

Agenda Item: 2.b

Meeting Date: January 25, 2024

MEMORANDUM

To: City Commission

Date: 2024-01-11

From: Jorge Quintas Deputy City Manager

Subject: First Reading of Ordinance 24-02, granting Duke Energy Florida, LLC (d/b/a Duke Energy) an Electric Utility Franchise Agreement allowing for occupancy of City rights-of-ways for the purpose of providing electric services within the City of Dunedin's jurisdictional limits.

Presenter(s): Jorge M. Quintas, P.E., Deputy City Manager; and Duke Energy - Gov't & Community Relations staff: Kris Tietig, Director; Jeff Baker & Kymberly Graves, Managers; Mike Malley, Acct. Exec.; Shannon Haggard, Manager, Outdoor Lighting; and Tim White, Area Ops.

Recommend: Commission approval on the First Reading of Ordinance 24-02, granting Duke Energy Florida, LLC (d/b/a Duke Energy) an Electric Utility Franchise Agreement allowing for occupancy of City rights-of-ways for the purpose of providing electric services within the City of Dunedin's jurisdictional limits.

Epic Goal(s): Goal #2 - Create a visual sense of place throughout Dunedin; and Goal #4 - Be the statewide model for environmental sustainability stewardship.

Boards & Committees: City Commission

Budget Impact: Ordinance 24-02, known as the proposed "Duke Energy Rights of Way Utilization Franchise" Agreement provides the City a monthly franchise amount equal to six percent (6%) of Duke's Base Revenues (the "Franchise Fee") for the preceding month. The average for the past two years 2022 and 2023, for Duke Franchise fee revenue is \$2,872,000 per year.

Past Action: 1.) Commission provided consensus direction on July 2, 2020 (Agenda Item #3.a) authorizing the City Manager to enter into an agreement with Duke

Energy, which subsequently occurred on April 13, 2022, to participate in the Clean Energy Connection (CEC) Solar Program;

2.) Workshop presentation on February 15, 2022 by Duke Energy representatives providing a status update of past, current, and planned improvements to their electrical system infrastructure summarized in their Dunedin Energy Report, in advance of Franchise Agreement renewal considerations, (Agenda Item #4.a);

3.) Commission approval of Ordinance 12-32, on July 12, 2012, renewing an agreement with Florida Power Corporation (dba Progress Energy Florida, Inc.) providing for a Non-Exclusive Electric Utility Franchise within the City of Dunedin for a ten (10) year term, with an option to renew for an additional ten (10) year term, (Agenda Item #PH-7); and

4.) Commission approval of Ordinance 01-45, on December 20, 2001, granting Florida Power Corporation a Non-Exclusive Electric Utility Franchise within the City of Dunedin for a ten (10) year term, with an option to renew for an additional ten (10) year term.

Next Action: Second Reading to be held on February 22, 2024.

Attachments: [A. COD & Duke Energy Franchise Agreement - Ordinance #24-02 \(Signed by Duke & BMO\).pdf](#), [B. Dunedin Energy Report - \(Updated 11-14-23\).pdf](#), [C. Duke Energy Report - PowerPoint Presentation for Dunedin \(Finalized 11-14-23\).pdf](#), [D. Duke - Dunedin MOU \(effective 02-22-24\).pdf](#), [E. Clean Energy Connection Program \(COD & Duke\) - Terms & Conditions \(4-13-22\) & Summary email from Natalie Gass.pdf](#), [F. City of Dunedin Business Impact Statement - Ordinance #24-02.pdf](#), [G. Ordinance #24-02 - Proof of Advertisement.pdf](#),

Background: In accordance with Commission direction provided in May 2021, staff has been coordinating directly with Vice-Mayor Freaney, as the Boards liaison representative, and key Duke Energy representatives to review in detail our concerns and receive documentation and assurances of how any past deficiencies have been and are being addressed. An update was provided by Duke Energy during a Workshop presentation held on February 15, 2022 summarizing their efforts to address concerns raised in the City's two (2) prior assessments, specific to improvements to their grid and system reliability.

In the interim, the City of Dunedin entered into an agreement with Duke Energy on April 13th, 2022 to participate in the Clean Energy Connection (CEC) Solar Program. Dunedin's subscription size is 2,960 kW, which is equivalent to 40% of the City's total annual energy consumption based upon 2021 usage data. Once all ten (10) Duke Energy solar fleet sites have been constructed and are operational, Dunedin anticipates receiving clean energy credits for 40% of its energy needs by the end of 2024. While the City continues to plan and install on-site solar on its applicable facilities, it is understood that our clean energy goals cannot be solely met through on-site solar installations alone. Solar energy credits provide a means to account for the remaining energy consumption, in our efforts to achieve Dunedin's Ready for 100 Clean Energy Goals of 100% renewable energy by 2035 for internal

City operations, and our Citywide goal by 2050.

Meanwhile, the City and Duke Energy have been negotiating the terms of the referenced Franchise Agreement renewal for over two (2) years. Ordinance 24-02, known as the "Duke Energy Rights of Way Utilization Franchise" Agreement, if adopted, will provide the City a monthly franchise amount equal to six percent (6%) of Duke Energy's Base Revenues (the "Franchise Fee") for the preceding month.

The term of the Franchise, once adopted, shall be for a period of ten (10) years; thereafter, the Franchise granted by this Ordinance may be renewed for up to two (2) successive five (5)-year periods, upon the City providing Duke Energy written notice of its intent to renew at least six (6) months prior to the date of the expiration. Should the Franchise expire without the parties entering into a new franchise agreement, then Duke Energy shall continue to pay the City Franchise Fees, as defined in this Ordinance, during the period of such negotiations, provided the City is actively engaged in good faith negotiations toward the execution of a new franchise agreement.

Concurrent with the Franchise Agreement negotiations, staff and Duke Energy representatives have developed a "Memorandum of Understanding" (MOU) between the City and Duke providing a strategy and framework for cooperation and collaboration focusing on sustainability and resiliency. The duration of the MOU will coincide with the term of the Franchise Agreement, and any subsequent renewals. The MOU, attached hereto, will be executed to coincide with and subject to the Commission's approval following the Second Reading of Ordinance 24-02, on February 22, 2024.

During the First Reading of Ordinance 24-02, Duke Energy representatives will provide an overview presentation updating their prior Dunedin Energy Report, highlighting various Major Storm response efforts, summarizing Grid and Substation improvements, planned Street Lighting enhancements, and EV Charging program statistics.

Staff hereby recommends Commission approval on the First Reading of Ordinance 24-02, as detailed herein.