Building Electrification Institute

CITIES DRIVING CHANGE

Lessons Learned from Utility Franchise Negotiations

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What is a Utility Franchise Agreement?

Utility franchise agreements **grant utilities the right to serve customers within a municipality and govern the use of the public right-of-way**, often in exchange for a fee.

A growing number of cities are using utility franchise agreements to better align utility investments with their climate and community goals.

Examples of Recent City-Utility Franchise Negotiations

City	Utility	Year Negotiated
Denver, CO	Xcel Energy	2006
Sarasota, FL	Florida Power and Light	2010
Minneapolis, MN	Xcel Energy and CenterPoint Energy	2014
Henderson, NV	Nevada Power Company	2015
Salt Lake City, UT	Rocky Mountain Power	2016
Iowa City, IA	MidAmerican Power	2017
Vail, CO	Holy Cross Energy	2019
Boulder, CO	Xcel Energy	2020
San Diego, CA	San Diego Gas & Electric	2021
Los Angeles, CA	Southern California Gas Company	2022
Eugene, OR	Northwest Natural Gas	Ongoing

Table Source: NREL and internal BEI analysis

Case Studies of City-Utility Franchise Negotiations

This report details the approaches and lessons learned from three case study cities that recently renegotiated utility franchise agreements to help achieve their climate goals.

Case Study Cities:

- Minneapolis, MN and Xcel/CenterPoint Energy
- Eugene, OR and Northwest Natural Gas
- Salt Lake City, UT and Rocky Mountain Power

Minneapolis, MN

Franchise Agreements Signed: 2014

Utilities: Xcel and CenterPoint Energy

Term Length: 10 years

Notable Elements: Established the Minneapolis Clean Energy Partnership to develop work plans and track progress

Summary of the Negotiation Process:

- **The City of Minneapolis secured 10-year franchise agreements** with both Xcel Energy (its electric utility) and CenterPoint Energy (its gas utility) in 2014, which at the time were considered short-term deals, although the trend is getting even shorter.
- **Xcel was motivated to strike a deal with Minneapolis because the utility preferred a franchise agreement to a municipalization effort.** At the time, Boulder, CO, which is also served by Xcel, was in an effort to municipalize its electric utility.
- **The resulting franchise agreements established the Clean Energy Partnership**, with a board of representatives from the City and both utilities, which develops three-year work plans and tracks progress. An additional "Energy Vision Advisory Committee" of community members and stakeholders provides input on the workplans and aids in decision-making.
- **The City simultaneously enacted an ordinance governing the franchise fee structure** that allows the City to change the fee through a City Council vote. The Council changed the fee in 2018, from 4.5% to 5%, to raise more funds for climate action.

Sources: Minneapolis Clean Energy Partnership Website and WRI Working Paper on Utilizing City-Utility Partnership Agreements to Achieve Climate and Energy Goals

Minneapolis, MN

Franchise Agreements Signed: 2014

Utilities: Xcel and CenterPoint Energy

Term Length: 10 years

Notable Elements: Established the Minneapolis Clean Energy Partnership to develop work plans and track progress

Key Takeaways:

- **Significant city staff capacity was necessary** to manage the franchise negotiation process and the ongoing partnership. This capacity proved effective in helping to achieve a sound deal for the City.
- **The creation of the separate ordinance that governs the franchise fee provides City Council with ongoing control** to update the fee and adjust funding for climate action.
- **The Clean Energy Partnership has a built-in feedback loop** between community members and policymakers, helping to ensure ongoing accountability and progress toward shared goals.

Eugene, OR

Franchise Agreement Signed: N/A

Utility: Northwest Natural Gas (NW Natural Gas)

Term Length: TBD

Notable Elements: Negotiations halted and the franchise allowed to lapse when the sides could not reach a deal.

Summary of the Negotiation Process:

- In 2018, Eugene City staff began negotiations with NW Natural Gas, a gas-only utility, with the goal of driving down citywide greenhouse gas (GHG) emissions. **Over two years of negotiations, the two sides were unable to agree** on GHG reductions, fee structures, and the City's authority to include requirements in the franchise agreement under Oregon law.
- **During negotiations, NW Natural Gas initiated a public relations campaign with at-times misleading information** about the City's Climate Action Plan and efforts to electrify buildings, and threatened litigation about some aspects of the agreement.
- **The City Council voted to extend the franchise four times to create more time for negotiation, but eventually allowed the agreement to lapse** in the absence of a deal. The utility must now apply for permits for all work in the public right of way.
- **Since 2018, local advocates have become increasingly vocal about the need to transition away from fossil fuels** and continue to advocate for a franchise agreement that will align with Eugene's climate goals.

Source: Discussions with Eugene City staff

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Franchise Agreement Signed: N/A

Utility: Northwest Natural Gas (NW Natural Gas)

Term Length: TBD

Notable Elements: Negotiations halted and the franchise allowed to lapse when the sides could not reach a deal.

Key Takeaways:

- **City staff did not initially realize that negotiations would be a prolonged engagement** and had to add more staff resources and expertise during the negotiation process.
- **Differing perspectives on right-of-way authority between the City, NW Natural Gas, and the Oregon Public Utilities Commission (PUC) created confusion**, to the extent that the City's proposed actions would likely be appealed by NW Natural Gas or the PUC.
- **NW Natural Gas and the City Council ultimately proved to be too far away in their demands to reach a deal.** Disagreements remain related to required GHG reductions and efforts to electrify buildings.

Salt Lake City, UT

Franchise Agreement Signed: 2016

Utility: Rocky Mountain Power

Term Length: 5 Years

Notable Elements: Non-binding cooperation statement outlines mutual commitments to work toward clean energy

Image: Mayor Jackie Biskupski announces partnership with Rocky Mountain Power in 2016

Summary of the Negotiation Process:

- **In 2016, Salt Lake City negotiated a five-year franchise agreement with Rocky Mountain Power** and signed a non-binding cooperation statement that outlines mutual commitments on clean energy goals.
- **Critical to the success was Mayor Jackie Biskupski's strategic cooperation yet firm commitment on the term length.** The Mayor saw a short-term agreement as the best way to ensure accountability toward local climate and air quality goals.
- **After a prolonged negotiation, Rocky Mountain Power ultimately agreed to the terms**. The cooperation statement does not include binding commitments however, due to the utility's concerns about following existing legislative and regulatory rules.
- **The franchise negotiation process laid the groundwork for continued cooperation between the City and Rocky Mountain Power**, including annual updates on the cooperation statement and collaboration on the Community Renewable Energy Act (Utah HB 411), which was enacted by the Utah legislature in 2019.

Source: Discussions with former Salt Lake City staff

Salt Lake City, UT

Franchise Agreement Signed: 2016

Utility: Rocky Mountain Power

Term Length: 5 Years

Notable Elements: Non-binding cooperation statement outlines mutual commitments to work toward clean energy

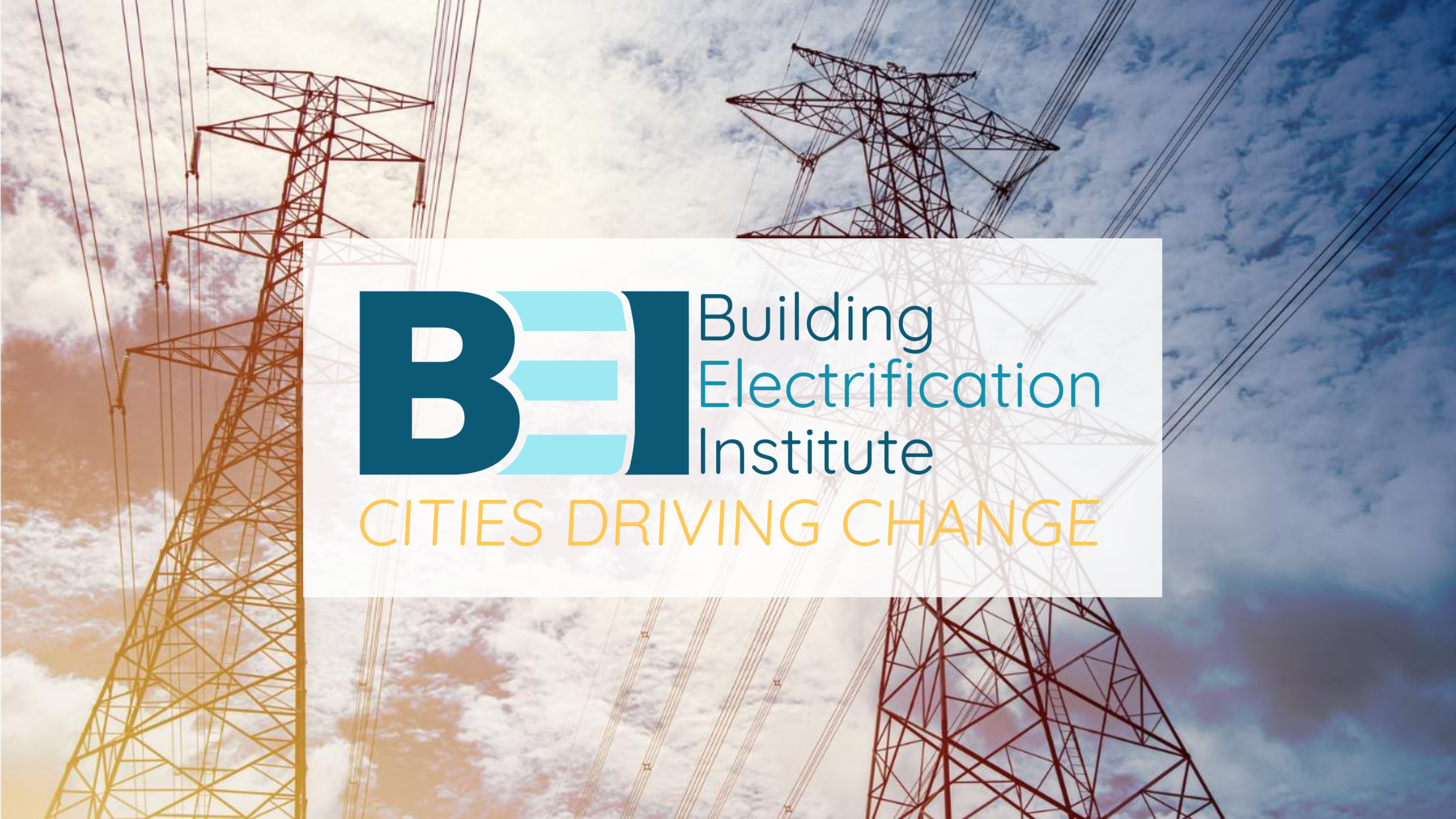
Image: Mayor Jackie Biskupski announces partnership with Rocky Mountain Power in 2016

Key Takeaways:

- **Salt Lake City successfully led negotiations by emphasizing community values, a shared vision for the future, and a desire to cooperate** with Rocky Mountain Power.
- **Mayoral leadership was key to achieving the City's desired franchise terms**, including the five-year agreement and a cooperation statement, which helps ensure progress in the face of future uncertainty.
- **As of 2022, Salt Lake City and Rocky Mountain Power continue to cooperate** and are again renegotiating their franchise agreement.

Takeaways from Case Studies

- A growing number of cities recognize there is a disconnect between their utilities' investments and local community values. Utility franchise agreements provide an opportunity to establish greater alignment.
- Cities have leverage in franchise negotiations, but they can expect utility pushback when negotiating for climate and community goals.
- Political leadership and expertise on the City negotiating team is critical for success in the franchise negotiation process.
- Cities that have successfully renegotiated their utility franchise agreements have secured shorter-term deals and include specific asks for cooperation, which may include a complementary agreement or process.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