



NOTICE

City of Tacoma - Public Utility Board

SPECIAL MEETING

Thursday, December 3, 2015

3628 South 35th Street, Tacoma WA 98409

5:30 Regular Meeting, Ground Floor Auditorium

Pursuant to the Rules of Order of Business Rule 1(g) of the City of Tacoma Public Utility Board, Special Meetings of the Board are limited to subject or subjects to be considered at such meeting.

5:30 Regular Meeting Agenda

1. Call to Order
2. Roll Call
3. Public Comment
4. Consideration of Resolutions and possible amendment(s) for potential adoption thereon related to Click! (attached).
 - a. Resolution No. U-10828 authorizing Tacoma Power/Click! to prepare a business plan to provide, in addition to retail cable television, retail internet services including voice over data internet ("VoIP") protocol, commercial broadband, and Gigabit service ("Retail Services").

Proposed Amendment No. 1. Add Sec. 2.g. related to expenditures made on behalf of Click! by Tacoma Power shall constitute loans.

Proposed Amendment No. 2. Add Sec. 4 related to requiring a legal opinion or declaratory judgment be obtained prior to implementing the business plan.

Proposed Amendment No. 3. Add Sec. 5 related to requiring Click! rate adjustments approved pursuant to Resolution U-10773 be reviewed and resubmitted for City Council approval in support of the business plan.
 - b. Resolution No. U-10829 authorizing Tacoma Power/Click! to solicit lease and property sale proposals for a third-party operator to use and maintain Tacoma Power's telecommunication network and purchase Click!'s physical assets to offer cable television and retail internet services including voice over data internet ("VoIP") protocol, commercial broadband, and Gigabit service ("Retail Services") to residential and commercial customers within Tacoma Power's service territory.

Proposed Substitute Resolution No. U-10829 relating to Tacoma Power; authorizing Tacoma Power to solicit lease and property sale proposals for a third-party operator to use and maintain Tacoma Power's telecommunication network and purchase Click!'s physical assets to offer cable television and retail internet services including voice over data internet ("VoIP") protocol, commercial broadband, and Gigabit service ("Retail Services") to residential and commercial customers within Tacoma Power's service territory.
5. Adjournment

Charleen Jacobs, Clerk of the Board
253-502-8201



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RESOLUTION NO. U-10828

1 A RESOLUTION relating to Click! Network; authorizing Click! to prepare a
2 business plan to provide, in addition to retail cable television, retail
3 internet services including voice over data internet ("VoIP") protocol,
commercial broadband and Gigabit service ("Retail Services").

4 WHEREAS the City Council of Tacoma authorized the Department of
5 Public Utilities ("TPU"), Light Division (dba "Tacoma Power"), to implement and
6 manage a broadband telecommunication system ("Click! Network" or "Click!" as
7 authorized through City Council Substitute Resolution No. 33668, approved
8 April 8, 1997, and Public Utility Board Amended Substitute Resolution U-9258
9 approved April 9, 1997), and
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11 WHEREAS Tacoma Power provided retail cable TV services to
12 customers, wholesale internet to independent Internet Service Providers
13 ("ISPs") who served retail customers and wholesale broadband service to
14 business customers, and
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16 WHEREAS the broadband telecommunication system is critical
17 infrastructure for Tacoma Power, including the connection of substations,
18 support of approximately 18,000 Gateway smart meters, as well as providing
19 support for the City's I-net system, and
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21 WHEREAS the City Charter Section 4.6 requires a vote of the people
22 before the City may sell, lease, or dispose of any utility system, or parts thereof
23 essential to continued effective utility service, and
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25 WHEREAS the presence of Click! Cable TV in the marketplace provided
26 savings for all cable TV customers, regardless of provider, in the Click! Market



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territory as compared to other Puget Sound market areas to an estimated average savings of \$10 million dollars a year, between 2004 and 2008, and

WHEREAS Click! services currently reaches 26.2% of the customers in the service territory with one or more of its services (Cable TV only, Internet only or Cable TV and Internet) according to Click! customer counts, and

WHEREAS 61% of those polled in May of 2015 said that it would be a good idea for Click! to provide internet service directly to customers, and

WHEREAS Click! infrastructure could provide Gigabit internet speeds to customers in the entire service territory with capital investment, and

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 Click!'s current business model creates future potential financial losses that may require the use of Tacoma Power ratepayer funds, and

WHEREAS the Public Utility Board has determined that the most reasonable path to meeting community objectives and financial sustainability is to pursue a business model where Click! offers additional retail products directly to its customers, including retail cable TV, Internet, voice over Internet (VoIP), and commercial broadband services ("All-In Retail model"); Now, therefore,

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

Sec. 1. Definitions.



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- a. "Click! or Click! Network" shall mean the telecommunication section of the Light Division of the Department of Public Utilities for the City of Tacoma, as established and described in Public Utility Board Amended Substitute Board Resolution U-9258 and City Council Substitute Resolution No. 33668.
- b. "Tacoma Power" shall mean the Light Division (doing business as Tacoma Power), of the Department of Public Utilities, for the City of Tacoma, as established by the City of Tacoma Charter Section 4.10.
- c. "Tacoma Public Utilities" shall mean the Department of Public Utilities (doing business as TPU), for the City of Tacoma, as established by the City of Tacoma Charter Article 4.
- d. "Retail Services" shall mean cable television and retail internet services including voice over data internet protocol, retail and commercial broadband, Gigabit service and related and enhanced services offered to customers from time to time as new technologies and services become available.
- e. "Expenditures" shall mean capital (including debt service) and operations and maintenance ("O&M") expenses determined on a "cash flow" basis incurred by Click! after January 1, 2016. "Expenditures" shall not include, and Click! shall not be charged Click! past physical plant and capital related costs made by Tacoma Power on behalf of Click! prior to January 1, 2016.

Sec. 2. Click! shall work with consultants as appropriate to develop a detailed business, financial and marketing plan (the "Business Plan") to provide customers the Retail Services and other aspects of the Business Plan contemplated herein. The goal will be for Click! to present to the Public Utility Board and the City Council an initial detailed Business Plan on or near April 7th, 2016. The goal will be for the Public Utility Board and City Council to approve the initial detailed Business Plan within 60 days thereafter.

- a. The Business Plan shall include annual, biennial and longer term goals, benchmarks and measures of financial progress and success, including
 - i. building customer counts and increasing market penetration
 - ii. financial projection and benchmarks
 - iii. designing and implementing rates that support customers count goals while providing revenue to pay Expenditures



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- iv. achievement of revenues that exceed Expenditures to the extent reasonably feasible
 - v. capital expenditure planning, including debt financing where appropriate
 - vi. charging just and proper proportions of the cost and expenses of other departments or offices of the City rendering service to Click!, as required under City Charter section 4.5.
- b. The Business Plan shall also include annual, biennial and longer term goals, benchmarks and measures of progress and success for non-financial achievement, including
- i. coordination with goals and strategic plans of TPU and the City of Tacoma
 - ii. promotion of market competition
 - iii. fostering and enhancing educational opportunity and economic activity in Tacoma and Pierce County
 - iv. ensuring just access to internet service regardless of economic condition, social barriers and physical challenges.
- c. The Business Plan will make adapting to changing market conditions and increased competition a priority, including necessary capital investments to improve technologies and stay competitive.
- d. The Business Plan will authorized, but not obligate, Click! to enter into negotiations for new contracts with internet services providers using its network on terms and conditions economically acceptable to Click! and consistent with the Business Plan, including authority to purchase the businesses of the existing private internet service providers using its network. Click! will be authorized to utilize the services of third-party business valuation consultants, acceptable to all parties, in connection with such negotiations.
- e. The Business Plan will include analysis and action plans for the structure of the Click! workforce, including the negotiation with the relevant labor organizations when necessary, to meet the requirements of the Business Plan.
- f. The Business Plan shall require a separate enterprise fund (subaccount) within the Tacoma Power fund to account for Click! revenues and Expenditures.
- g. The Business Plan shall require Public Utility Board and City Council approval of budgets, expenditures, rates, and charges necessary to



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implement the business plan contemplated herein as part of the regular Tacoma Power budgeting, contract, and rates approval processes.

h. The Business Plan shall provide quarterly and annual reports to the Public Utility Board and to the City Council to monitor Click!'s actual performance relative to the approved business plan. Such reports shall include financial gains and losses and the balance of the loan account described below.

Sec. 3. The Public Utility Board and the City Council shall, upon adoption of this Resolution, appoint a Click! Engagement Committee to provide oversight and assistance to Click! in the development and implementation of the business plan. The Click! Engagement Committee shall be comprised of three (3) Public Utility Board Members and two (2) City Council members. The Click! Engagement Committee shall meet to consult with Click! on a regularly scheduled basis established by the Committee and Click!. The Public Utility Board and the City Council may consider delegating specific authority in the management of Click! to the Click! Engagement Committee in the future as the Business Plan is further developed.

Sec. 4. A fiscal note is attached to and incorporated in this Resolution U-10828. The fiscal note estimates the Capital and O&M budget requirements and impacts in addition to the financial gains and losses anticipated over the next five (5) years, in connection with the Click! business plan contemplated herein.

Approved as to form and legality:

Chair

William Foster

Chief Deputy City Attorney

Secretary

Adopted _____

Clerk



TACOMA PUBLIC UTILITIES

3628 South 35th Street

Tacoma, Washington 98409-3192

To: Chair and Members of the Public Utility Board

From: William A. Gaines, Director of Utilities/CEO

Date: November 25, 2015

Subject: Financial Impact of Authorizing Click! to Provide Retail Internet Service Including Gigabit Internet Service, Voice over Internet Protocol Service and Commercial Broadband Service, and Approving a Five Year Business Plan

Background:

A variety of business models have been developed and presented to policymakers, including a base case or status quo model and prospective models for Click! offering retail internet and cable television services, Click! offering wholesale-only internet (no video) and Click! entering into a private use contract involving Tacoma Power/Click! facilities. The financial models considered both low and high growth assumptions. This report addresses the fiscal impact of authorizing Click! to provide retail Internet service including Gigabit Internet service, Voice over Internet Protocol Service and Commercial Broadband Service (“All-In Retail with Gigabit model”) along with cable television services. The All-In Retail with Gigabit model anticipates a loss of 1,916 Cable customers under the low growth option and a gain of 1,152 Cable customers under the high growth option in five years. It also anticipates a gain of between 6,412 and 12,124 Internet customers, and a gain of between 5,168 and 7,563 Voice over Internet Protocol customers, low and high respectively. Table 1 below shows the financial metrics of the All-In Retail with Gigabit option.

Table 1

	All-In Retail w/Gigabit	All-In Retail w/Gigabit
	Low Option	High Option
Revenue	\$181.4	\$207.1
O&M Expenditures	\$185.3	\$206.3
Capital Investment	\$27.7	\$28.8
Cumulative Cash Flow	(\$31.6)	(\$28.0)

Fiscal Impact:

The impact of pursuing the All-In Retail with Gigabit option is that the City will incur deficit spending in the range of \$28 million to \$31.6 million over the five-year business plan period, as shown in Table 1. However, as noted in Table 2 below, the Retail All-In with Gigabit model begins to produce positive cash flow in Year 8 under the high growth option.

Table 2

	LOW OPTION		HIGH OPTION	
	Cash Flow	Cumulative Cash Flow	Cash Flow	Cumulative Cash Flow
2016	(\$13,375,861)	(\$13,375,861)	(\$14,141,034)	(\$14,141,034)
2017	(4,894,538)	(18,270,399)	(4,728,564)	(18,869,598)
2018	(5,064,295)	(23,334,693)	(4,541,133)	(23,410,731)
2019	(4,430,859)	(27,765,552)	(2,866,053)	(26,276,783)
2020	(3,829,670)	(31,595,222)	(1,750,548)	(28,027,331)
2021	(3,482,159)	(35,077,381)	(945,919)	(28,973,250)
2022	(3,832,725)	(38,910,106)	(608,528)	(29,581,779)
2023	(3,114,794)	(42,024,900)	480,572	(29,101,207)
2024	(2,877,105)	(44,902,005)	1,146,032	(27,955,175)





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 a strategic planning effort has been completed concerning
9 the development of a viable future business plan for the Department of Public
10 Utilities, Light Division (dba "Tacoma Power"), Telecommunication Section
11 ("Click! Network" or "Click!", as authorized through City Council Substitute
12 Resolution No. 33668 approved April 8, 1997, and Public Utility Board
13 Amended Substitute Resolution U-9258 approved April 9, 1997), and several
14 alternative business model options were developed for consideration, and

15 WHEREAS these alternative business models were presented at
16 multiple Public Utility Board Study Sessions, Joint Board and City Council Study
17 Sessions, and at public meetings, and

18 WHEREAS Click!'s financial sustainability faces some risks, including a
19 relatively high-cost structure, costly and necessary technology implementations,
20 growing competition for video services, aging network infrastructure and
21 components, making effective competition with private entities extremely
22 difficult, and

23 WHEREAS the Public Utility Board has determined that amongst these
24 risks, the most reasonable path to meeting community objectives and financial
25 sustainability is to pursue a business model where the Tacoma Power/Click!
26



1 physical plant and assets are leased or sold to a third-party operator to provide
2 Retail Services, and

3 WHEREAS the City Charter and state law require that property not
4 needed for utility purposes be declared surplus to the utilities' needs prior to
5 sale or lease without a vote of the citizens, and

6
7 WHEREAS the purpose of this Resolution is to provide Tacoma Power
8 authority to solicit proposals from third-party operators to use and maintain
9 Tacoma Power's telecommunication network, establish the elements of
10 acceptable proposals, and establish a timeline for submitting a recommendation
11 to the TPU Board and City Council; Now, therefore,

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

13
14 Sec. 1. Tacoma Power is authorized to bring forward a Resolution
15 declaring appropriate portions of the properties owned by Tacoma Power/Click!
surplus to the Utilities' needs to the Board for approval.

16 Sec. 2. Authorize Tacoma Power to solicit proposals for a third-party
17 operator to use and maintain the City of Tacoma's telecommunication network
18 operated by Tacoma Power and purchase Click!'s physical plant assets to offer
19 cable television and retail internet services including voice over data internet
20 ("VoIP") protocol, retail and commercial broadband, Gigabit service and related
21 and enhanced services offered to customers from time to time as new
technologies and services become available ("Retail Services") to residential
and commercial customers within Tacoma Power's service territory. Such
solicitation should occur by February 15, 2016.

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

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

- 26 a. Agreement term that is a minimum of 10 years and maximum (including
options to extend) of 40 years.



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- b. Require the third-party operator to secure and maintain a telecommunications and/or cable franchise agreement with the communities currently served and with communities into which the telecommunications system may be expanded in the future.
- c. Pay at least \$1,000,000 to purchase Click!'s physical plant and operating assets.
- d. Pay at least \$2,000,000 per year with CPI increases in years two and beyond for rent.
- e. Invest at least \$1,500,000 per year with CPI increases in years two and beyond in direct capital investment in the physical network which shall become the property of Tacoma Power at the end of the agreement.
- f. Assume Click!'s I-Net obligations with the City of Tacoma.
- g. Assume the infrastructure provisioning, support and maintenance of Tacoma Power's Power Control and Operations Networks. This 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.
- m. Deploy Gigabit internet service over the course of the first few years of the agreement.
- n. Employ at least 81 people with living wage jobs to operate the network.
- o. Agree to interview all Click! employees who express an interest in employment with the third-party operator.
- p. Agree to negotiate measures and standards to maintain the level of customer service currently provided by Click! and provide for enforcement of customer service standards through the final agreement and the City right of way franchise agreement.
- q. Agree to negotiate terms in the final agreement that tie the third-party product offerings and performance to the achievement of public policy objectives identified by the TPU Board and City Council, including but not limited to City of Tacoma Vision 2025 goals, economic development, educational opportunity, access equity, living wage employment and cyber-security defense, which will be enforced through the final



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agreement, and the City right of way franchise agreement, all to be approved by TPU Board and the City Council.

- r. Permit variation of each of the criteria described above in the proposal with an explanation of why the variation will provide improved operations and/or performance to the customers, TPU, the City Council and the third-party operator.

Sec. 5. Tacoma Power shall evaluate proposals based on the elements above and make a recommendation to the TPU Board and City Council no later than March 1, 2016.

Sec. 6. Tacoma Power is authorized to develop a transition plan for implementing the terms of the successful proposal.

Sec. 7. 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. 8. 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. 9. 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. 10. 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. 11. 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.



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Sec. 12. The City Council is requested to pass a resolution concurring in the above policy direction for Click!.

Approved as to form and legality:

William Foshe
Chief Deputy City Attorney

Chair

Secretary

Clerk

Adopted _____



TACOMA PUBLIC UTILITIES

3628 South 35th Street

Tacoma, Washington 98409-3192

To: Chair and Members of the Public Utility Board

From: William A. Gaines, Director of Utilities/CEO

Date: November 19, 2015

Subject: Financial Impact of Authorizing Click! to Enter Into a Private Use Contract involving Tacoma Power/Click! facilities

Background:

A variety of business models were developed and presented to the policymakers, including a base case or status quo model and prospective models for Click! offering retail services, Click! offering wholesale-only and Click! entering into a private use contract involving Tacoma Power/Click! facilities. Five-year financial models covering the period January 1, 2016 through December 31, 2020 have been developed for each of these business models. This report addresses the financial impact of authorizing Click! to enter into a private use contract involving Tacoma Power/Click! facilities ("Lease option").

The key elements of the 5-year financial model for the Lease option are as follows:

- It anticipates revenue of \$11.5 million.
- It anticipates operations and maintenance expenditures (O&M) of \$4.6 million.
- It anticipates that the Lessee will invest at minimum \$1.5 million annually with CPI in years 2 and beyond in direct capital investment in the physical network.

Fiscal Impact:

As shown in Table 1 below, the Lease option is expected to generate \$6.9 million in free cash flow over the 5-year business plan period. In comparison to the base case or Status Quo option, which anticipates deficit spending of \$37.4 million over the same period, the Lease option changes the City's financial position from deficit spending to cash generating and improves cash position by \$44.3 million.

Table 1

	Lease
Revenue	\$11.5
O&M Expenditures	\$4.6
Capital Investment*	\$0.0
Cumulative Cash Flow	\$6.9

*Third-party operator will make direct capital investments of at least \$1.5 million annually in the physical network.





RESOLUTION U-10828 - AMENDMENT NO. 1
By Board Member Patterson

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Related to expenditures made on behalf of Click! by Tacoma Power shall constitute loans.

On page 4, at line 26, insert the following:

NEW SUBSECTION. Sec. 2.g. Subject to the outcome of the legal analysis authorized under Sec. 4, from January 1, 2016, going forward if Expenditures made on behalf of Click! by Tacoma Power exceed Click! revenues during any month, such "Excess Expenditures" shall constitute a loan or advance from Tacoma Power to Click!, which shall be reimbursed as follows:

- i. "Target Date" means December 31, 2021 or a date when the cumulative Excess Expenditures reach \$31.6 million, whichever occurs first.
- ii. Click! shall reimburse the loans or advances from revenue exceeding Expenditures as soon as possible.
- iii. If Click! revenue in excess of Expenditures is insufficient to reimburse loans or advances in full by the Target Date, Click! revenue shall be supplemented with City of Tacoma non-utility revenue that, together with Click! revenue, will be sufficient to provide full reimbursement of cumulative loans or advances accrued prior to the Target Date within ten (10) years of the Target Date.
- iv. The Utility Board and the City Council may, at any time, fulfill their obligation to reimburse the cumulative loans or advances by applying the proceeds from a transaction (license, lease, sale, etc.) transferring some or all of the City's telecommunications system business to a private third-party.

Renumber the remaining subsections consecutively and correct any internal references accordingly.



RESOLUTION U-10828 - AMENDMENT NO. 2
By Board Member Patterson

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Related to requiring a legal opinion or declaratory judgment be obtained prior to implementing the business plan.

On page 5, at line 12, insert the following:

NEW SECTION. Sec. 4. Prior to implementing the Business Plan 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 operate the City of Tacoma's telecommunications system in accordance with the business plan. The City's Legal Department shall include in its request for a legal opinion or declaratory judgment, those specific components of the business plan necessary to provide the Utility Board and the City Council comfort that they may fully implement the business plan 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.

Renumber the remaining sections consecutively and correct any internal references accordingly.



RESOLUTION U-10828 - AMENDMENT NO. 3
By Board Member Patterson

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Related to requiring Click! rate adjustments approved pursuant to U-10773 be reviewed and resubmitted for City Council approval in support of the business plan.

On page 5, after line 15, insert the following:

NEW SECTION. Sec. 5. Click! shall review and resubmit 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 the Business Plan and the City Council is requested to approve an ordinance amending Tacoma Municipal Code Chapter 12.13, to authorize said rate adjustments.

Renumber the remaining sections consecutively and correct any internal references accordingly.



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



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and enhanced services offered to customers from time to time as new technologies and services become available (“Retail Services”) to residential and commercial customers within Tacoma Power’s service territory. Such solicitation should occur by February 15, 2016.

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

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

- a. Agreement term that is a minimum of 10 years and maximum (including options to extend) of 40 years.
- b. Require the third-party operator to secure and maintain a telecommunications and/or cable franchise agreement with the communities currently served and with communities into which the telecommunications system may be expanded to in the future.
- c. Pay at least \$1,000,000 to purchase Click!’s physical plant and operating assets.
- d. Pay at least \$2,000,000 per year with CPI increases in years two and beyond for rent.
- e. Invest at least \$1,500,000 per year with CPI increases in years two and beyond in direct capital investment in the physical network which shall become the property of Tacoma Power at the end of the agreement.
- f. Assume Click!’s I-Net obligations with the City of Tacoma.
- g. Assume the infrastructure provisioning, support and maintenance of Tacoma Power’s Power Control and Operations Networks. This 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
the agreement.
- 2 n. Employ at least 81 people with living wage jobs to operate the network.
- 3 o. Agree to interview all Click! employees who express an interest in
employment with the third-party operator.
- 4 p. Agree to negotiate measures and standards to maintain the level of
customer service currently provided by Click! and provide for
5 enforcement of customer service standards through the final agreement
and the City right of way franchise agreement.
- 6 q. Agree to negotiate terms in the final agreement that tie the third-party
7 product offerings and performance to the achievement of public policy
objectives identified by the TPU Board and City Council, including
8 coordination with goals and strategic plans of TPU and the City of
Tacoma, fostering and enhancing educational opportunity and economic
9 activity in Tacoma and Pierce County, and ensuring just access to
internet service regardless of economic condition, social barriers and
10 physical challenges.
- 11 r. Permit variation of each of the criteria described above in the proposal
12 with an explanation of why the variation will provide improved operations
and/or performance to the customers, TPU, the City Council and the
13 third-party operator.

14 Sec. 5. Tacoma Power shall evaluate proposals based on the elements
above and make a recommendation to the TPU Board and City Council no later
15 than March 1, 2016.

16 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
17 judgment in Pierce County Superior Court to confirm that Tacoma Power may
adopt agreements with a third-party operator in accordance with this resolution.
18 The City's Legal Department shall include in its request for a legal opinion or
declaratory judgment those specific components, proposed process, and
19 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-
20 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-
21 party legal advisors in connection with this activity.

22
23 Sec. 7. Tacoma Power is authorized to develop a transition plan for
implementing the terms of the successful proposal. Such transition plan may
24 include reviewing and resubmitting rate adjustments budgeted and proposed by
Click! and approved by the Public Utility Board (previously approved by Board
25 Resolution U-10773 on April 22, 2015) that support Click! during the transition
26 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:

		Chair
<i>William Lohse</i>		
Chief Deputy City Attorney		Secretary
		Adopted
Clerk		