



WINTERVILLE

A slice of the good life!

TOWN COUNCIL AGENDA

SPECIAL CALLED MEETING - MARCH 19, 2018 - 6:00 P.M.

WINTERVILLE TOWN HALL EXECUTIVE CONFERENCE ROOM

- I. **CALL TO ORDER.**
- II. **INVOCATION.**
- III. **WELCOME.**
- IV. **APPROVAL OF AGENDA.**
- V. **CLOSED SESSION: NCGS § 143-318.11. (a)(3)** To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged. General policy matters may not be discussed in a closed session and nothing herein shall be construed to permit a public body to close a meeting that otherwise would be open merely because an attorney employed or retained by the public body is a participant. The public body may consider and give instructions to an attorney concerning the handling or settlement of a claim, judicial action, mediation, arbitration, or administrative procedure. (Natural Gas Agreement with GUC).
- VI. **ITEMS FOR DISCUSSION:**
 1. Staff Report on the First Two Months (2018) of the Power Purchase Agreement (PPA) with NTE Carolinas, LLC.
- VII. **OTHER AGENDA ITEMS (verbal updates):**
 1. Report on Petition for Reduction of Speed Limit and Installation of Speed Bumps on Gaylord Street. (Councilman Moore)
 2. Update on Requests for Signs in and around Town. (Councilman Moore)
 3. Update on Possible Cable Coverage of Town Meetings. (Councilman Moore)
- VIII. **REPORTS FROM DEPARTMENT HEADS:**

Update on Projects Currently Underway:

Fork Swamp Greenway Project
Regional Sewer Pump Station Project
Nobel Canal Drainage Basin Study
Water Tank Rehabilitation Project
NTE Plant Construction Project
- IX. **REPORTS FROM THE TOWN ATTORNEY, MAYOR AND TOWN COUNCIL, AND TOWN MANAGER.**
- XVIII. **ADJOURN.**

SPECIAL NOTICE: *Anyone who needs an interpreter or special accommodations to participate in the meeting should notify the Acting Town Clerk, Amy Barrow at 215-2342 at least forty-eight (48) hours prior to the meeting. (Americans with Disabilities Act (ADA) 1991.)*



**Town of Winterville
Town Council
Agenda Abstract**

Item Section: Closed Session

Meeting Date: March 19, 2018

Presenter: Ben Williams, Assistant Town Manager

Item to be Considered

Subject: Discussion the Gas Franchise Agreement with GUC.

Action Requested: Council Direction.

Attachments: Proposed Franchise Agreement and Copy of Current Agreement. Additional information will be handed out at the Meeting.

Prepared By: Terri L. Parker, Town Manager

Date: 3/14/2018

ABSTRACT ROUTING:

TC _____

FD _____

TM 3/14/2018

Final 3/14/2018

Supporting Documentation

The Town of Winterville's existing Natural Gas Franchise Agreement with Greenville Utilities Commission (GUC) will expire in the near future. Prior to the expiration of the current Agreement, Council directed Staff to investigate all applicable natural gas alternatives for Winterville.

Staff investigated applicable alternatives and recommends that the Town continue the contractual arrangement with GUC for the provision of natural gas services to the citizens of Winterville.

The current Agreement generates no revenue for the Town and any new agreement will generate no revenue for the Town.

Budgetary Impact: The adoption of a new Gas Franchise Agreement will create **no** revenue stream.

Recommendation: Council direction.

NORTH CAROLINA
PITT COUNTY

NATURAL GAS
FRANCHISE AGREEMENT

THIS AGREEMENT, made and entered into on this the _____ day of _____, 20____, by and between GREENVILLE UTILITIES COMMISSION ("GUC"), a body politic duly chartered by the State of North Carolina, and THE TOWN OF WINTERVILLE, NORTH CAROLINA ("WINTERVILLE"), a municipal corporation organized pursuant to the laws of the State of North Carolina.

WITNESSETH:

WHEREAS, the parties previously entered into a Natural Gas Franchise Agreement dated May 11, 1998, for a term of twenty (20) years, which said Agreement expires March 2018; and

WHEREAS, the parties desire to ratify and confirm such Agreement and to extend its term for at least an additional period of ten (10) years; and

WHEREAS, each party deems such extension to be in its best interest and beneficial to the customers of both GUC and WINTERVILLE; and

WHEREAS, the parties desire to reduce to writing their agreements with respect thereto.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants set forth herein and other good and valuable consideration passing from each party to the other, the receipt of which is hereby respectfully acknowledged by each of the parties hereto, GUC and WINTERVILLE do hereby agree each with the other as follows:

1. GUC and WINTERVILLE do hereby incorporate herein by reference all of the terms and conditions set forth in the Natural Gas Franchise Agreement between the parties dated May 11, 1998, a copy of which is marked Exhibit "A" and is attached hereto and made a part hereof, as fully as if set forth herein verbatim;
2. The term of said Natural Gas Franchise Agreement is hereby extended for an additional period of ten (10) years;
3. The parties further agree that absent written notice by one party to the other party at least one hundred eighty (180) days in advance of the end of such ten (10) year term (and each ten (10) year term hereafter), this Agreement shall automatically be renewed in increments of ten (10) years each as an extension of the term of this Natural Gas Franchise Agreement upon the same terms and conditions set forth herein;

IN WITNESS WHEREOF, each of the parties hereto has caused this Natural Gas Franchise Agreement to be executed through its duly authorized officers effective on the day and year first above written.

GREENVILLE UTILITIES COMMISSION

By: _____
Don Mills, Chair

(Corporate Seal)

ATTEST:

Joel Butler, Secretary

TOWN OF WINTERVILLE

By: _____
Douglas A. Jackson, Mayor

(Corporate Seal)

ATTEST:

Amy P. Barrow, Acting Town Clerk

Ratified and confirmed.

RECEIVED MAY 13 1998

MEMORANDUM

TO: Malcolm Green, General Manager of Greenville Utilities Commission
FROM: Wanda T. Elks, CMC/AAE, City Clerk *wte*
SUBJECT: Natural Gas Franchise Agreement
DATE: May 12, 1998

Attached is an executed original of the natural gas franchise agreement that was approved by City Council and Greenville Utilities Commission in March and by the Town of Winterville last night. I am sending an original to Bobby Crawford, Town Clerk of Winterville, and am asking that he send me a copy of the franchise ordinance that was also adopted. When I receive the copy, I will send one to you.

If you have any questions, please let me know.

Attachment

DRINNON *[Signature]*
① GREEN (A) B *[Signature]*
FERREN
② FILE Winterville Gas Franchise - ORIGINAL
CC: Anthony Miller ✓
Mark Larson ✓

NORTH CAROLINA

PITT COUNTY

**NATURAL GAS
FRANCHISE AGREEMENT**

THIS AGREEMENT, made and entered into as of this the 11th day of May, 1998, by and between GREENVILLE UTILITIES COMMISSION ("GUC"), an agency of the City of Greenville, North Carolina, and THE CITY OF GREENVILLE, NORTH CAROLINA ("CITY OF GREENVILLE"), a municipal corporation organized pursuant to the laws of the State of North Carolina, and THE TOWN OF WINTERVILLE, NORTH CAROLINA ("WINTERVILLE"), a municipal corporation organized pursuant to the laws of the State of North Carolina.

WHEREAS, WINTERVILLE is authorized to grant an exclusive franchise to construct, reconstruct, operate and maintain a natural gas delivery service within the Town;

WHEREAS, WINTERVILLE desires the construction of a natural gas delivery service for the benefit of the Town and all persons located therein;

WHEREAS, GUC operates a local gas distribution system through which it provides natural gas delivery service to consumers of natural gas in and around the City of Greenville and the Town of Winterville;

WHEREAS, GUC has agreed to extend natural gas delivery service to consumers located within the corporate limits of the Town of Winterville pursuant to a Power Sales and Delivery Agreement dated the 27th day of March, 1998;

WHEREAS, an annual franchise tax is imposed pursuant to North Carolina General Statute § 105-116 on a corporation that is a natural gas company engaged in the business of furnishing piped natural gas and said tax on a natural gas company is three and twenty-two hundredths percent (3.22%) of the company's taxable gross receipts from the business of furnishing piped natural gas;

WHEREAS, CITY OF GREENVILLE may receive franchise fee revenue related to the gross receipts taxes for the sales of natural gas from wholesale suppliers to GUC;

WHEREAS, WINTERVILLE after public hearings and due evaluation, has determined that it is in the best interest of the Town and its residents to grant this franchise to GUC for a twenty (20) year term;

WHEREAS, WINTERVILLE owns certain streets, alleys, and public ways through, over and under which GUC may require access to install facilities to provide natural gas or natural gas service; and

WHEREAS, WINTERVILLE, CITY OF GREENVILLE and GUC have contemporaneously herewith entered into a certain Power Sales and Delivery Agreement.

NOW, THEREFORE, in consideration of the premises and faithful performance and strict observance by the parties of all the terms, provisions, conditions and obligations set forth or provided for in this Agreement, it is agreed between the parties as follows:

I. GRANT OF FRANCHISE

A. GUC is hereby granted for itself and its successors and assigns, subject to the terms and conditions of this Franchise Agreement and the franchise grant ordinance, the right, privilege and authority to construct, operate, maintain and reconstruct a natural gas delivery service within the streets, alleys and public ways of the Town of Winterville and existing easements as appropriate.

B. The Franchise Agreement is subject to the Natural Gas Franchise Ordinance adopted the 11th day of May, 1998 (hereafter referred to as "Franchise Ordinance"). Nothing in this Franchise Agreement shall be deemed to waive the requirements of the various codes and ordinances of the Town regarding permits, fees to be paid or manner of construction.

C. For the purpose of operating and maintaining a natural gas delivery service in the Town of Winterville, GUC may erect, install, construct, repair, replace, reconstruct and retain in, on over, under or upon, across and along the streets, alleys and public ways within the Town of Winterville such property and equipment as is necessary and appurtenant to the operations of the natural gas delivery service in conformance with the Town's specifications. GUC shall coordinate its activities on, over, or under the streets, ways, and public lands of the Town of Winterville with WINTERVILLE and shall employ good utility operating practices in all respects. Except in cases of emergency, GUC shall not perform any significant excavation or

act in a manner which disrupts traffic on or access to any street or way without the prior consent of WINTERVILLE. Any significant excavation or disruption of traffic should be performed in a manner consistent with the standard practices of GUC in other municipalities. All streets, alleys, public ways, pipes, wires and other utility facilities that may be damaged or disturbed in the construction or maintenance of said natural gas delivery service, shall be promptly replaced or repaired by GUC, its successors or assigns, at its own expense. Any excavated area shall be promptly returned by GUC to at least the same condition as prior to said excavation. GUC shall coordinate with WINTERVILLE in the placement, construction, or maintenance of any gas line within the corporate limits of Town of Winterville.

D. GUC, its successors or assigns, shall hold WINTERVILLE free and harmless from all damages or claims for damages arising by reason of the negligent construction or maintenance of said natural gas delivery service.

II. RIGHT OF TOWN TO ISSUE FRANCHISE

GUC acknowledges and accepts the legal right of the WINTERVILLE to issue this Franchise.

III. EFFECTIVE DATE OF FRANCHISE

The effective date of the Franchise shall be the date of the second passage of the Franchise Ordinance, which shall incorporate this Franchise Agreement.

IV. TERM

The term of the franchise shall be for a period of twenty (20) years from the effective date.

V. RATES

Rates for natural gas service in WINTERVILLE shall be the same as rates to all other GUC customer classes. Any deviation from these rates must be the result of a cost-of-service rate study performed either by or for GUC for the GUC service areas. GUC agrees to provide WINTERVILLE reasonable notice of GUC's intent to conduct any rate study for the GUC service areas. GUC will provide WINTERVILLE with a copy of the current rates and service regulations regarding GUC natural gas service. In the event that the rates or service regulations are changed, GUC will provide WINTERVILLE a revised copy of same.

VI. SERVICE AREA

GUC shall offer natural gas delivery service to residences, commercial businesses, industrial facilities, schools and institutions within the Town of Winterville consistent with the GUC feasibility policy applied throughout the GUC service area. GUC shall offer natural gas delivery service within the corporate limits of the Town of Winterville, including all territory thereafter annexed by the Town that exists within the extraterritorial jurisdictional area of WINTERVILLE.

VII. OUTAGES AND LEAKS

GUC shall maintain outage and leak records and reports in compliance with and as required by the Federal Pipe Line Safety Act and the North Carolina Department of Transportation or any successor state or federal agency with jurisdiction over this issue. GUC hereby agrees to prepare and maintain outage and leak report documents for Town of Winterville customers in a same or like manner as those prepared or maintained for City of Greenville customers. Such records shall be available to WINTERVILLE during normal business hours.

VIII. DOCUMENT REVIEW

WINTERVILLE has the right, upon reasonable notice to GUC and CITY OF GREENVILLE and at reasonable times, hours, dates and frequencies, to inspect all or any part of GUC's and CITY OF GREENVILLE's records and documents pertaining to the sale of natural gas by GUC within the corporate limits of Winterville and further, to inspect any and all records and documents from GUC and CITY OF GREENVILLE pertaining to the receipt of the franchise fee distribution received by CITY OF GREENVILLE from the State of North Carolina. GUC shall maintain its records in a manner which will facilitate the identification of retail sales of natural gas service by GUC within the corporate limits of Winterville.

IX. POLICE POWERS

In accepting this Franchise Agreement, GUC acknowledges that its rights hereunder are subject to the police powers of WINTERVILLE to adopt and enforce general ordinances necessary to the safety and welfare of the public; and it agrees to comply with all applicable general laws and ordinances enacted by WINTERVILLE to such power.

X. FRANCHISE FEE

CITY OF GREENVILLE shall pay to WINTERVILLE, during the period of the operation of this Franchise Agreement, quarterly an amount equal to fifty percent (50%) of any franchise fee distribution received by CITY OF GREENVILLE from the State of North Carolina for any and all natural gas sales during the term of this Agreement by GUC to WINTERVILLE or to consumers within the corporate limits of the Town of Winterville. Such payment shall be made to WINTERVILLE within fifteen (15) days after CITY OF GREENVILLE receives its quarterly franchise fee for natural gas sales from the State of North Carolina. Each payment shall be accompanied by a financial statement which shall be supplied by GUC clearly indicating the gross revenues billed during the applicable quarterly period to WINTERVILLE or consumers within the corporate limits of the Town of Winterville by GUC for natural gas sales, certified by an official representative of GUC having the requisite knowledge to make the statement certifying the gross revenues on which the payment is based. It is understood and agreed by GUC, CITY OF GREENVILLE, and WINTERVILLE that the quarterly payment by the CITY OF GREENVILLE to WINTERVILLE of the franchise fee distribution related to natural gas sales pursuant to this Franchise Agreement and the Power Sales and Delivery Agreement dated the 27th day of March, 1998, shall not exceed an aggregate sum of fifty percent (50%) of said franchise fee distributions. It is also understood and agreed by GUC, CITY OF GREENVILLE, and WINTERVILLE that in no event shall WINTERVILLE remit any of the aforescribed franchise fee distribution to the CITY OF GREENVILLE.

XI. ACCEPTANCE

GUC, by accepting the rights hereby granted, agrees that it will perform and keep all acts and obligations imposed, represented or promised by the provisions of this Franchise Agreement and the Franchise Ordinance.

XII. COOPERATION

The parties recognize that it is within their mutual best interests for the natural gas delivery service to be operated as efficiently as possible and for the construction of the service to occur in accordance with the requirements and schedule set forth in this Franchise Agreement. To achieve this, the parties agree to cooperate with each other in accordance with the terms and provisions of this Franchise Agreement. Should either party believe that the other

is not acting timely or reasonably within the confines of applicable regulations and procedures in responding to a request for action, that party shall notify the agents designated by the other. The agent will use its best effort to facilitate the particular action requested.

XIII. NO JOINT VENTURE

Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties; and neither party is authorized to, nor shall either party act toward third persons or the public in any manner which would indicate any such relationship with the other.

XIV. JURISDICTION

In any controversy or dispute under this Agreement, the laws of the State of North Carolina shall apply.

IN WITNESS WHEREOF, the parties hereto have caused this Franchise Agreement to be executed as of the day and year first above written.

GREENVILLE UTILITIES COMMISSION

By: Valerie J. Dixon
Valerie J. Dixon
Chair

(Corporate Seal)

ATTEST:

Alfreida C. Jordan
Alfreida C. Jordan, Secretary

TOWN OF WINTERVILLE

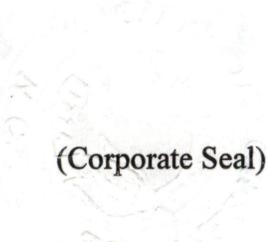
By: Douglas A. Jackson
Douglas A. Jackson
Mayor

(Corporate Seal)

ATTEST:

Bobby R. Crawford
Bobby R. Crawford, Town Clerk

CITY OF GREENVILLE



(Corporate Seal)

By: Nancy M. Jenkins
Nancy M. Jenkins
Mayor

ATTEST:

Wanda Elks
Wanda Elks, City Clerk



**Town of Winterville
Town Council
Agenda Abstract**

Item Section: Items for Discussion

Meeting Date: March 19, 2018

Presenter: Ben Williams, Assistant Town Manager

Item to be Considered

Subject: Staff Report on the First Two Months (2018) of the Power Purchase Agreement (PPA) with NTE Carolinas, LLC.

Action Requested: N/A.

Attachments: Applicable Information will be handed out at the Meeting.

Prepared By: Terri L. Parker, Town Manager

Date: 3/16/2018

ABSTRACT ROUTING:

TC _____

FD _____

TM 3/16/2018

Final 3/16/2018

Supporting Documentation

Town Staff will be discussing the bills for January and February 2018 under the new Power Purchase Agreement with NTE Carolinas, LLC.

Budgetary Impact: TBD.

Recommendation: N/A.