

Ordinance No. 11-6-17A_____

**An ordinance establishing a fee on Energy Providers operating in
the City of Florence, CO**

Be it ordained by the City of Florence, CO:

Section 1. The City of Florence, CO, (hereinafter referred to as the "Municipality") hereby establishes a fee on every electric distribution and electric generation company and every other person, firm or corporation, their successors and assigns, owning, operating, controlling, leasing or managing a electric distribution and electric generation plant or system and/or generating, manufacturing, selling, distributing or transporting electricity (hereinafter referred to, collectively, as "Energy Providers," each, individually, an "Energy Provider"). Energy Providers shall collect from their customers located within the corporate limits of the Municipality as depicted on the Map (as defined below) including the City of Florence and pay to the City of Florence an amount equal to three percent (3%) of gross receipts Energy Providers derive from the sale, distribution or transportation of electricity delivered within the present limits of the Municipality. Gross receipts as used herein are revenues received from the sale, distribution or transportation of electricity, after adjustment for the net write-off of uncollectible accounts and corrections of bills theretofore rendered.

Section 2. The amount paid by Energy Providers shall be in lieu of, and Energy Providers shall be exempt from, all other fees, charges, taxes or assessments which the Municipality may impose for the privilege of doing business within the Municipality, including, without limitation, excise taxes, [occupation taxes], licensing fees, or right-of-way permit fees, and in the event the Municipality imposes any such fee, charge, tax or assessment, the payment to be made by Energy Providers in accordance with this Ordinance shall be reduced in an amount equal to any such fee, charge, tax or assessment imposed upon the Energy Providers. Ad valorem property taxes imposed generally upon all real and personal property within the Municipality shall not be deemed to affect Energy Providers' obligations under this Ordinance.

Section 3. Energy Providers shall report and pay any amount payable under this Ordinance on an annual basis. Such payment shall be made no more than thirty (30) days following the close of the period for which payment is due. Initial and final payments shall be prorated for the portions of the periods at the beginning and end of any franchise granted by the City of Florence, CO, to an Energy Provider.

Section 4. Energy Providers shall list the franchise fee collected from customers as a separate item on bills for utility service issued to their customers. If at any time the Colorado Public Utilities Commission or other authority having proper jurisdiction prohibits such recovery, Energy Providers will no longer be obligated to collect and pay the franchise fee until an alternate lawful franchise fee can be negotiated and implemented. In addition, with prior approval of the City of Florence, Energy Providers may reduce the franchise fee payable for electricity delivered to a specific customer when such reduction is required to attract or retain the business of that customer.

Section 5. Within ten (10) days of the date of this ordinance, the Municipality shall provide the Energy Providers with a map of its corporate limits (the "Map"). The Map shall be of sufficient detail to assist Energy Providers in determining whether their customers reside within the Municipality's corporate limits. The Map shall serve as the sole basis for determining Energy Provider's obligation hereunder to collect and pay the [fee or tax type] from customers; provided, however, that if the Municipality's corporate limits are changed by annexation or otherwise, it shall be the Municipality's sole responsibility to (a) update the Map so that such changes are included therein, and (b) provide the updated Map to the Energy Providers. An Energy Provider's obligation to collect and pay the franchise fee from customers within an annexed area shall not commence until the later: (a) of sixty (60) days after such Energy Provider's receipt from the Municipality of an updated Map including such annexed area, or (b) such time after such Energy Provider's receipt from the Municipality of an updated Map including such annexed area as is reasonably necessary for such Energy Provider to identify the customers in the annexed area obligated to pay the franchise fee.

Section 6. The City of Florence shall provide copies of annexation ordinances to Energy Providers on a timely basis to ensure appropriate Franchise fee collection from customers within the corporate limits of the city as set forth in Section 4 above.

Section 7. The Municipality shall have access to and the right to examine, during normal business hours, Energy Provider's books, receipts, files, records and documents as is reasonably necessary to verify the accuracy of payments due hereunder; provided, that the Municipality shall not exercise such right more than twice per calendar year. If it is determined that a mistake was made in the payment of any franchise fee required hereunder, such mistake shall be corrected promptly upon discovery such that any under-payment by an Energy Provider shall be paid within thirty (30) days of recalculation of the amount due, and any over-payment by an Energy Provider shall be deducted from the next payment of such franchise fee due by such Energy Provider to the Municipality; provided, that neither party shall have the obligation to correct a mistake that is discovered more than one (1) year after the occurrence thereof.

Section 8. Any and all Ordinances or portions thereof which are in conflict herewith are hereby repealed, specifically Ordinance _____.

Section 9. This Ordinance shall take effect and be in force from and after its passage and publication according to law.

Section 10. Passed and approved by the People of the City of Florence, CO, on this ____ day of _____, 2017.

Mayor Keith Ore

Attest:

Dena Lozano
Clerk of City of Florence, Colorado