

TOWN OF ADDISON, TEXAS

ORDINANCE NO. 006-039

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS AMENDING ORDINANCE NO. 005-010 (THE SAME BEING CONTAINED IN APPENDIX C, ARTICLE II, DIVISION 4 OF THE CODE OF ORDINANCES OF THE TOWN OF ADDISON) BETWEEN THE TOWN OF ADDISON AND TXU ELECTRIC DELIVERY COMPANY, A TEXAS CORPORATION, ITS SUCCESSORS AND ASSIGNS, BY (I) AMENDING THE PAYMENT SCHEDULE THEREIN TO PROVIDE FOR QUARTERLY FRANCHISE PAYMENTS, AND (II) EXTENDING THE TERM OF THE FRANCHISE FOR AN ADDITIONAL FIVE (5) YEARS; PROVIDING FOR TXU ELECTRIC DELIVERY ACCEPTANCE; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Addison, Texas (the "City") previously granted to TXU Electric Delivery Company, ("Electric Delivery Utility"), by Ordinance No. 005-010 (the same being in Appendix C, Article II, Division 4 of the City's Code of Ordinances) (the "Franchise Ordinance"), the non-exclusive franchise to use the public rights-of-way of the City for the purpose, among other things, of operating facilities for the transmission and distribution of electric power within the City, the terms of which Franchise Ordinance were duly accepted by Electric Delivery Utility; and

WHEREAS, pursuant to that document entitled "Agreement to Resolve Outstanding Franchise Issues" dated January 27, 2006, the City has requested and Electric Delivery Utility has agreed that the terms of the Franchise Ordinance should be amended to provide for a different payment schedule and an extension of the term; and

WHEREAS, the City Council does hereby find that the adoption of this Ordinance is in accordance with applicable provisions of law and the City Charter, and is in the best interests of the citizens of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

Section 1. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof.

Section 2. Ordinance No. 005-010 of the City, the same being the franchise agreement between the City and Electric Delivery Utility, is hereby amended as follows:

A. Electric Delivery Utility has made an annual payment of the Municipal Franchise Charge (as defined in Ordinance No. 005-010) to the City on or before August 1, 2006, based on each kilowatt hour of electricity delivered by Electric Delivery Utility during the twelve-month

period ending June 30, 2006, to each retail customer whose consuming facility's point of delivery is located within the City's municipal boundaries. This payment is for the rights and privileges granted under the Franchise Ordinance for the twelve-month period August 1, 2006 – July 31, 2007. Such payment is the final annual payment of the Municipal Franchise Charge, and payment of the Municipal Franchise Charge (as described in Section 5.1(a) of Ordinance No. 005-010) shall hereafter be made in accordance with the following:

Effective November 1, 2006 the annual prospective payment schedule of the Municipal Franchise Charge is hereby changed to a quarterly prospective schedule as follows:

<u>Payment Due Date</u>	<u>Basis Period</u> (period immediately prior to Payment Due Date)	<u>Privilege Period</u> (period immediately following Payment Due Date)
November 1	July 1 - September 30	August 1 - October 31
February 1	October 1 – December 31	November 1 – January 31
May 1	January 1 – March 31	February 1 – April 30
August 1	April 1 – June 30	May 1 – July 31

Notwithstanding the foregoing schedule, the first quarterly payment shall be due and payable on or before December 1, 2006, based on each kilowatt hour of electricity delivered by Electric Delivery Utility during the period beginning July 1, 2006 and ending September 30, 2006 to each retail customer whose consuming facility's point of delivery is located within the City's municipal boundaries; and such quarterly payment is for the rights and privileges granted under Ordinance No. 005-010 during the period beginning August 1, 2007 and ending October 31, 2007. Following the first quarterly payment, subsequent payments shall be made on a quarterly basis as provided in and in accordance with the above schedule, based on each kilowatt hour of electricity delivered by Electric Delivery Utility during the applicable Basis Period as set forth in the above schedule to each retail customer whose consuming facility's point of delivery is located within the City's municipal boundaries; and such payments shall be for the rights and privileges granted under Ordinance No. 005-010 for the applicable Privilege Period as set forth in the said schedule. The final quarterly payment under this Franchise Ordinance will be made on or before August 1, 2018, based on the period beginning April 1, 2018 and ending June 30, 2018, for the rights and privileges beginning May 1, 2019 and ending July 31, 2019.

After the final payment date of August 1, 2018, Company may continue to make additional quarterly payments in accordance with the above schedule. City acknowledges that such continued payments will correspond to applicable privilege periods that extend beyond the term of this Franchise Ordinance and that

such continued payments will be recognized in any subsequent franchise agreement as full payment for the relevant quarterly periods; and

B. The term of the Franchise Ordinance shall be extended for an additional five years, to expire on July 31, 2019.

Section 2. In all respects, except as specifically and expressly amended by this Ordinance, all other terms, conditions, standards, and obligations of Ordinance No. 005-010 heretofore duly passed by the governing body of the City and duly accepted by Electric Delivery Utility shall remain unchanged and in full force and effect according to its terms until said Franchise Ordinance terminates as provided herein. Without limiting the generality of the foregoing, Section 5.1(b) of the Franchise Ordinance is not amended by this Ordinance.

Section 3. This Ordinance shall take effect thirty (30) days from and after the date of the final passage and approval of this Ordinance by the City Council in accordance with the City's Home Rule Charter. Electric Delivery Utility shall, within thirty (30) days from the date of passage of this Ordinance by the City Council, file its written acceptance of this Ordinance with the Office of the City Secretary; this Ordinance shall be rendered null and void and of no force or effect whatsoever if such written acceptance of this Ordinance is not filed by the Electric Delivery Utility within such thirty (30) day period.

Section 4. It is hereby officially found and determined that the meeting at which this Ordinance is passed is open to the public as required by law and that public notice of the time, place and purpose of said meeting was given as required.

First reading of this Ordinance by the City Council of the Town of Addison, Texas occurred on the 12th day of September, 2006.

Second reading of this Ordinance by the City Council of the Town of Addison, Texas occurred on the 26th day of September, 2006.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this the 23rd day of October, 2006.



Joe Chow, Mayor

ATTEST:

By: 
Mario Canizares, City Secretary

Published:
10/27/06

APPROVED AS TO FORM:

By: 
Ken Dippel, City Attorney