

In anticipation of the Charter Commission meeting, in addition to any earlier proposals, I suggest:

Section 10.6 Franchise Fee Constraint.

In the event a franchise fee ever is imposed in a franchise grant to a utility, the City shall not permit any ordinance or franchisee-ratepayer contract term under which the utility can terminate services in the absence of due process and a judicial hearing over non-payment of the utility's pass-through to ratepayers of any such fee. The City shall require this as a term of any grant or renewal of a franchise.

As a rationale I suggest: In a private contract situation, where a utility such as Connexus can impose a contract of adhesion on ratepayers - a take it or leave it, our way or the highway, with Connexus having clear unequal bargaining power and with there being no convenient market alternative. And part of that contract of adhesion is that if a ratepayer defaults on payment the power is turned off. They need not go to court to sue for money due, where conciliation court exists to minimize costs of litigating. They hold the big hammer and it can be justified as needed to have an orderly provision of power to everyone that everyone be made by some mechanism to pay, no freeloaders allowed.

THE FUNDAMENTAL GOVERNMENTAL POWER QUESTION, SHOULD RAMSEY, INDEED ANY GOVERNMENT, HOLD THE IMMEDIATE POWER TO SHUT OFF YOUR POWER IF YOU DO NOT PAY SOME IMPOSED MONTHLY TAX, WHEN SET DUE BY GOVERNMENT? SHOULD THERE BE SAFEGUARDS, DELAYS, ALL THE STUFF "DUE PROCESS" MEANS?

CLEARLY, NO TO THE FIRST QUESTION, YES TO THE SECOND. WITH STATE GOVERNMENT RECOGNIZING THERE MUST BE BOUNDS. THERE IS LAW AGAINST RESIDENTIAL SHUT-OFF IN THE DREARY COLD OF WINTER.

Now, there appears to be but one single statute on franchise fees; fictionally saying it is between a government franchisor and a public utility franchisee, a regulated contract situation (at least when cooperatives are not the utility player), the statute saying that the government may "fee" the utility having that express power in the course of a franchise grant or franchise extension negotiation.

The truth is the government and utility together have no great motive to not agree to something amenable to them, however onerous, e.g., a tax and its flow-through to ratepayers, since ratepayers are, at the most fundamental level, constrained to have to do business with the anointed utility, which has power to impose largely any terms it wants onto ratepayers.

The situation stinks of the likelihood of the abuse - by agreement - that franchise terms will be structured so that if there is any default in the ratepayer paying the flow-through tax; without any due process concerns; the government will be assured that such obstreperous persons will promptly have electric services terminated. That is how the pernicious thing will be enforced. There will be no hearing where a case of unique need or cause for an exception can be made and heard and judged.

Some guy climbs a pole or goes behind your home to the meter, and shuts you off.

Even if argued as unlikely a scenario in practice, a clear Charter constraint shall decisively forestall any such possible mischief, over time, where different officials will be serving with differing world views.