

Prepared for: Climate Resilience and Sustainability Board (CRSB)
Re: Feasibility of Use of Utility Franchise Fees to Fund Climate Work

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Background:

The CRSB asked whether the City of Spokane could impose or increase utility franchise fees in exchange for use of the public right of way (ROW) to fund climate resilience and sustainability work. A legal framework exists in other states to allow cities to collect franchise fees on gas and electric utility companies for climate projects and staffing. In Washington, state law restricts franchise fees on electric, telecommunication and gas utilities by municipalities.

Summary of Review:

Washington cities are barred from imposing and collecting franchise fees with limited exceptions ([RCW 47.44.020](#), [RCW 35.21.860](#)).

"No city or town may impose a tax, fee, or charge, either directly or indirectly, on the light, power, telephone, or gas business ... unless the tax, fee, or charge was in effect before July 1, 1982, or is expressly authorized by statute."

A city or town is limited to charging a utility fee for use of the ROW *"that recovers actual administrative expenses incurred by a city or town"* ([RCW 35.21.860](#)).

In 2019, Washington Supreme Court's ruled on King County's franchise fee ordinance (see: [King County v. King County Water Districts, et al; Ordinance 18403](#)). The ruling noted that it applied only to counties, not cities. The Court allowed King County to collect compensation from utilities for right-of-way use but emphasized that the charges must be clearly tied to use of public property. Cities do not have this same authority as counties. King County operates as a "home rule" county with a charter, while Spokane is a First Class Charter city under Ch. 35.22 RCW and is subject to different regulations compared to counties.

Conclusion

Based on current case law and statutory interpretation, the City of Spokane cannot charge utility franchise fees on gas and/or electric utilities for the purpose of funding climate programs. Collection and use of franchise fees for cities is limited to cost recovery for administrative implementation. Unlike counties, there is no legal precedent or court ruling supporting this approach for cities, and [RCW 35.21.860](#) may present a statutory barrier.