

SANTA FE COUNTY

Ordinance No. 1989-1

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AN ORDINANCE PERTAINING TO TELECOMMUNICATIONS SERVICE, AND GRANTING CERTAIN RIGHTS AND PRIVILEGES TO ENMR TELEPHONE COOPERATIVE, IN CONNECTION WITH ITS OPERATION OF A TELECOMMUNICATIONS SYSTEM WITHIN SANTA FE COUNTY, NEW MEXICO.

BE IT ORDAINED by the governing body, that is, the Board of County Commissioners of the County of Santa Fe ("Board"), State of New Mexico:

Section 1. Grant of Authority. The County of Santa Fe, in the State of New Mexico (hereinafter called "the County"), subject to compliance with all Land Use and Zoning Ordinances hereby grants to ENMR Telephone Cooperative, a New Mexico corporation (hereinafter called "the Company"), the non-exclusive right and privilege to construct, operate, maintain, repair and replace its poles, wires, cables, underground conduits, pedestals, manholes and other telecommunications facilities necessary for the conduct with the County of the Company's telecommunications business, within, along, across, above, over and under the roads, streets, public ways and public places within the County, and all extension thereof and additions thereto. The

1 Company shall place no telecommunications fixture in a
2 location which will interfere with any water line, sewer
3 main or street light, and all telecommunications fixtures
4 shall be placed in such a manner as to cause minimum
5 interference with the use and enjoyment by property owners
6 of real property abutting such roads, streets, public ways
7 and public places. Every telecommunications facility
8 installed pursuant to the power granted by this Ordinance
9 shall be placed as close as practicable to the outer edge of
10 the public right-of-way, and in such a manner as not to
11 interfere with usual travel upon such roads, streets, public
12 ways and public places.

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14 Section 2. Company Liability. The Company shall, at
15 all times during the life of this franchise, be subject to
16 every lawful exercise by the County of its police power, and
17 to such reasonable regulation as the County may, by
18 ordinance, hereafter provide. It is expressly understood
19 and agreed by and between the County and the Company that
20 the Company shall save the County harmless from all losses
21 sustained by the County on account of any suit, judgment,
22 execution, claim or demand whatsoever, resulting from
23 negligence on the part of the Company in the installation or
24 operation of its telephone facilities or telecommunications
25 system. The County shall notify the Company within twenty

1 days after the presentation of any claim or demand either by
2 suit or otherwise, made against the County on account of any
3 negligence on the part of the Company.

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5 Section 3. Replacement of Streets. Should the
6 Company, in the exercise of the rights and privileges
7 conferred by this Ordinance, disturb or damage any pavement,
8 sidewalk, driveway or other surfacing of any portion of the
9 public right-of-way, the Company shall, at its own cost and
10 expense and in a manner entirely satisfactory to the County,
11 replace and restore all such disturbance or damage. During
12 the period of disturbance, all appropriate safety measures,
13 barricades and signage shall be utilized.

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15 Section 4. Payment of Franchise Fee. As a further
16 consideration for the granting of the franchise rights
17 contained in this Ordinance, the Company shall pay to the
18 County an amount equal to two percent (2%) of the gross
19 revenues (exclusive of state and federal excise taxes)
20 derived by the Company from the furnishing of local exchange
21 service to subscribers of the Company with the geographical
22 boundaries of the County, exclusive of gross revenues
23 derived within the corporate boundaries of any incorporated
24 municipality located within the County. Payment shall be
25 made in semiannual installments within 30 days after January
1 and July 1 during the term of this franchise.

1 Section 5. Audit Rights. The County shall have the
2 right, at all reasonable times, to inspect the books and
3 records of the Company pertaining to the Company's gross
4 revenues derived from the furnishing of local exchange
5 service within the County.

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7 Section 6. Permit Required. Before any County
8 property or right-of-way subject to this ordinance is to be
9 used by the company, a permit must be obtained from the
10 Santa Fe County Land Use and Public Works Offices. The
11 permit application shall set forth all information necessary
12 to understand the nature of what the applicant proposes to
13 do. If circumstances warrant, the Land Use Administrator
14 may require an adequate performance bond or cash deposit to
15 insure that all work done meets County requirements and
16 conditions as set by permit or other Ordinance.

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18 Section 7. Term. The rights and privileges granted by
19 this Ordinance shall continue in force and effect for a term
20 of 25 years after the effective date of this Ordinance.

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22 Section 8. Acceptance. The company shall in writing
23 accept this franchise within thirty (30) days after its
24 adoption by filing with the office of the County Clerk and
25 the County Finance Department a written statement of

1 acceptance duly signed and acknowledged by an authorized
2 representative of the Company.

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4 Section 9. Emergency Clause. The Board does declare
5 that the absence of telephone services in a rural area poses
6 an immediate threat to the safety of County residents who do
7 not have such services. Thus, the Board finds that an
8 emergency exists and does hereby invoke the authority
9 granted to it to waive the notice provisions of NMSA 1978,
10 Section 4-37-7.

11 PASSED, APPROVED AND ADOPTED at a regular meeting of
12 the Board of County Commissioners of Santa Fe County, New
13 Mexico this 9th day of January, 1989.

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Jona G. Armijo,
County Clerk



Nancy Rodriguez
Nancy Rodriguez,
Chairman, Board of
County Commissioners

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APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

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[Signature]
Campos & Sanchez, PA
County Attorney

668,625

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COUNTY OF SANTA FE)SS
STATE OF NEW MEXICO)
I hereby certify that this instrument was filed
for record on the 13 day of JAN. A.D.
19 89 at 1:45 o'clock P. m.
and was duly recorded in book 636,
page 937-941 of the records of
Santa Fe County.

Witness my Hand and Seal of Office
Jona G. Armijo
County Clerk, Santa Fe County, N.M.

Jayne Medina
Deputy