

REQUEST FOR CITY COUNCIL CONSIDERATION

Meeting Date: May 19, 2025

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| Agenda Item: 6C | Prepared by: Chris Noury, City Attorney |
| Agenda Section: Unfinished Business: Ordinance. Second Reading | Date: May 9, 2025 |
| Subject: An ordinance to amend and renew the franchise granted to the South Carolina Public Service Authority | Division: Legal |

Background:

The South Carolina Public Service Authority (SCPSA) owns and operates electric equipment and facilities, including distribution lines and substations, for the purpose of providing electric service to the residents of the City of North Myrtle Beach and adjacent communities.

The City previously granted a Franchise to the SCPSA, by ordinance, in July of 1975 with subsequent amendments to the Franchise on May 3, 1983, and July 16, 2002, which is scheduled to expire June 30, 2025.

The amendments to the Franchise Agreement are:

1. Section 1 of the Franchise and Ordinance effective July 1, 1975, is hereby amended to read as follows:

The City of North Myrtle Beach does hereby grant unto the said South Carolina Public Service Authority, its successors and assigns, the non-exclusive rights, powers, privileges, easements, licenses and franchises to construct, extend, maintain and operate at any point or points within the present or future corporate limits of said City, one or more electric substations and like facilities, transmission systems, and distribution systems, either or all, for the utilization of electric power and energy within or without said City.

2. Section 4 of the Franchise and Ordinance effective July 1, 1975, shall be changed by this amendment to alter indemnification language no longer acceptable pursuant to South Carolina Attorney General Opinion. The franchise is hereby amended to read as follows:

South Carolina Public Service Authority shall assume any and all liability and responsibility for any and all claims or demands arising solely out of any negligent or intentional act or omission by it, its employees, contractors, consultants, agents and invitees, from or in connection with the exercise of its rights and privileges granted or confirmed by this Agreement.

The amendment to the Franchise Agreement will take effect immediately and shall extend the Franchise Agreement for thirty (30) years from the effective date.

Recommended Action:

Approve or deny the proposed ordinance on second reading

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| Reviewed by Department Head | Reviewed by Interim City Manager | Reviewed by City Attorney |
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Council Action:
Motion By _____ 2nd By _____ To _____

ORDINANCE TO AMEND A FRANCHISE TO THE SOUTH
CAROLINA PUBLIC SERVICE AUTHORITY TO CONSTRUCT,
MAINTAIN AND OPERATE WITHIN THE PRESENT OR FUTURE
CORPORATE LIMITS OF THE CITY ONE OR MORE ELECTRIC
SUBSTATIONS AND LIKE FACILITIES, TRANSMISSION
SYSTEMS AND DISTRIBUTION SYSTEMS

WHEREAS, the South Carolina Public Service Authority, a body corporate and politic of the State of South Carolina, (the "Authority" herein) has made a substantial investment in electric equipment and facilities (including the construction and acquisition of transmission and distribution lines and substations, property and property rights) for the purpose of providing electric service to the residents of the City of North Myrtle Beach, South Carolina, (the "City" herein) and adjacent communities; and

WHEREAS, the City has previously granted a Franchise and Ordinance effective July 1, 1975 and subsequent amendments of May 3, 1983 and July 16, 2002 to the Authority, which is scheduled to expire June 30, 2025;

WHEREAS, the parties have agreed to amend this franchise agreement;

NOW, therefore, be it ordained by the Mayor and the City Council of the City of North Myrtle Beach, South Carolina in Council assembled:

1. Section 1 of the Franchise and Ordinance effective July 1, 1975 is hereby amended to read as follows:

The City of North Myrtle Beach does hereby grant unto the said South Carolina Public Service Authority, its successors and assigns, the non-exclusive rights, powers, privileges, easements, licenses and franchises to construct, extend, maintain and operate at any point or points within the present or future corporate limits of said City, one or more electric substations and like facilities, transmission systems, and distribution systems, either or all, for the utilization of electric power and energy within or without said City.

2. Section 4 of the Franchise and Ordinance effective July 1, 1975 shall be changed by this amendment to alter indemnification language no longer acceptable pursuant to South Carolina Attorney General Opinion. The franchise is hereby amended to read as follows:

South Carolina Public Service Authority shall assume any and all liability and responsibility for any and all claims or demands arising solely out of any negligent or intentional act or omission by it, its employees, contractors, consultants, agents and invitees, from or in connection with the exercise of its rights and privileges granted or confirmed by this Agreement.

3. All other provisions of the original Franchise and Ordinance and the subsequent amendments of May 3, 1983 and July 16, 2002, between the City and the Authority shall remain in full force and effect.
4. This franchise and ordinance shall take effect immediately and all the rights, powers, privileges, easements, licenses and franchises herein conferred and granted shall be non-exclusive and shall extend for a term of thirty (30) years from the effective date hereof.
5. A signed, certified and sealed copy of this ordinance and amendment of franchise shall be delivered to the Authority and shall constitute a valid and binding amendment to the franchise granted by the City to the Authority, its successors and assigns.

DONE, RATIFIED AND PASSED, THIS _____ DAY OF _____, 2025.

ATTEST:

Mayor Marilyn Hatley

City Clerk

APPROVED AS TO FORM:

City Attorney

FIRST READING: 5.5.2025
SECOND READING: 5.19.2025

REVIEWED:

Interim City Manager

ORDINANCE: 25-23