

RESOLUTION NO. TC-2016-14

A RESOLUTION OF THE NEW CASTLE TOWN COUNCIL
REFERRING TO THE VOTERS OF THE TOWN OF NEW
CASTLE A BALLOT QUESTION CONCERNING A 20-YEAR
FRANCHISE WITH PUBLIC SERVICE COMPANY OF
COLORADO.

WHEREAS, the Town of New Castle (“Town”), is a duly organized and existing home rule municipality of the State of Colorado, created and operating pursuant to Article XX of the Constitution of the State of Colorado and the home rule charter of the Town; and

WHEREAS, the members of the Town Council of Town of New Castle (the “Council”) have been duly elected and qualified; and

WHEREAS, the Town has an existing natural gas and electric utility franchise with Public Service Company of Colorado (“Company”) that expires on November 9, 2016; and

WHEREAS, the Town and the Company have engaged in negotiations for renewal of the franchise pursuant to a new franchise agreement; and

WHEREAS, the Company desires a 20-year franchise term; and

WHEREAS, Article XII of the Town Charter provides that no franchise shall be granted for a period of greater than five years except upon the affirmative vote of the majority of the qualified voters voting thereon at a general election or a special election called for that purpose; and

WHEREAS, the Charter requires that the proposed franchisee, here, the Company, shall pay the expenses of any such election; and

WHEREAS, pursuant to Article V of the Town Charter, Town Council may, on its own motion, submit an ordinance or any other matter to the electorate; and

WHEREAS, a general election will be held on November 8, 2016; and

WHEREAS, the Council hereby determines to voluntarily refer a ballot question to the voters of the Town regarding a 20-year franchise with the Company.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF NEW CASTLE, COLORADO, AS FOLLOWS:

1. Recitals. The foregoing recitals are incorporated herein as findings and determinations of Town Council.

2. Ballot Question. The Town Council hereby voluntarily refers the following ballot question, certified in substantially the form set forth below, to the registered electors of the Town and said ballot question shall appear on the ballot of the Town of New Castle at the November 8, 2016, general election:

SHALL THE TOWN OF NEW CASTLE, COLORADO, GRANT A NON-EXCLUSIVE FRANCHISE TO PUBLIC SERVICE COMPANY OF COLORADO FOR A TERM OF UP TO TWENTY (20) YEARS FOR USE OF TOWN STREETS AND OTHER PUBLIC PROPERTY AND EASEMENTS WITHIN THE TOWN TO FURNISH, SELL, TRANSMIT, TRANSPORT AND DISTRIBUTE ELECTRICITY AND NATURAL GAS TO THE TOWN AND TO ALL RESIDENTS OF THE TOWN?

3. After Election. If a majority of the votes cast approve the ballot question certified in Section 2 above, the Town, acting through the Council, shall be authorized to proceed with such necessary actions to implement the provisions of the question.

4. Contest. Pursuant to § 31-10-1308(2), C.R.S. and § 1-11-203.5, C.R.S., any election contest arising out of a ballot issue or ballot question election concerning the order of the ballot or the form or content of the ballot title shall be commenced by petition filed with the proper court within five days after the title of the ballot issue or ballot question is set.

5. Severability. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall in no manner affect any remaining provisions of this resolution.

6. Effective Date. This Resolution shall be effective immediately upon adoption. The Town Clerk is directed to take any and all actions necessary to ensure that the above-certified question is added to ballot for the November 8, 2016 general election.

INTRODUCED, PASSED AND ADOPTED by a vote of ___ to ___ at a regular meeting of the Town Council of the Town of New Castle, Colorado, on August 2, 2016.

TOWN OF NEW CASTLE TOWN
COUNCIL

Art Riddile, Mayor

ATTEST:

Melody Harrison, Town Clerk