

ACTION FORM BRYAN CITY COUNCIL

DATE OF COUNCIL MEETING: March 24, 2015		DATE SUBMITTED: February 23, 2015	
DEPARTMENT OF ORIGIN: BTU		SUBMITTED BY: David Werley	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	STRATEGIC INITIATIVE:
<input type="checkbox"/> BCD	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1ST READING	<input type="checkbox"/> PUBLIC SAFETY
<input type="checkbox"/> SPECIAL	<input checked="" type="checkbox"/> CONSENT	<input checked="" type="checkbox"/> 2ND READING	<input checked="" type="checkbox"/> SERVICE
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> STATUTORY		<input type="checkbox"/> ECONOMIC DEVELOP.
<input type="checkbox"/> WORKSHOP	<input type="checkbox"/> REGULAR		<input type="checkbox"/> INFRASTRUCTURE
			<input type="checkbox"/> QUALITY OF LIFE
<p>AGENDA ITEM DESCRIPTION: Consideration of a proposed ordinance that authorizes BTU to collect, for Electric, Water and Solid Waste, deposits, late payment penalties, and other fees for various utility related activities. Updates such as proposed in this Ordinance are necessary from time to time to ensure the Ordinance remains current with changing business requirements for the provision of utility services.</p> <p>This proposed Ordinance is designed to be fair and impartial in the collection of security deposits, late penalties and service fees for customers throughout the BTU/COB utility systems.</p>			
<p>SUMMARY STATEMENT: The Deposit Ordinance enables BTU to collect deposits for Electric, Water and Solid Waste. The Deposit Ordinance also allows BTU to collect late payment penalties along with fees for various other utility related activities. An update to the Deposit Ordinance is required due to the changes to the BTU Rate Ordinance that went into effect October 1, 2014. Updates are necessary from time to time to assure that the Deposit Ordinance stays up to date with other related ordinances and changing business requirements for the provision of utility services.</p> <p>The BTU Board of Directors recommends this proposed Ordinance, commonly referred to as the “Deposit Ordinance,” to replace the current Ordinance No. 1952. These updates are necessary to bring the Deposit Ordinance current with the electric rate naming convention used in the Electric Rate Ordinance 2058 that went into effect this past October, which included the addition of a Transmission Service Rate not previously offered, along with a general update to the document and fee structure.</p>			
<p>STAFF ANALYSIS AND RECOMMENDATION: The BTU Board of Directors and the BTU Staff recommend adopting the proposed Ordinance.</p> <p>The following is a summary of significant changes related only to the Deposit Ordinance:</p> <ol style="list-style-type: none"> 1. There is a reduction of the fee associated with reconnecting a customer after they have remitted payment following a disconnection of service for non-payment. Based on the estimated cost to conduct this business process, the recommendation is to reduce this customer fee from \$20 to \$5 per occurrence. Staff estimates this modification will result in a reduction in fees charged to customers in excess of \$100,000 per year going forward. 2. Increase of \$5.00 for trip charges for travel expense for customer requested services such as: Check Read Fee, Temporary Electric Service Fee, and the Unnecessary Trip Fee. These fees are seldom used, but necessary to cover costs associated with service calls made utilizing equipment and staff time and when the need for the service call is at no fault of BTU. The increases in costs are reflective of the fact that these fees have not been increased in many years and this small increase will move the fees closer to actual cost 			

of service.

3. There are additional modifications specifically designed to match naming conventions in this proposed ordinance with the new Electric Rate Ordinance No. 2058. The previous naming convention of the commercial electric rate classes referred to the type of customer served (i.e. "Small Commercial," "General Service Large," and "Large Industrial.") The new rates are named according to the level of electric voltage delivery service a commercial customer requires. For example, Secondary Service Non – Demand, Secondary Service Large – Demand, Primary Service Large, and Transmission Service. Secondary Service refers to a delivery voltage in the 120/240 volt to 277/480 volt range, Primary Service refers to a delivery voltage of 7,200/12,470 volts, and Transmission Service refers to a delivery voltage of 138,000 volts.
4. Other changes to the Deposit Ordinance are grammatical in nature and designed to make the document clearer for customer reference.

OPTIONS (In Suggested Order of Staff Preference):

1. Approve the ordinance modifications
2. Modify the ordinance, which may require consideration at a future City Council meeting
3. Do not approve the ordinance and provide direction to staff

ATTACHMENTS:

1. Proposed Deposit Ordinance

FUNDING SOURCE: N/A

APPROVALS: David Werley 2/23/2015; Gary Miller 2/23/2015; BTU Board of Directors 3/09/2015; Hugh R. Walker, 02/27/2015

APPROVED FOR SUBMITTAL: CITY MANAGER Kean Register, 02-27-2015

APPROVED FOR SUBMITTAL: CITY ATTORNEY

Revised 05/2013

ORDINANCE NO. _____

AN ORDINANCE REPEALING ORDINANCE NO. 1952, ESTABLISHING AND PROVIDING FOR ELECTRIC AND WATER DEPOSIT REQUIREMENTS, DEPOSIT AMOUNTS, EXEMPTIONS, TYPES OF DEPOSITS, REFUND OF DEPOSITS, ELECTRIC METER TESTING, SERVICE FEES, AND DISCONTINUANCE AND RECONNECTION OF SERVICE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; FINDING AND DETERMINING THAT THE MEETINGS AT WHICH THIS ORDINANCE WAS ADOPTED WERE OPEN TO THE PUBLIC; AND PROVIDING AN EFFECTIVE DATE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRYAN, TEXAS THAT:

SECTION 1.

Ordinance No. 1952 is hereby repealed along with any other ordinances or parts of ordinances in conflict with the provisions hereof.

SECTION 2.

UTILITY DEPOSIT REQUIREMENTS

- A. Persons or businesses requesting utility service from BTU shall furnish security deposits, unless they are exempt from providing such a deposit. Exemptions from furnishing a deposit are addressed in Section 2 (F) and Section 8 of this Ordinance. The security deposit, in the approved form, must be delivered to BTU and BTU shall maintain possession and use of the security deposit except as otherwise stated in the following.
- B. Security deposits are required to help ensure that total amounts owed for utility services received, including any applicable penalty charges and reconnection fees, are paid to BTU.
- C. Security deposits shall be refunded according to Section 10 of this ordinance. If security deposits have not been refunded at the time utility services are disconnected, the security deposit shall be applied to the final bill. Any remaining amount due the customer shall be mailed to the forwarding address, or the last address furnished to BTU by the customer. For any remaining amount due to BTU, a final bill will be mailed to the forwarding address or the last address furnished by the customer and shall be paid by the due date.
- D. The customer must notify BTU when utility services are to be disconnected. The customer is responsible and obligated for all payments of their account(s) for consumption, services and all other associated fees for the time that services are connected. Payments must be made to BTU and are not assignable to a third party.
- E. Customers must complete and sign a BTU application and any other required documentation before beginning service. If a deposit is required, it shall be furnished prior to connecting services. If for any reason deposits are not furnished, services will be disconnected until the deposit and all applicable fees are paid. At BTU's sole discretion, special provisions may be made for payment of deposits.
- F. Customers authorized for prepay services who have signed a Prepay Agreement will be exempt from paying a deposit. In the event that a prepay customer changes to traditional billing, deposit requirements will be necessary.

- G. If any question arises as to the account for which the deposit was made, BTU shall have the right of election to determine how credit is applied.

DEPOSITS FOR ELECTRIC,
WATER, AND SOLID WASTE UTILITY SERVICE

SECTION 3.
RESIDENTIAL

Applicable to residential customers for all domestic uses except multiple-dwelling units served by one meter.

- A. Electric Deposit:

A deposit will be required under the following conditions:

1. Customer is renting a single-family dwelling, apartment, duplex, four-plex, mobile home, townhome, etc., or;
2. Customer has been disconnected for non-payment, in which case deposit will be applied as per Section 11(D) of this Ordinance.

Deposit Amount

One-eighth (1/8) of the estimated annual billing, with a minimum of \$145.00. Deposit amounts are subject to readjustment at the end of a six-month period.

- B. Water/Sewer Deposit:

A deposit in the amount of \$35.00 will be required if customer is renting a single-family dwelling, apartment, duplex, four-plex, mobile home, townhome, etc.

Water service established without electric service requires a minimum deposit of \$60.00, or another approved method of securing the account, i.e. letter of credit, cosigner, or Certificate of Deposit.

- C. Solid Waste Deposit:

Applicable if customer has only solid waste service.	\$15.00
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SECTION 4.
SMALL COMMERCIAL SERVICES

Applicable to commercial customers and multiple-dwelling units served by one meter where the peak kilowatt demand is less than 25 KW.

- A. Minimum Electric Deposit: \$175.00

Deposits may be determined by using 1/8 of the estimated annual billing to be determined by past history of the account, so long as the new business is similar in nature to the previous business. If

no history is available the deposit will be determined by BTU using usage characteristic estimates. Deposit amounts are subject to readjustment at the end of a six-month period.

- B. Minimum Water Deposit: \$85.00

Deposits may be determined by using 1/8 of the estimated annual billing to be determined by past history of the account, if the new business is similar in nature to the previous business. If no history is available the deposit will be determined by BTU using usage characteristic estimates. Deposit amounts are subject to readjustment at the end of a six-month period.

- C. Solid Waste Deposit (Flat Rate): \$50.00

SECTION 5.
LARGE COMMERCIAL SERVICE LESS THAN 1000KW

Applicable to all commercial customers and multiple-dwelling units where the peak kilowatt demand is greater than or equal to 25 KW and less than 1000 KW.

- A. Minimum Electric Deposit:

\$400.00 plus \$10.00 per KW of estimated demand in excess of 25 KW.

Deposits may be determined by using 1/8 of the estimated annual billing to be determined by past history of the account, so long as the new business is similar in nature to the previous business. If no history is available the deposit will be determined by BTU using usage characteristic estimates. Deposit amounts are subject to readjustment at the end of a six-month period.

- B. Minimum Water/Sewer Deposit: \$105.00

Deposits may be determined by using 1/8 of the estimated annual billing to be determined by past history of the account, so long as the new business is similar in nature to the previous business. If no history is available the deposit will be determined by BTU using usage characteristic estimates. Deposit amounts are subject to readjustment at the end of a six-month period.

- C. Solid Waste Deposit (Flat Rate) \$100.00

SECTION 6.
LARGE COMMERCIAL SERVICE EQUAL TO OR EXCEEDING 1000 KW

Applicable to all commercial and industrial customers that are not served at transmission voltage and whose peak kilowatt demand equals or exceeds 1000 KW.

- A. Electric Deposit: Determined by BTU

- B. Water/Sewer Deposit: Determined by COB

- C. Solid Waste Deposit: Determined by COB

SECTION 7.
TRANSMISSION SERVICE

Applicable to all transmission level customers for services delivered at transmission voltage.

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|-------------------------|----------------------|
| A. Electric Deposit: | Determined by
BTU |
| B. Water/Sewer Deposit: | Determined by
COB |
| C. Solid Waste Deposit: | Determined by
COB |

SECTION 8.
EXEMPTIONS FROM DEPOSIT

The following customers shall be exempt from making a deposit:

- A. All local, state and federal governmental entities.
- B. Any customer requesting service for a new account of similar type and size, who has established a satisfactory credit history with BTU during the immediately preceding twenty four (24) months. Satisfactory credit is defined as:
 - 1. an account that has not had more than two late penalties on the account within the last twelve (12) -month period, and
 - 2. an account that was not subject to disconnection for nonpayment during the preceding twenty four (24) month period, and
 - 3. an account that has not had a returned check during the preceding twenty four (24) month period.
- C. A residential customer who provides a letter of credit from their previous electric utility company. Letters of credit must meet all of the following:
 - 1. Last date of service is within one year of date of application with BTU.
 - 2. Customer has had at least (12) months of service.
 - 3. Account has no more than two (2) late payments in the last twelve (12) months of service.
 - 4. Account has no returned checks or disconnects for nonpayment in the last (24) months of service.
- D. A residential customer (cosignee) who provides a signature, on a BTU cosigner form, of an existing BTU customer (cosigner) who has a satisfactory credit history. The condition for acceptance of the cosigner's pledge is that they agree to pay the delinquent account of the cosignee if and in the event, that the cosignee has defaulted in payment of utility services. A person may not cosign for more than one person served by BTU unless it is an immediate member of the family. In the event the person who cosigns terminates the use of BTU services, then the cosignee shall immediately make the satisfactory deposit or service shall be terminated.

SECTION 9.
TYPE OF UTILITY SECURITY DEPOSIT

Deposits shall be made in cash, check, credit card, or by the pledge of a certificate of deposit or savings account in a form acceptable to BTU. For amounts in excess of \$500.00, BTU may accept an approved surety bond with power of attorney, or another form of risk mitigation instrument acceptable to BTU.

SECTION 10.
REFUND OF DEPOSIT

- A. Residential customers shall be eligible for refund of deposits if all of the following conditions are met:
1. Must have been a residential customer for the immediate preceding (24) month period.
 2. Must have no more than two (2) late penalties within the last twelve (12) month period.
 3. Account has not been subject to disconnection of service for non-payment in the last twenty four (24) month period.
 4. No returned checks in the last twenty four (24) month period.
 5. Have no other outstanding debt to BTU.
- B. Commercial customers shall be eligible for refund of deposits if all of the following conditions are met:
1. Must have had the commercial account for the immediate preceding thirty six (36) month period.
 2. Must have no more than two (2) late penalties within the last twelve (12) month period.
 3. Account has not been subject to disconnection of service for non-payment in the last thirty six (36) month period.
 4. No returned checks in the last twenty four (24) month period.
 5. Have no other outstanding debt to BTU.
- C. At BTU's discretion, Transmission level customers may be required to maintain a deposit, or an acceptable financial security instrument, i.e. credit insurance or irrevocable letter of credit for accounts with monthly totals exceeding \$100,000 dollars.
- D. In the event that a customer's deposit has been refunded or exempted and the customer fails to maintain satisfactory credit as defined by Section 8, BTU may require that a deposit be placed, or reestablished on the account.
- E. Deposit refunds will be applied to the customer account.

SECTION 11.
DISCONTINUANCE OF SERVICE

- A. Utility service may be disconnected with notice for the following reasons:
1. Failure to pay a bill or enter into a deferred payment agreement within twenty (20) days from the due date and after proper notice has been given. Disconnect notice shall be mailed to the customer at the current address BTU has on file nine (9) days before the date of disconnect. Special programs or provisions may increase the number of days before disconnection.

2. Failure to pay a delinquent account or failure to comply with the terms of a deferred payment agreement, or other BTU program.
 3. Violation of BTU's rules pertaining to the use of service in a manner which interferes with the service of others or the operation of non-standard equipment, if a reasonable attempt has been made to notify the customer and the customer is provided with a reasonable opportunity to remedy the situation.
 4. Failure to comply with deposit or guarantee arrangements.
 5. Remittance of payment in a form that the bank returns as uncashable or non-negotiable, or having insufficient funds.
- B. Utility service may be disconnected without notice for tampering with BTU's meter or equipment or bypassing the same.
- C. Any disputes as to billing errors or disconnect order may be heard, informally, by the BTU General Manager or his designee. To initiate an informal hearing on a billing error, the customer must file a written request for a hearing with the Division Manager of Customer Operations. To initiate an informal hearing on a disconnect order, the customer must file a written request for a hearing with the Division Manager of Customer Operations no less than 4 days prior to the date of disconnection. Within 3 business days from receiving the written request, the BTU General Manager or his designee will hold an informal hearing and receive evidence from the customer related to the dispute. The BTU General Manager or his designee then has 24 hours to render a decision regarding the dispute. Requesting an informal hearing temporarily suspends the disconnection process. If the customer fails to appear at the informal hearing, the dispute will be resolved in favor of the utility and the disconnection process will continue.
- D. In the event utility services are disconnected for any of the reasons above, services shall not be reconnected until the customer has paid all required fees to BTU and the necessary deposit has been made. The deposit required shall be the standard amount for their applicable rate classification, plus fifty percent (50%) of that standard deposit, up to the maximum allowable, which is twice the average monthly billing over the preceding twelve (12) month period, for each disconnection. If no deposit was initially required, the customer must establish a deposit equal to approximately twice the average monthly billings based on the most current 12-month billing history. The total deposit requirement shall not be less than the standard deposit on the account nor shall it exceed the greater of the standard deposit or twice the average monthly billings based on the most current 12-month billing history.
- In the event utility services are disconnected, required payments and fees are not paid and services remain terminated, collection procedures will begin. Every effort will be made to collect from customers and former customers owing BTU.
- E. Utility services will be automatically disconnected for prepay customers once the credit amount on their utility account is zero. Prepay customers receive real-time notification(s) that the utility account balance is approaching zero.
- F. Service shall be disconnected without notice where a condition exists that endangers life or property for as long as the condition exists.

SECTION 12.
SERVICE FEES AND PENALTY

- A. Late Payment Penalty – Residential and Commercial Customers:

A late payment fee of five percent (5%) of the total net utility bill in addition to the delinquent amount will be required if payment of the utility bill is not received in the business office by the end of business on the date due.

B. Check Read Fee:

If a customer requests a check read on his meter, a fee of \$20.00 per meter shall be charged to the customer unless the meter is not working properly or unless determination is made that the original reading was erroneous.

C. Returned Check Fee:

A returned check fee of \$25.00 shall be charged in the event a check, draft or any other similar type instrument is given to BTU for payment of services and the same is returned by the bank as uncashable or non-negotiable, or as having insufficient funds. Services include, but are not limited to, utility payments and deposit payments.

D. Temporary Electric Service Connection Fee:

A connection fee of \$25.00 for each city meter and \$40.00 for each rural meter shall be charged for services that are temporary in nature. Temporary services are defined as a connection for two (2) weeks or less.

E. Service Fee for Disconnect and Reconnect:

If payment of the utility bill and the late payment fee is not received in the business office prior to the disconnect date, and a service order is issued to disconnect services, a service fee in addition to the late fee and delinquent amount shall be required and the applicable service fees to be charged to the customer shall be:

Disconnection	\$20.00
Reconnection after remittance	\$ 5.00

F. Tampering Fee:

Tampering fee of \$100.00 shall be required if the customer has, on their own, restored service or caused it to be restored when not authorized in writing by BTU. Customers connecting or reconnecting services on their own, without written permission of BTU are considered tampering and it is presumed that the customer restored services on their own and therefore unlawfully. If a meter is tampered with, actual replacement or repair charges, all estimated consumption, plus the tampering fee will be charged to the customer and must be paid before services will be restored.

G. Unnecessary Trip Fee:

During normal business hours, a service fee of \$25.00 in the city and \$40.00 in the rural area will be charged to customers who have set a time to meet a BTU representative at their location and they, or their representative miss their appointment causing an unnecessary trip. This may also be charged if multiple inspection or re-inspection trips must be made.

SECTION 13.
REQUEST FOR ELECTRIC METER TEST

- A. A customer may request an electric meter test by notifying BTU in writing, via mail, fax, in person or email. Upon receipt of a signed and dated request:

BTU will test the requested meter at no charge if the meter has not been tested within the last four years. If the meter has been tested within the last four (4) years, and the results are within the accuracy standards of the American National Standards Institute (ANSI), the customer shall pay for the cost of testing. Any charges will be added to the next electric bill. The customer agrees to abide by the results of the test regarding any billing correction.

Cost for testing an electric meter:

Non-demand meter	\$30.00
Demand meter	\$60.00

- B. The customer may request notice of when testing will be done so he/she may be present.
- C. If the tested meter registers less electricity than the ANSI accuracy standard, the meter will be recalibrated and the customer's current electric bill increased by the amount of meter error indicated by the test. If the tested meter registers more electricity than the ANSI accuracy standard, the meter will be recalibrated and the customer's electric bill decreased by the amount of meter error indicated by the test. If the tested electric meter does not test within ANSI accuracy standards, and cannot be recalibrated, the meter will be replaced by an accurately calibrated meter.

SECTION 14.
ELECTRIC BILLING ADJUSTMENTS

If an account is adjusted for over-billing, the account will be recalculated for a period of up to twenty four (24) months and rebilled. If the account has been underbilled, the account will be recalculated for a period of up to six (6) months and rebilled.

SECTION 15.
SAVINGS PROVISION

That the Code of the City of Bryan, Texas, as amended, shall remain in full force and effect.

SECTION 16.
SEVERABILITY

Should any section, paragraph, sentence, clause, phrase or word of this ordinance be declared unconstitutional or invalid for any purpose by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby and to this end the provisions of this ordinance are declared to be severable.

SECTION 17.
OPEN MEETINGS COMPLIANCE

It is hereby found and determined that the meetings at which this ordinance was passed were open to the public as required by Section 551.001 et seq., Texas Government Code, and that advance public notice of the time, place and purpose of said meetings was given.

SECTION 18.
EFFECTIVE DATE

This ordinance shall go into effect immediately after its second and final reading. PRESENTED AND GIVEN first reading the 10th day of March, 2015 at a regular meeting of the City Council of the City of Bryan, Texas; and given second reading, passed and approved on the 24th day of March, 2015 by a vote of ____ yeses and ____ noes at a regular meeting of the City Council of the City of Bryan, Texas.

ATTEST:

CITY OF BRYAN:

Mary Lynne Stratta, City Secretary

Jason P. Bienski, Mayor

APPROVED AS TO FORM:

Janis K. Hampton, City Attorney