



SUBSTITUTE RESOLUTION NO. U-10829

1 A RESOLUTION relating to Tacoma Power; authorizing Tacoma Power to
2 solicit lease and property sale proposals for a third-party operator to use
3 and maintain Tacoma Power's telecommunication network and purchase
4 Click!'s physical assets to offer cable television and retail internet
5 services including voice over data internet ("VoIP") protocol, commercial
6 broadband and Gigabit service ("Retail Services") to residential and
7 commercial customers within Tacoma Power's service territory.

8 WHEREAS the City Council of Tacoma authorized the Department of
9 Public Utilities ("TPU"), Light Division (dba "Tacoma Power") to implement and
10 manage broadband telecommunication services ("Click! Network" or "Click!" as
11 authorized through City Council Substitute Resolution No. 33668 approved April
12 8, 1997 and Public Utility Board Amended Substitute Resolution U-9258
13 approved April 9, 1997), and

14 WHEREAS Tacoma Power utilizes the broadband telecommunication
15 system to connect Tacoma Power facilities, support Gateway smart meters, as
16 well as providing support for the City's I-net system, and

17 WHEREAS Tacoma Power utilizes the excess capacity in the
18 telecommunication system to provide retail cable TV services to customers,
19 wholesale internet access to independent Internet Service Providers ("ISP's")
20 who provide internet service to retail customers and wholesale broadband
21 service to business customers, and

22 WHEREAS the presence of Click! Cable TV and internet service through
23 ISPs has historically provided valuable benefits including savings for all cable
24 TV customers, regardless of provider, and outstanding customer service in the
25 Click! market territory, and
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WHEREAS customers' use of internet is increasing and use of Cable TV is decreasing just as the cost for Cable TV is increasing significantly for the Click! network, and

WHEREAS because of these and other factors, Click!'s current business model operates with expenditures exceeding revenue, requires the use of Tacoma Power ratepayer funds, and faces further business and financial risks in the future, and

WHEREAS Click! has engaged in a lengthy strategic planning effort focused on the development of a viable future business plan for Click!, with alternative business models presented at multiple Public Utility Board Study Sessions, Joint Board and City Council Study Sessions, and at public meetings, and

WHEREAS the Public Utility Board has determined that amongst these risks, a reasonable path to meeting community objectives and financial sustainability is to pursue a business model where the Tacoma Power/Click! physical plant and assets are leased or sold to a third-party operator to provide Retail Services; Now, therefore,

BE IT RESOLVED BY THE PUBLIC UTILITY BOARD OF THE CITY OF TACOMA:

Sec. 1. Tacoma Power is authorized to bring forward a Resolution declaring appropriate portions of the properties owned by Tacoma Power/Click! surplus to the Utilities' needs to the Board for approval.

Sec. 2. Authorize Tacoma Power to solicit proposals for a third-party operator to use and maintain the City of Tacoma's telecommunication network operated by Tacoma Power and purchase Click!'s physical plant assets to offer cable television and retail internet services including voice over data internet ("VoIP") protocol, retail and commercial broadband, Gigabit service and related



1 and enhanced services offered to customers from time to time as new
2 technologies and services become available ("Retail Services") to residential
3 and commercial customers within Tacoma Power's service territory. Such
4 solicitation should occur by February 15, 2016.

5 Sec. 3. Tacoma Power is authorized to waive the City of Tacoma
6 standard request for proposals process and use the services of an outside
7 consultant(s) to solicit proposals. This consultant contract will be subject to the
8 approval of the Board.

9 Sec. 4. TPU shall solicit proposals that include the following elements:

- 10 a. Agreement term that is a minimum of 10 years and maximum (including
11 options to extend) of 40 years.
- 12 b. Require the third-party operator to secure and maintain a
13 telecommunications and/or cable franchise agreement with the
14 communities currently served and with communities into which the
15 telecommunications system may be expanded to in the future.
- 16 c. Pay at least \$1,000,000 to purchase Click!'s physical plant and operating
17 assets.
- 18 d. Pay at least \$2,000,000 per year with CPI increases in years two and
19 beyond for rent.
- 20 e. Invest at least \$1,500,000 per year with CPI increases in years two and
21 beyond in direct capital investment in the physical network which shall
22 become the property of Tacoma Power at the end of the agreement.
- 23 f. Assume Click!'s I-Net obligations with the City of Tacoma.
- 24 g. Assume the infrastructure provisioning, support and maintenance of
25 Tacoma Power's Power Control and Operations Networks. This
26 condition is to be performed under a separately negotiated agreement
(see Sec. 10 below).
- h. Agree to maintain the Open Access status of the network.
- i. Agree to limit cable television rate increases to no more than 5% in the
first two years of the term of the agreement.
- j. Agree to maintain the existing Click! cable television packages and
associated rates for the first two years of the term of the agreement
(except rates may be adjusted due to increases for programming and
retransmission consent license fees but such adjustments are limited to
5% as noted in Sec. 3.i. above)
- k. Offer to assume and continue Click!'s existing wholesale relationships
with Rainier Connect, Advanced Stream, Net-Venture, Optic Fusion,
Integra, CenturyLink, twtelecom, Noel Communications, and Spectrum
Networks.
- l. Offer lifeline cable, internet and phone service priced at \$9.95 per
service to Tacoma Power's low-income program qualifying customers.



- 1 m. Deploy Gigabit internet service over the course of the first few years of
- 2 the agreement.
- 3 n. Employ at least 81 people with living wage jobs to operate the network.
- 4 o. Agree to interview all Click! employees who express an interest in
- 5 employment with the third-party operator.
- 6 p. Agree to negotiate measures and standards to maintain the level of
- 7 customer service currently provided by Click! and provide for
- 8 enforcement of customer service standards through the final agreement
- 9 and the City right of way franchise agreement.
- 10 q. Agree to negotiate terms in the final agreement that tie the third-party
- 11 product offerings and performance to the achievement of public policy
- 12 objectives identified by the TPU Board and City Council, including
- 13 coordination with goals and strategic plans of TPU and the City of
- 14 Tacoma, fostering and enhancing educational opportunity and economic
- 15 activity in Tacoma and Pierce County, and ensuring just access to
- 16 internet service regardless of economic condition, social barriers and
- 17 physical challenges.
- 18 r. Permit variation of each of the criteria described above in the proposal
- 19 with an explanation of why the variation will provide improved operations
- 20 and/or performance to the customers, TPU, the City Council and the
- 21 third-party operator.
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23 Sec. 5. Tacoma Power shall evaluate proposals based on the elements
24 above and make a recommendation to the TPU Board and City Council no later
25 than March 1, 2016.

26 Sec. 6. Prior to soliciting proposals as contemplated in this resolution,
TPU and the City's Legal Department shall seek a legal opinion or declaratory
judgment in Pierce County Superior Court to confirm that Tacoma Power may
adopt agreements with a third-party operator in accordance with this resolution.
The City's Legal Department shall include in its request for a legal opinion or
declaratory judgment those specific components, proposed process, and
agreement with a third-party operator necessary to provide the Utility Board and
the City Council comfort that they may fully implement a contract with a third-
party operator reasonably without threat of disruption by legal challenge. TPU
and the City's Legal Department are authorized to utilize the services of third-
party legal advisors in connection with this activity.

Sec. 7. Tacoma Power is authorized to develop a transition plan for
implementing the terms of the successful proposal. Such transition plan may
include reviewing and resubmitting rate adjustments budgeted and proposed by
Click! and approved by the Public Utility Board (previously approved by Board
Resolution U-10773 on April 22, 2015) that support Click! during the transition
period. The City Council is requested to approve an ordinance amending
Tacoma Municipal Code Chapter 12.13 to authorize said rate adjustments.



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Sec. 8. Tacoma Power is authorized to stop providing retail cable television services and wholesale internet and related services, and establish a transition plan to move existing Click! customers to the third-party operator upon approval of the third-party operator proposal.

Sec. 9. Tacoma Power is authorized to continue all private internet service provider contracts on a month-to-month basis and assist in transitioning the internet service providers to receive wholesale service from the third-party operator upon approval of the third-party operator proposal on terms that would facilitate the transition to the third-party operator according to the terms of this Resolution.

Sec. 10. Tacoma Power and Click! Network are authorized to develop and implement a transition plan for unneeded Click! staff positions, including the potential transition of employees to employment with the third-party operator or in other areas of the City organization, and to provide severance benefits for any Click! employees not employed by the third-party operator and who do not remain employed by the City as a result of the transition to the third-party operator.

Sec. 11. Upon approval of the third-party operator proposal Tacoma Power is authorized to negotiate an agreement with the third-party operator to perform operation, maintenance, and support on the Tacoma Power telecommunication network used by both Tacoma Power and the third-party operator without a formal bid. This agreement shall be subject to TPU Board approval.

Sec. 12. A fiscal note is attached to and incorporated in this Resolution U-10829. The fiscal note estimates the Capital and O&M budget requirements/ impacts and the financial gains/losses anticipated over the next five years in connection with the Click! business plan contemplated herein.

Approved as to form and legality:

William Foster

Chief Deputy City Attorney

Clerk

Secretary

Adopted _____