/a NV Energy, qualified to do business in the State of Nevada as a public utility, did on the 2nd day of July, 2015, file its application for a non-exclusive franchise to permit it to supply natural and other gas to a certain portion of Washoe County, Nevada, more particularly described in Exhibit "A" attached hereto.

WHEREAS, upon receipt of said application, the Board of County Commissioners of Washoe County, State of Nevada, caused a notice of said application and a notice of hearing upon said application to be published in the Reno Gazette Journal, a newspaper of general circulation in Washoe County, Nevada, setting said hearing upon said application on December 8, 2015, and at the same time caused a notice to be posted in the following places located within Washoe County, Nevada, to-wit: Washoe County Courthouse, 75 Court Street, Reno, Nevada; Washoe County Complex, 1001 East 9th Street, Reno, Nevada; City of Sparks, 431 E. Prater Way, Sparks, Nevada; and the Washoe County Main Library, 350 South Center Street, Reno, Nevada.

WHEREAS, on the _____ day of _____, 2015, the matter was heard by the Board of County Commissioners of Washoe County, Nevada.

WHEREAS, the Board of County Commissioners of Washoe County, Nevada, is satisfied that all of the legal requirements as required by the Nevada Revised Statutes have been complied with, that proper notice has been given upon said application, and that no objections were filed to the granting of said application and/or any objections were duly heard and taken into account.

WHEREAS, the granting of said application would be in the public interest and in the best interests of the residents of Washoe County.

NOW THEREFORE, the Board of County Commissioners of Washoe County, Nevada does hereby approve the granting of said application and does hereby authorize a non-exclusive

franchise upon the terms and conditions as contained the in the Nevada Revised Statutes and as are more fully set forth in the that certain Non-Exclusive Franchise attached hereto.

IT IS FURTHER ORDERED, that the granting of said franchise shall be conditioned upon NV energy executing and delivering to the County Recorder within ten (10) days after the date hereof, an agreement to pay annually, on the first Monday of July of each year, to the County Treasurer of Washoe County, Nevada, for the benefit of the County School District Fund, two percent (2%) of the net profits made by NV Energy in the operation of its gas lines within unincorporated Washoe County, Nevada as described above, during the term of such franchise.

The motion to adopt the above resolution was made by County Commissioner _____ and seconded by County Commissioner _____ and the vote of said motion is as follows:

AYES: _____

NAYS: _____

ABSENT: _____

ABSTAIN: _____

DATED this _____ day of _____, 2015.

Marsha Berkbigler, Chair
Washoe County Commission

ATTEST:

Washoe County Clerk

**NON-EXCLUSIVE FRANCHISE FOR THE DELIVERY GAS TO PORTIONS OF
WASHOE COUNTY**

THIS NON-EXCLUSIVE FRANCHISE is granted this _____ of _____, 2015, by the Board of County Commissioners, Washoe County, State of Nevada, effective until the _____ day of _____, to Sierra Pacific Power Company, a Nevada corporation, d/b/a NV Energy.

1. NV Energy filed an application pursuant to NRS 709.060 for a 20-year non-exclusive franchise, with a possible five year extension, to deliver gas to certain portions of Washoe County in accordance with NRS chapter 709.;
2. The Board of County Commissioners of Washoe County thereupon set a hearing date on the application of December 8, 2015, and caused notice of the application and hearing date and place to be given in accordance with NRS chapter 709, including publication in the Reno Gazette-Journal, a newspaper of general circulation in Washoe County, at least once each week for 4 consecutive weeks prior to the hearing;
3. The hearing on the application was held in the county commission chambers in Washoe County on December 8, 2015, and any objections to the proposed franchise were given due consideration;
4. Based on the hearing, the Board of County Commissioners of Washoe County, Nevada, determined that granting the franchise was in the best interests of the residents of Washoe County, Nevada and therefore approved a Non-Exclusive Franchise Agreement;

ACCORDINGLY, Washoe County does hereby grant a non-exclusive franchise, effective retroactively from April 24, 2015, subject to all applicable laws and the terms of the Non-Exclusive Franchise Agreement approved by the Board of Commissioners of Washoe County, to Sierra Pacific Power Company, d/b/a NV Energy, to construct, install, operate, and maintain gas mains and all necessary or proper appliances used in connection therewith or appurtenant thereto in the portions of Washoe County identified in the Non-Exclusive Franchise Agreement with Washoe County.

DATED this 8th day of December , 2015.

Marsha Berkbigler, Chair
Washoe County Commission

ATTEST:

Washoe County Clerk

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

Sierra Pacific Power Company, doing business as NV Energy

Sierra Pacific Power, d/b/a NV Energy
6100 Neil Rd.,
Reno, Nevada 89511
Fax: (775) 834-4811
Telephone: (775) 834-4208
Attention: Legal Department

AGREEMENT TO PAY ANNUALLY 2% OF NET PROFITS
FOR BENEFIT OF COUNTY SCHOOL DISTRICT FUND OF
WASHOE COUNTY, STATE OF NEVADA

In accordance with NRS chapter 709 and the gas Franchise granted by the Board of County Commissioners of Washoe County, Nevada (the "County") in favor of Sierra Pacific Power Company, a Nevada corporation d/b/a NV Energy, as of April 24, 2015, NV Energy agrees that during the term of the Franchise two percent (2%) of the net profits derived from its operations under the Franchise in unincorporated Washoe County shall be paid to the Washoe County Treasurer for the benefit of the Washoe County School District fund.

Effective as of April 24, 2015.

Sierra Pacific Power Company, d/b/a NV
Energy

By: _____
Name, Title: _____

Approved and Agreed:
WASHOE COUNTY

By: _____
Name, Title: _____

STATE OF NEVADA)
)
COUNTY OF _____)

On _____, 2015, personally appeared before me, a notary public, _____, personally known (or proved) to me to be the person whose name is subscribed to the above instrument who acknowledged that he/she executed the instrument in his/her authorized capacity.

Notary Public

STATE OF NEVADA)
)
COUNTY OF _____)

On _____, 2015, personally appeared before me, a notary public, _____, personally known (or proved) to me to be the person whose name is subscribed to the above instrument who acknowledged that he/she executed the instrument in his/her authorized capacity.

Notary Public