

ORDINANCE NO. 4820

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON, RELATING TO TITLE 9 "UTILITIES," AMENDING CHAPTER 9.80 "WHOLESALE UTILITY SERVICE PURCHASES" AND CHAPTER 9.10 "NEW UTILITY SERVICE CONNECTIONS" OF THE ELLENSBURG CITY CODE.

WHEREAS, the City Council desires to create a limitation on liability for damage claims due to interruption, reduction or loss of electrical, natural gas, sewer, and water service; and

WHEREAS, the public works and utilities director or his/her designee needs authority, when the opportunity exists or necessitates, to optimize the purchase or sale of energy and minimize the impacts to rate payers; and

WHEREAS, any financial gains made by the city from wholesale energy sales will be passed along to retail customers in the form of rate reductions; and

WHEREAS, the amendments in this ordinance were reviewed by the Utility Advisory Committee on December 20, 2018 and are recommended for City Council adoption,

NOW, THEREFORE, the City Council of the City of Ellensburg, Washington do hereby ordain as follows:

Section 1. Section 9.10.100 of the Ellensburg City Code, as last amended by Section 2 of Ordinance 4762, is hereby amended to read as follows:

9.10.100 Electrical service requirements.

A. All new nonindustrial services must be installed underground unless the new service is fed from an existing overhead line, except as allowed by ECC 9.20.100(A).

B. The city shall own, install and maintain all underground service conduit, meter, and secondary wires associated with service panels less than 400 amps. For an underground service less than 400 amps, the point of delivery is the primary connection point of the meter base.

C. The customer shall own, install, and maintain all underground service, conduit, current transformer enclosure, meterbase, equipment, and secondary wires associated with service panels

equal to or greater than 400 amps. For an underground service equal to or greater than 400 amps, the point of delivery is the secondary bushings of the pad-mounted transformer or service pedestal. The city shall own, install, and maintain the current transformers, current transformer wiring, and meter for an underground service equal to or greater than 400 amps.

D. For an overhead service, the point of delivery is the connection at the weatherhead between the city overhead conductors and the customer provided building wiring. The city shall not own overhead mastheads, conduits and secondary wires from the masthead to the meter base, and the meter base regardless of service panel size.

E. The city shall not be liable for any loss, injury or damage of any kind, including but not limited to consequential, special and punitive damages, resulting from the interruption, reduction, loss or restoration of electrical service from facilities owned by the city from any cause, including without limitation any loss by fire, flood, accident, casualty, sabotage, terrorist act, strike, labor slow-down, act of God or the public enemy, or failure or inadequacy of electrical access or appurtenant facilities. Every person and entity accepting service from the electrical facilities owned by the city agrees to, and shall be deemed to, waive any and all claims for damage or loss to the person's or entity's lines, facilities or electrical equipment caused by an act or omission of the city; provided, however, that nothing herein shall be deemed or construed as a waiver of any claim for damage or liability arising out of the gross negligence or intentional act of the city or its agents. [Ord. 4762 § 2, 2016; Ord. 4684 § 2, 2014; Ord. 4503 § 2, 2007.]

Section 2. Section 9.10.200 of the Ellensburg City Code, as last amended by Section 2 of Ordinance 4804, is hereby amended to read as follows:

9.10.200 Gas service requirements.

- A. The city will not tap a high pressure gas main except when conditions, in the sole judgment of the public works and utilities director, justify a tap.
- B. Each utility customer shall be subject to all rules and regulations adopted by the Ellensburg city council and the director relating to the installation, construction, reconstruction, adjustment

and repair of house gas piping, gas appliances, fixtures and apparatus in all buildings served by the city gas utility.

- C. If the applicant's building is located a substantial distance from the main, or if there is a hazard or obstruction (such as plowed land) between the gas main and the applicant's building which prevents the city from prudently installing a service line, the city may, at its discretion, allow the meter to be located at or near the applicant's property line, as close as practical to the city's main, at a location agreed upon by the customer and the city.
- D. The end-use customer shall be responsible for the payment of any amount as determined in ECC 9.10.030(C). Subject to city approval the customer may request to pay the connection fee in equal monthly payments for a period of no greater than 12 months, including a finance charge set forth by the finance director.

E. The city shall not be liable for any loss, injury or damage of any kind, including but not limited to consequential, special and punitive damages, resulting from the interruption, reduction, loss or restoration of natural gas service from facilities owned by the city from any cause, including without limitation any loss by fire, flood, accident, casualty, sabotage, terrorist act, strike, labor slow-down, act of God or the public enemy, or failure or inadequacy of natural gas access or appurtenant facilities. Every person and entity accepting service from the natural gas facilities owned by the city agrees to, and shall be deemed to, waive any and all claims for damage or loss to the person's or entity's pipes, facilities or natural gas equipment caused by an act or omission of the city; provided, however, that nothing herein shall be deemed or construed as a waiver of any claim for damage or liability arising out of the gross negligence or intentional act of the city or its agents. [Ord. 4804 § 2, 2018; Ord. 4789 § 2, 2018; Ord. 4644 § 4, 2013; Ord. 4503 § 2, 2007.]

Section 3. Section 9.10.300 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:

9.10.300 Sewer service requirements.

A. A public works construction permit and/or sewer permit must be obtained prior to any construction. Permits shall be valid for 90 calendar days, unless approved otherwise on the permit. The public works and utilities director may extend the duration of a permit upon written application of the applicant or may determine that a new permit is required (including payment of fees).

B. The owner or occupant of any land or premises shall be required to connect waste pipes used as a receptacle for drainage of sanitary sewage, industrial wastes or other waterborne contamination to the nearest accessible public sewer whenever there is a public sewer within 200 feet. The public works and utilities director shall prescribe the manner in which such connection shall be made. Such connection shall be made within 60 days after date of receipt of notice by certified mail.

C. Whenever any land, buildings or premises are required to be connected to a public sewer or otherwise drained as provided in this section, and the owner or occupant fails to comply, the public works and utilities director may make such connection and the cost thereof shall be charged to the owner, agent or occupant, and a billing showing the amount thereof delivered to him, or posted upon the premises, whereupon the amount shall immediately be paid to the city.

D. All vaults or privies shall be decommissioned per public works development standards.

E. A plant investment fee shall not be required for any irrigation service or other use which does not enter the sanitary sewer system. If a property is connected to the sanitary sewer system but not the city water system then the PIF fee shall be established by the public works and utilities director.

F. The city shall not be liable for any loss, injury or damage of any kind, including but not limited to consequential, special and punitive damages, resulting from the interruption, reduction, loss or restoration of sewer service from facilities owned by the city from any cause, including without limitation any loss by fire, flood, accident, casualty, sabotage, terrorist act,

strike, labor slow-down, act of God or the public enemy, or failure or inadequacy of sewer access or appurtenant facilities. Every person and entity accepting service from the sewer facilities owned by the city agrees to, and shall be deemed to, waive any and all claims for damage or loss to the person's or entity's pipes, facilities or sewer equipment caused by an act or omission of the city; provided, however, that nothing herein shall be deemed or construed as a waiver of any claim for damage or liability arising out of the gross negligence or intentional act of the city or its agents.

[Ord. 4804 § 4, 2018; Ord. 4503 § 2, 2007.]

Section 4. Section 9.10.400 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:

9.10.400 Water service requirements.

- A. A public works construction permit and/or water permit must be obtained prior to any construction. Permits shall be valid for 90 calendar days, unless approved otherwise on the permit. The public works and utilities director may extend the duration of a permit upon written application of the applicant or may determine that a new permit is required (including payment of fees).
- B. The owner or occupant of any land or premises shall be required to disconnect any well or potential feature which may create a "backflow" to the city's water system prior to water service connection.
- C. The city shall not be liable for any loss, injury or damage of any kind, including but not limited to consequential, special and punitive damages, resulting from the interruption, reduction, loss or restoration of water service from facilities owned by the city from any cause, including without limitation any loss by fire, flood, accident, casualty, sabotage, terrorist act, strike, labor slow-down, act of God or the public enemy, or failure or inadequacy of water access or appurtenant facilities. Every person and entity accepting service from the water facilities owned by the city agrees to, and shall be deemed to, waive any and all claims for damage or loss to the person's or entity's pipes, facilities or water equipment caused by an act or omission of the city; provided, however, that nothing herein shall be deemed or construed as a waiver of any

claim for damage or liability arising out of the gross negligence or intentional act of the city or its agents.

[Ord. 4804 § 4, 2018; Ord. 4503 § 2, 2007.]

Section 5. Chapter 9.80 of the Ellensburg City Code, as last amended by Section 2 of Ordinance 4804, is hereby amended to read as follows:

Chapter 9.80

WHOLESALE UTILITY SERVICE PURCHASES

Sections:

- 9.80.010 Purpose.
- 9.80.020 Definitions.
- 9.80.030 General.
- 9.80.100 Wholesale electricity purchases.
- 9.80.200 Wholesale gas purchases.
- 9.80.300 Wholesale telecommunications purchases.

9.80.010 Purpose.

This chapter establishes the rules for the purchase and sale of wholesale energy (electricity and gas). [Ord. 4503 § 2, 2007.]

9.80.020 Definitions.

“Wholesale electricity” means the electricity, measured in KWH or MWH, purchased by the city from a supplier to be resold to city light retail customers.

“Wholesale gas” means the gas, measured in MmBtu, purchased by the city from a supplier to be resold to city gas retail customers. [Ord. 4503 § 2, 2007.]

9.80.030 General.

A. The public works and utilities director will monitor customer consumption and weather patterns to estimate the future retail consumption of energy by customers of the city’s electric and gas utilities.

B. The public works and utilities director will keep the city manager, utility advisory committee and city council apprised of prospective needs to purchase and sell energy and the

strategies in place to determine the need for and desirability to purchase additional energy or sell energy at any particular time.

C. The public works and utilities director, or his/her designee, will sell wholesale energy, when the opportunity exists or necessitates, to optimize the purchase and sale of energy and minimize the rate impacts to retail customers. Any resulting net revenue the city realizes from the sale of energy will be distributed to retail customers in the form of rate reductions.

[Ord. 4804 § 2, 2018; Ord. 4503 § 2, 2007.]

9.80.100 Wholesale electricity purchases.

A. The public works and utilities director or his/her designee will analyze and recommend entering into long-term Tier 1 power supply contracts with credit-worthy electricity suppliers when existing contracts are expiring or when existing contracts do not provide for all of the city's needs. Negotiated contracts for energy supply will be reviewed by the utility advisory committee and approved by the city council.

B. The public works and utilities director or his/her designee, after determining that a need exists to purchase or sell Tier 2 power supplies, will solicit quotes from suppliers. Due to the nature of the electric business, prices are volatile and change rapidly, and purchase commitments must be made verbally with written confirmation. The public works and utilities director or his/her designee is authorized to make verbal commitments and written confirmations for the purchase and sale of Tier 2 power, and will notify the city manager, utility advisory committee and city council at the first opportunity of any such wholesale Tier 2 power supply purchases.

[Ord. 4804 § 2, 2018; Ord. 4743 § 1, 2016; Ord. 4709 § 5, 2015; Ord. 4503 § 2, 2007.]

9.80.200 Wholesale gas purchases.

A. The public works and utilities director or his/her designee will analyze proposals and recommend entering into one or more base supply agreement(s) and a natural gas asset management services agreement with a credit-worthy gas supplier. The base agreement(s) and natural gas management services agreement for gas supply will be reviewed by the utility advisory committee and approved by the city council.

B. The public works and utilities director or his/her designee, after determining that an opportunity exists to purchase and sell necessary gas supplies, will solicit quotes from its suppliers. Due to the nature of the natural gas commodities business, prices are volatile and change rapidly. Therefore, purchase and sale commitments must be made verbally with written confirmation. The public works and utilities director or his/her designee will notify the city manager, utility advisory committee and city council at the first opportunity of any gas purchases or sales. [Ord. 4804 § 2, 2018; Ord. 4729 § 1, 2016; Ord. 4709 § 6, 2015; Ord. 4648 § 1, 2013; Ord. 4503 § 2, 2007.]

9.80.300 Wholesale telecommunications purchases.

A. The public works and utilities director or his/her designee will analyze proposals and recommend entering into a master services agreement(s) with a credit-worthy wholesale telecommunications service provider(s). Master services agreement(s) for wholesale telecommunications services will be reviewed by the utility advisory committee and approved by the city council.

B. The public works and utilities director or his/her designee, after determining that a need exists to purchase wholesale telecommunications services, will solicit quotes from suppliers. Due to the nature of the telecommunications business, prices are volatile and change rapidly, and purchase commitments must be made verbally with written confirmation. The public works and utilities director or his/her designee is authorized to make such verbal commitments and written confirmations, and will notify the city manager, utility advisory committee and city council at the first opportunity of any such wholesale telecommunications service purchases.

C. The network operating center of the wholesale telecommunications service provider shall monitor each circuit to the point of delivery for each public agency and for each customer using equipment provided by the wholesale telecommunications service provider. [Ord. 4804 § 2, 2018; Ord. 4709 § 7, 2015.]

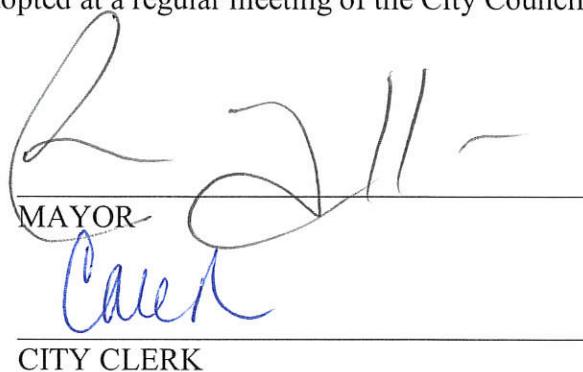
Section 6. Severability. If any portion of this ordinance is declared invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portion(s) of this ordinance.

Section 7. Corrections. Upon the approval of the City Attorney, the City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 8. Effective Date. This ordinance shall take effect and be in force five (5) days after its passage, approval and publication.

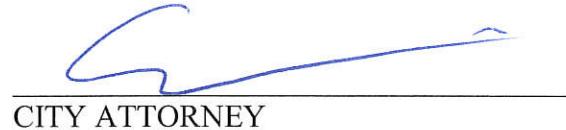
The foregoing ordinance was passed and adopted at a regular meeting of the City Council on the 22nd day of January, 2019.

ATTEST:



The image shows two handwritten signatures. The top signature is in black ink and appears to read 'L. J. Wall'. Below it, a blue signature reads 'Coreen M. Reno'. There are two horizontal lines: one under the black signature and one under the blue signature. The word 'MAYOR' is printed in capital letters above the black signature line, and 'CITY CLERK' is printed in capital letters above the blue signature line.

Approved as to form:

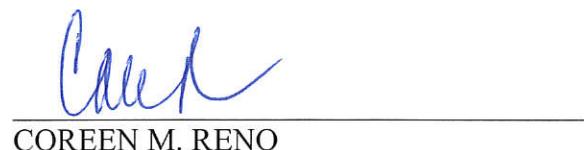


A blue ink signature of a person's name is shown above a horizontal line. The name is partially visible and appears to start with 'Coreen'.

CITY ATTORNEY

Publish: 1-26-19

I, Coreen M. Reno, City Clerk of said City, do hereby certify that Ordinance No. 4820 is a true and correct copy of said Ordinance of like number as the same was passed by said Council, and that Ordinance No. 4820 was published as required by law.



A blue ink signature of 'Coreen M. Reno' is shown above a horizontal line.

COREEN M. RENO