Town Council

Board Meeting Date: 10/7/2025

File #: 25-539, **Version:** 1

SUBJECT:
Black Hills Energy Presentation

DEPARTMENT: Utilities Department

PRESENTER(S): Todd Fessenden, Utilities Director
Black Hills Energy

TIME ESTIMATE: 30 minutes
For time estimate: please put 0 for Consent items.

FISCAL SUMMARY:
N/A

POLICY ISSUES:
The Town Council is responsible for voting on any Franchise Agreements that are proposed in the Town.

STAFF RECOMMENDATION:
Presentation only

SUMMARY/KEY POINTS

- This item is coming before Council to prepare Council for a future vote on a Franchise Agreement.
- Black Hills Energy provides natural gas services to a significant portion of the Town, particularly in the growing eastern side of Erie.
- While residents in the Xcel service area of the Town continue to operate under a Franchise Agreement and fee, the residents in the eastern area have no fee or agreed upon terms of operation.

BACKGROUND OF SUBJECT MATTER:
Black Hills Energy (BHE) will give a presentation about their services in the Town of Erie, commitment to safety, regulatory oversight and current filings, franchise agreements and fees, and

sustainability efforts.

History:
Town of Erie staff have been working with BHE since the fall of 2019 to negotiate a Franchise Agreement. Based on these negotiations, staff and BHE representatives developed a proposed Franchise Agreement that is similar to an agreement the Town has with Xcel Energy covering Xcel's service territory in the remainder of the Town.

After negotiating a proposed agreement, BHE and staff made multiple presentations to prior Council (Board), most recently in 2023. When staff presented a proposed Franchise Agreement for the Board of Trustee's consideration on May 25, 2021, a motion to approve the proposed agreement died for a lack of a second. Board members at the time did not indicate specific reasons for their lack of support for the proposed agreement but did note concerns regarding new fees imposed on residents. To address any questions and concerns Board Members may have had regarding BHE, their operations, or the proposed agreement, BHE provided additional information at a Study Session in October 2021. The presentation was regarding BHE's services in the Town of Erie, commitment to safety, regulatory oversight and current filings, franchise agreements and fees, and sustainability efforts. The Franchise Agreement was brought to the Board again for a vote and failed on a 3/3 tie vote.

If staff gauge interest from the Council in moving forward with a Franchise Agreement with BHE, such a proposal would come to the Council at a later Regular Meeting, after this Study Session.

If Town Council approves a Franchise Agreement with BHE, it would be the first agreement with BHE even though the company has long been providing gas service to customers in Erie through its existing gas utility infrastructure, with roughly 3,000 customers and growing.

Pursuant to Title 2, Chapter 8, Article A, of the Erie Municipal Code, electric and gas utility companies that sell, provide, or distribute electricity or gas must pay a fee to the Town of Erie as determined by a Franchise Agreement. Consistent with this existing provision in the Municipal Code, staff proposed an agreement including a 3% fee that BHE would pay to the Town as compensation for BHE's use of Town right-of-way. This proposed fee is in line with the fee paid by Xcel Energy customers in Erie. The proposed agreement also included provisions that if the Town elects to alter any public right-of-way or public places for a public purpose, BHE must remove and relocate its facilities or equipment situated in the public rights-of-way at BHE's expense. The proposed agreement also required any excavations made by BHE to be done in a manner that minimizes inconvenience and leaves the property in as good as condition as existed immediately prior to excavation.

TOWN COUNCIL PRIORITY(S) ADDRESSED:
☐ Attractive Community Amenities
☐ Engaged and Diverse Community

☒ Prosperous Economy
☐ Well-Maintained Transportation Infrastructure
☐ Small Town Feel
☒ Safe and Healthy Community
☒ Effective Governance
☐ Environmentally Sustainable
☒ Fiscally Responsible

ATTACHMENT(S):