



## PUBLIC HEARING

### City of San Bernardino Request for Council Action

**Date:** September 6, 2023

**To:** Honorable Mayor and City Council Members

**From:** Charles E. McNeely, Interim City Manager;  
Daniel Hernandez, Agency Director of Public Works,  
Operations and Maintenance

**Department:** Public Works

**Subject:** **Conduct Public Hearing and Introduction of an Ordinance to Grant a Franchise to Southern California Gas Company (All Wards)**

**Recommendation:**

It is recommended that the Mayor and City Council of the City of San Bernardino, California, take the following actions:

1. Find that the proposed ordinance is not a project subject to California Environmental Quality Act (CEQA) in accordance with Section 21065 of CEQA and State CEQA Guidelines Sections 15060 (c)(2), 15060 (c)(3), and 15378 and that the proposed action is exempt from CEQA pursuant to State CEQA Guidelines Section 15061 (b)(3); and
2. Conduct a public hearing to receive comments on the proposed franchise agreement with Southern California Gas Company.
3. Introduce, read by title only, and waive further reading of Ordinance No. MC-1621 to grant a franchise to Southern California Edison Gas Company.

**Executive Summary**

Staff is recommending the Council take actions to grant a municipal utility franchise agreement to Southern California Edison Gas Company (SCG) to provide utility services. The 20-year agreement would be effective on October 4, 2023, and expire on October 4, 2043. Under the terms in the agreement (consistent with the California Public Utilities Commission guidelines) SCG will pay the city a franchise fee of 2% and relocate its facilities at no cost to the City when in conflict with public construction projects. There is no fiscal impact associated with this action. The City currently receives an average of \$700,000 in revenue annually.

## **Background**

In September 2003, the City entered into a 20-year franchise agreement with SCG. Ordinance No. MC-1149 was adopted by the City Council on August 4, 2003, with an expiration date of September 4, 2023.

In January 2023, SCG contacted City staff with a proposal to execute a new utility franchise agreement within the incorporated City limits in accordance with Section 6261 of the California Public Utilities Code. The length of the proposed franchise spans across a 20-year term and will be effective 30 days following adoption of the proposed Ordinance on October 4, 2023. SCG filed an application with the City Clerk for a gas franchise and submitted a request for a license. They completed the application in July 2023.

The City accepted the SCG's application at the August 2, 2023 City Council meeting and enacted the resolution of intention to grant a gas franchise, and approved the license agreement. The license extended the terms of the existing franchise agreement for up to 120 days, providing time for a new agreement to be completed.

## **Discussion**

A municipal utility franchise agreement is a contract between a City and a utility service provider that includes terms and conditions under which the service provider may install infrastructure in public rights-of-way to provide utility services.

The proposed franchise includes a 20-year term, with an effective date of October 4, 2023. The agreement allows the utility to construct, maintain and operate its natural gas system in the City-owned public rights-of-way. In exchange, the agreement requires SCG to pay the City gross receipts from the sale of gas, which is a fee that is equal to the higher of:

- Two percent (2%) of the gross annual receipts of the grantee derived from the use, operation or possession of this franchise
- Two percent (2%) of the gross annual receipts of the grantee derived from the sale, transmission, or distribution of gas within the limits of the City under this franchise.

The franchise fee is determined by Public Utilities Code Section 6231 (c). The agreement also requires SCG to relocate its facilities, at no cost to the City, when in conflict with public construction projects. The average annual revenue generated from this Franchise over the last 5 fiscal years is approximately \$700,000.

SoCalGas rates are regulated and approved by the California Public Utilities Commission (CPUC). The Current Charges on a bill are based on four components:

- Customer Charge – Based on days of service.
- Gas Transportation Cost – The cost to deliver natural gas.
- Gas Commodity – The cost of natural gas purchased by SoCalGas on behalf

of its customers.

- Taxes and Fees – Includes the CPUC mandated Public Purpose Surcharge and any state or local fees and taxes.

As currently drafted, no additional Franchise line item would be added to customers' bills and the Utility Users Tax (UUT) will not change.

The general rule of State CEQA Guidelines Section 15061 (b)(3), is that CEQA (California Environmental Quality Act) applies only to projects which have the potential for causing a significant effect on the environment. The planned actions are exempt from those terms. The proposed Ordinance is not a project subject to the California Environmental Quality Act in accordance with Section 21 065 of CEQA and State CEQA Guidelines Sections 15060 (c)(2), 15060 (c)(3), and 15378.

### **2021-2025 Strategic Targets and Goals**

This project is consistent with Key Target No.4: Economic Growth & Development. The proposed franchise is consistent with the Council's goals to maintain fiscal responsibility and stability; to improve, maintain and enhance public facilities and infrastructure; to support and promote the quality of life and local economy; and to ensure public safety.

### **Fiscal Impact**

There is no impact to the General Fund associated with this action.

### **Conclusion**

It is recommended that the Mayor and City Council of the City of San Bernardino, California, take the following actions:

1. Find that the proposed ordinance is not a project subject to California Environmental Quality Act (CEQA) in accordance with Section 21065 of CEQA and State CEQA Guidelines Sections 15060 (c)(2), 15060 (c)(3), and 15378 and that the proposed action is exempt from CEQA pursuant to State CEQA Guidelines Section 15061 (b)(3); and
2. Conduct a public hearing to receive comments on the proposed franchise agreement with Southern California Gas Company.
3. Introduce, read by title only, and waive further reading of Ordinance No. MC-XXXX to grant a franchise to Southern California Edison Gas Company.

### **Attachments**

Attachment 1	Ordinance No. MC-1621
Attachment 2	Ordinance No. MC-1149

### **Ward:**

All Wards

**Synopsis of Previous Council Actions:**

August 2, 2023 Mayor and City Council formally accepted SCG's application for franchise, enacted the resolution of intention to grant a gas franchise, and approved the license agreement.

August 4, 2003 Mayor and City Council adopted Ordinance No. MC-1149.