

SANTA FE COUNTY
BOARD OF COUNTY COMMISSIONERS
ORDINANCE NO. 1980-7

412517

AN ORDINANCE GRANTING TO UNIVERSAL TELEPHONE COMPANY
OF THE SOUTHWEST, ITS SUCCESSORS AND ASSIGNS, A NONEXCLUSIVE
FRANCHISE IN THE COUNTY OF SANTA FE, STATE OF NEW MEXICO

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY
OF SANTA FE, STATE OF NEW MEXICO, as follows:

ARTICLE I. GRANT OF FRANCHISE.

Universal Telephone Company of Southwest, herein called the "Company", a
New Mexico corporation of Pecos, New Mexico, its successors and assigns, are
hereby granted the right, privilege and franchise to construct, excavate, erect,
renew, maintain and operate in, upon, along, across, under and over the streets,
alleys and public highways, rights-of-way thereof and public places of the said
County of Santa Fe, located in the area hereinafter described, lines, poles, anchors,
wires, cables, conduits, vaults, laterals, towers, underground cable and other fixtures
and equipment, and to use the same for the transmission of sound, pictures, data
or other forms of intelligence by means of electrical current and electro-magnetic
radiation, and especially for the conduct of a general telephone and radio telephone
business where such lines, fixtures and equipment presently exist, and as they may
be extended, constructed or acquired by said company from time to time, for the
period of twenty-five years from and after the date of the passage of this resolution.
This grant shall apply in the area located in Santa Fe County more specifically
described as follows, to wit:

Located in Santa Fe County, commencing at the Southeast corner
of Section 36 T15N, R11E, thence West 6 miles to the Southwest
corner of Section 31 T15N, R11E, thence North 12 miles to the
Northwest corner of Section 6 T16N, R11E, thence East 6 miles
to the Southwest corner of Section 31 T17N, R12E, thence South
12 miles to the point of beginning; and otherwise described as:
Townships Fifteen (15) and Sixteen (16) North of Range Eleven
(11) East New Mexico Principal Meridian.

ARTICLE II. RIGHT-OF-WAY AND EXCAVATION.

A. Right-of-Way. In order to meet the burden and responsibilities placed
upon company by accepting this County franchise ordinance, Company shall have
the right during the term hereof to install, remove, change, alter, extend, lay,
operate or maintain systems, lines, or other appurtenances as may be necessary for
the proper operation of the system in, upon, across or under any alley, street, road,

1 highway or other public place now or hereafter dedicated, owned or controlled
2 by the County; and Company without unreasonable obstruction of any alley or
3 street, may place, construct, erect, maintain or operate substation sites, or other
4 equipment, devices and appurtenances upon Company property as may be necessary
5 for the proper operation and maintenance of the Company system.

6 B. Excavations: Company shall have the right to install, remove, change,
7 alter, extend, lay, operate or maintain any telephone lines or other devices as
8 may be required or useful in the proper operation of the ^{telephone} ~~electric~~ system with the
9 right to excavate County alleys, streets, roads, highways or other public places
10 now or hereafter dedicated, owned or controlled by the County needed for such
11 purposes; provided, however, that there will be no reasonable obstruction of any
12 alley, street, or other public place. Such excavations shall be restored by Company
13 in accordance with the valid ordinances and regulations as may be adopted by the
14 County to reasonably control and monitor such activities by Company. If such
15 ordinances and regulations are not adopted or effective, it shall then place the
16 responsibility of restoring such excavations on Company to the original condition
17 as near as practicable before such work and excavation. The County shall have
18 the right to enforce such restoration by Company.

19 ARTICLE III - RELOCATION OF FACILITIES

20 As further consideration for the granting of this franchise ordinance,
21 Company agrees to bear the costs of any relocation of its facilities within the
22 same right-of-way or widening within the County right-of-way of any alley, street,
23 road, highway, sidewalk, bridge or other structure or public place of the County,
24 and within the County which relocation may be reasonably required because of
25 any specific regrading, rerouting, improving, or widening within a County right-of-
26 way of any such alley, street, road, highway, sidewalk, bridge or other structure
27 or public place of the County.

28 ARTICLE IV - APPLICABILITY OF COUNTY GENERAL PLAN AND COUNTY LAND DEVELOPMENT CODE AND ORDINANCE NO. 1979-1.

Company shall conform the planning, construction, and operation of the telephone
system to the County General Plan and the Land Development Code and Ordinance
No. 1979-1 as they may be adopted and amended by the County.

ARTICLE V - ADMINISTRATIVE FEE

Company, in consideration for the granting of this franchise and as
compensation to the County for reasonable expenses incurred in the granting
and exercising of this franchise shall pay to the County the following amount:
the amount validly assessed by the County pursuant to the provisions of an Occupation
Tax Ordinance,

1 or, if no such ordinance is in force, \$1,000 each year this franchise is in effect.
2 The County agrees that it will require an equal or greater franchise fee in all
3 future franchises granted to utilities by the County.

4 ARTICLE VI. RELATION OF PARTIES:

5 This franchise ordinance constitutes a contract between two unrelated parties
6 dealing in an arms-length transaction. The contract shall not create or be construed
7 to create a fiduciary, agency or employer-employee relationship.

8 ARTICLE VII. HOLD HARMLESS PROVISIONS.

9 Company shall assume and pay all liabilities for damage to persons or property
10 which may arise from negligent construction or negligent operation of any or all
11 parts of the system, or its appurtenances, that may be erected or construed and
12 shall save the County, its officers, agents and employees harmless from all liability
13 that may arise or be incurred from Company's negligent operation or negligent
14 construction of the same.

15 ARTICLE VIII. FORFEITURE.

16 If Company or the County shall fail to faithfully perform the obligations of
17 the County franchise ordinance with respect to any of the provisions set forth
18 herein, then and in such event, the County franchise ordinance shall become subject
19 to forfeiture. It is further agreed that any failure to comply with the provisions
20 of the County franchise ordinance which results from an "Act of God", or to
21 circumstances beyond the control of Company, shall not be cause for forfeiture
22 within the contemplation of this Section.

23 ARTICLE IX. ACCEPTANCE.

24 Company shall, within thirty (30) days after passage and approval of the
25 County franchise ordinance, file in the office of the County Clerk of the County
26 a written statement of acceptance duly signed and acknowledged by the proper
27 officers of Company authorized to execute such acceptance and, when accepted,
28 the franchise ordinance shall be a contract duly executed by and between the
County and Company.

29 In the event the acceptance is not filed within the thirty-day period, the
30 franchise ordinance and the rights, privileges and franchise herein granted shall,
31 ipso facto, be and become terminated and void; provided, however, the Governing
32 Body may, by resolution, extend the time herein allowed for the filing of the
33 acceptance for an additional period of thirty (30) days.

34 ARTICLE X. TERM OF FRANCHISE.

35 All grants and privileges herein granted and conferred upon Company shall
36 continue in full force and effect for a period of twenty-five (25) years from and

1 after the effective date of this franchise ordinance.

2 ARTICLE XI AMENDMENTS.

3 Any time during the term of the franchise ordinance, either
 4 party may propose amendments to the County franchise ordinance by giving thirty
 5 (30) days' written notice to the other of the proposed amendment desired, and
 6 both parties thereafter through their designated representatives will, within a
 7 reasonable time, negotiate in good faith in an effort to agree upon mutually satisfactory
 8 amendment.

9 ARTICLE XII. CAPTIONS, ARTICLE NUMBERS AND SECTION NUMBERS

10 The captions, article numbers and section numbers appearing in the franchise
 11 ordinance are inserted only as a matter of convenience, and in no way define,
 12 limit, construe or describe the scope of intent of such articles or sections of the
 13 franchise ordinance, nor in any way affect the franchise ordinance.

14 DATED, SIGNED, PASSED and APPROVED this 8th day of December, 1980.

15 BOARD OF COUNTY COMMISSIONERS
 16 OF SANTA FE COUNTY

17 BY: *Bennie J. Chavez*
 18 BENNIE J. CHAVEZ, Chairman

19 This Ordinance was recorded in the Santa Fe County Ordinance Book No. 412,
 20 pg. 377 on 381 12-22, 1980.

21 ATTEST:

22 *Carolina R. Gonzales*
 23 CAROLINA R. GONZALES
 24 Santa Fe County Clerk

25 UNIVERSAL TELEPHONE COMPANY
 26 OF THE SOUTHWEST

27 by: *James H. Brown*
 28 Senior Vice President



29 *James H. Brown*
 30 *Carolina R. Gonzales*

1
2 ACCEPTANCE OF FRANCHISE

412381

3 KNOW ALL MEN BY THESE PRESENTS:

4 That in compliance with Article IX of the Franchise Ordinance No. 1980-
5 7 heretofore adopted and passed by the Governing Body of the County of Santa
6 Fe, New Mexico, on the 8th day of December, 1980, Universal Telephone
7 Company of the Southwest, grantee therein, does hereby accept the Franchise
8 Ordinance thereby granted, together with all terms and provisions stated therein.

9 This Acceptance is to be effective on Dec. 8, 1980, with the intent
10 that it be filed with the Clerk of the County of Santa Fe, New Mexico, as required
11 by the Franchise Ordinance.

12 UNIVERSAL TELEPHONE COMPANY OF
13 THE SOUTHWEST

[Signature]
Senior Vice President

14 ATTEST:

15 STATE OF NEW MEXICO

16 COUNTY OF SANTA FE

17 I, CAROLINA R. GONZALES, Clerk of the County of Santa Fe, New Mexico,
18 hereby certify that the above foregoing Acceptance of the Franchise Ordinance,
19 Ordinance No. 1980-7 by Universal Telephone Company of the Southwest was
20 received and duly filed in the Records of my office as Clerk of the County of
21 Santa Fe, New Mexico, on the 22 day of Dec, 1980.

22 Executed under my hand and seal of the County of Santa Fe, New Mexico, this 22
23 day of December, 1980.

24 TY OF SANTA FE ISS
OF NEW MEXICO)

470-625

[Signature]
CAROLINA R. GONZALES, Clerk
County of Santa Fe

25 I hereby certify that this instrument was filed
26 in record on the 22 day of Dec, A.D.,
at 3:35 o'clock P.M.,
and was duly recorded in book 412
27 page 272 of the records of Santa Fe County.

28 Witness my Hand and Seal of Office
CAROLINA R. GONZALES
County Clerk, Santa Fe County, N.M.

[Signature]
Deputy

