

RESOLUTION NO. 13790

A RESOLUTION DECLARING THE CITY OF PUEBLO'S ("CITY") INTENT TO TERMINATE ITS FRANCHISE AGREEMENT WITH BLACK HILLS ENERGY AT THE MIDPOINT OF THE FRANCHISE IN 2020 AND TO CREATE A MUNICIPAL UTILITY IF DUE DILIGENCE DEMONSTRATES THE CITY CAN CREATE AND DEVELOP A MUNICIPAL UTILITY WHICH WILL PROVIDE ECONOMIC AND SOCIAL BENEFITS TO THE CITIZENS AND BUSINESSES OF PUEBLO

WHEREAS, the Colorado Constitution, Colorado statutes and the existing franchise ("Franchise") with Black Hills /Colorado Electric Company, LP ("Black Hills") expressly authorize the City to purchase, condemn and operate a municipal electric utility; and

WHEREAS, 29 municipalities successfully own and operate a municipal electric utility in the state of Colorado; and

WHEREAS, municipalities are authorized to grant franchises to for-profit electric utilities to provide electric service pursuant to a franchise agreement, but that agreement cannot be for more than a 20-year term; and

WHEREAS, on August 11, 2010, the City granted Black Hills a Franchise to provide electric service within the territorial boundaries of the City for a term of 20 years; and

WHEREAS, Black Hills rates for electric service are among the very highest in the state of Colorado and the cost of electricity is threatening the economic and social well-being of the citizens and businesses of the City; and

WHEREAS, the high rates for electricity are causing great hardships for the elderly, low-income and economically challenged citizens of the City; and

WHEREAS, the City is authorized under the Franchise and state law to purchase or condemn the electric works and facilities of Black Hills used in providing electric service to the citizens and businesses of the City ("Facilities") at intervals of ten or fifteen years after the Franchise effective date; and

WHEREAS, year ten of the Franchise with Black Hills ends on August 11, 2020; and

WHEREAS, the City is authorized under the Colorado constitution and statutes to establish its own electric rates in an effort to stabilize and eventually reduce the cost of electricity; and

WHEREAS, the City operating as a municipal electric utility would be able to establish low-income service policies that reflect the social values of the community; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The City of Pueblo hereby notifies Black Hills by the adoption of this Resolution that it intends to take the steps necessary to create a municipal electric utility and, further, the City notifies Black Hills that it intends to invoke the option under state law and the Franchise to initiate the purchase or condemnation of Black Hills' Facilities at the ten-year interval of the Franchise, on August 11, 2010.

SECTION 2.

The City resolves to take the steps necessary to determine the legal, financial, and operational feasibility of exercising its right in the year 2020 to provide electric utility service within the territorial boundaries of the City. This effort will include as a minimum:

Legal Issues: Determine the legal processes required for the City to exercise its right to provide electricity as a municipal electric utility.

Distribution System: Determine the scope of the distribution system owned by Black Hills to be purchased or condemned by the City, and obtain engineering cost estimates of all equipment required for the City to provide electricity as a municipal electric utility.

Financing: Determine the most favorable sources of financing available to the City to exercise its right to purchase or condemn the distribution system and to provide electricity as a municipal electric utility.

Operations: Determine the available sources and estimated cost of power supplies or generation equipment required to meet the City's power requirements. Determine the model for the physical operation of, and the personnel necessary to successfully and reliably operate, the City's municipal electric utility.

SECTION 3.

There is hereby created the "**Black Hills Energy Franchise Agreement Off-Ramp Commission.**" ("Commission"). Membership shall include two members of City Council, one representative appointed by the County Commissioners, one representative appointed by the Pueblo West Metropolitan District, and three current customers of Black Hills Energy to be appointed by City Council (one residential customer, one commercial customer and one manufacturing customer). The Law Department shall provide staff assistance to the Commission.

SECTION 4.

Such Commission shall research and review and report back to the City Council regarding all options available to City government concerning future electric utility service in the City.

SECTION 5.

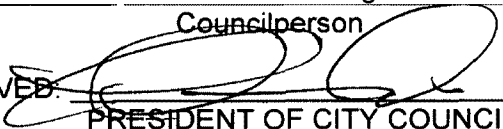
The officers and staff of the City are directed and authorized to retain consultants and perform any and all acts necessary to effectuate the tasks, policies and procedures described herein.

SECTION 6.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED September 25, 2017

BY: Robert Schilling
Councilperson

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK