

ORDINANCE NO.: 2013-017

*Amending Section 9 of the Franchise Agreement between
South Carolina Electric & Gas Company ("SCE&G") and the City of Columbia
dated February 20, 2002 and amended February 15, 2011*

WHEREAS, by Ordinance 2010-160 enacted on February 15, 2011, the Mayor and City Council of the City of Columbia amended Section 9 of the Franchise Agreement between South Carolina Electric & Gas Company ("SCE&G") and the City of Columbia to increase the franchise fee from three (3%) percent to five (5%) percent; and,

WHEREAS, City Council restricted, on an annual basis, all of the revenue generated by the two (2%) percent franchise fee increase for public transportation; and,

WHEREAS, Richland County Council voted to place a penny sales tax referendum on the November 6, 2012 ballot from which a portion of the funds would be used to fund the Central Midlands Transit Authority ("CMRTA"); and,

WHEREAS, the Mayor and City Council, by voice resolution on September 18, 2012, voted to reduce the franchise fee from five (5%) to three (3%) if the Richland County penny sales tax referendum passed on November 6, 2012; and,

WHEREAS, the Richland County penny sales tax referendum passed on November 6, 2012; and,

WHEREAS, the Mayor and City Council desire to amend Section 9 of the Franchise Agreement to reduce the franchise fee from five (5%) percent to three (3%) percent; and,

WHEREAS, on June 30, 2012, SCE&G paid to the City the franchise fee of five (5%) in advance for calendar year 2013; and,

WHEREAS, the City of Columbia has obligated the additional two (2%) percent franchise fee to the Central Midlands Transit Authority for the City of Columbia's fiscal year 2012-2013; and,

WHEREAS, SCE&G will collect the advanced franchise fee of five (5%) from City of Columbia customers from May 1, 2013 to December 31, 2013 on bills for service provided after April 30, 2013 to reimburse SCE&G for the advance of five (5%) percent franchise fee funds to the City of Columbia; and,

WHEREAS, the collection of the penny sales tax will commence on May 1, 2013; and,

WHEREAS, City Council has determined that SCE&G's customers within the City of Columbia shall not pay the additional two (2%) percent of the franchise fee on bills for service provided after April 30, 2013 in addition to the penny sales tax from May 1, 2013 to December 31, 2013; and,

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WHEREAS, in order for SCE&G to cease collecting the additional two (2%) percent franchise fee from SCE&G's customers within the City of Columbia on bills for service provided after April 30, 2013 from May 1, 2013 to December 31, 2013, it will be necessary for the City of Columbia to make contractual arrangements with SCE&G and assume the obligation to pay SCE&G; and,

WHEREAS, on June 30, 2013, SCE&G will pay to the City a franchise fee of three (3%) in advance for calendar year 2014; NOW THEREFORE,

BE IT ORDAINED by the Mayor and City Council this 18th day of April, 2013, that Section 9 of the Franchise Agreement between South Carolina Electric & Gas Company ("SCE&G") and the City of Columbia is hereby amended to reduce the franchise fee from five (5%) percent to three (3%) percent; with the franchise fee funds to be unrestricted and utilized for the General Fund expenditures as may be authorized by Columbia City Council.

BE IT FURTHER ORDAINED that SCE&G customers within the City of Columbia shall not pay the additional two (2%) percent of the franchise fee on bills for service provided after April 30, 2013 in addition to the penny sales tax from May 1, 2013 to December 31, 2013 and appropriate contractual arrangements, subject to City Council approval, shall be made with SCE&G for the City of Columbia to assume the obligations to pay SCE&G the two (2%) percent franchise fee on bills for service provided after April 30, 2013 from May 1, 2013 to December 31, 2013 in lieu of SCE&G collecting the same from SCE&G customers within the City.

This ordinance shall be effective as of May 1, 2013.

Requested by:

Mayor and City Council



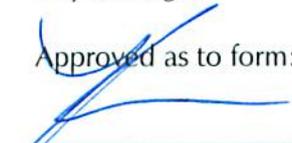
Mayor

Approved by:



City Manager

Approved as to form:



City Attorney

ATTEST:



City Clerk

Introduced: 2/5/2013; 4/9/2013

Final Reading: 4/18/2013

FRANCHISE FEE REFUND AGREEMENT

This Refund Agreement is entered into this __ day of ____, 2013, by and between the City of Columbia (“the City”) and South Carolina Electric & Gas Company (“SCE&G”), a South Carolina Corporation, for itself, its successors and assigns, otherwise singularly referred to as “Party” or collectively referred to as “Parties”.

WHEREAS, the City and SCE&G are parties to that certain Franchise Agreement dated February 20, 2002;

WHEREAS, by Ordinance 2010-160 enacted on February 15, 2011, the Franchise Agreement was amended to increase the franchise fee percentage from three (3%) to five (5%) percent;

WHEREAS, City Council restricted, on an annual basis, all of the revenue generated to the City by the two (2%) percent franchise fee percentage increase for public transportation;

WHEREAS, Richland County Council voted to place a penny sales tax referendum on the November 6, 2012 ballot from which a portion of the funds would be used to fund the Central Midlands Transit Authority;

WHEREAS, the Mayor and City Council, by voice resolution on September 18, 2012, voted to reduce the franchise fee from five (5%) to three (3%), if the Richland County penny sales tax referendum passed on November 6, 2012;

WHEREAS, the Richland County penny sales tax referendum passed on November 6, 2012, so the franchise fee percentage for the 2014 Franchise Fee will be calculated and recovered using the three (3%) percent franchise fee percentage so long as the Franchise Agreement is properly amended to reflect this change;

WHEREAS, on June 30, 2012, SCE&G prepaid the City the franchise fee for calendar year 2013 (the “2013 Franchise Fee”) in accordance with the Franchise Agreement and the payment was based on the five (5%) percent franchise fee percentage;

WHEREAS, consistent with the Franchise Agreement and state law, SCE&G is scheduled to recover the 2013 Franchise Fee by including a five (5%) percent franchise fee on

5. The undersigned representatives of the City and SCE&G each represent and warrant that they are duly authorized by their respective governing body or governing board to sign this Settlement Agreement for and bind their respective parties.

WITNESSES (as to the City):

Obdley McFarland
Dee Dee Jamming

THE CITY OF COLUMBIA (Seal)

By: Teresa Wilson
Signature

Print name: Teresa Wilson

Its: City Manager

Date: 4-19-2013

WITNESSES (as to SCE&G):

SOUTH CAROLINA ELECTRIC & GAS COMPANY

By: _____
Signature

Print name: _____

Its: _____

Date: _____