

ORDINANCE NO. 1980 -8.

AN ORDINANCE GRANTING TO PUBLIC SERVICE COMPANY OF NEW MEXICO, ITS LEGAL REPRESENTATIVES, SUCCESSORS, LESSEES OR ASSIGNS THE RIGHT, PRIVILEGE AND NON-EXCLUSIVE FRANCHISE, TO LOCATE, CONSTRUCT, MAINTAIN, AND OPERATE IN, THROUGH AND ACROSS THE COUNTY OF SANTA FE, STATE OF NEW MEXICO, AS NOW OR HEREAFTER CONSTITUTED, SYSTEMS OF WORKS FOR THE GENERATION, TRANSMISSION AND DISTRIBUTION OF ELECTRICITY FOR SERVICE TO AND WITHIN THE COUNTY AND THE INHABITANTS THEREOF FOR A PERIOD OF TWENTY FIVE YEARS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE COUNTY OF SANTA FE,
NEW MEXICO:

ARTICLE 1 - SHORT TITLE

This Franchise Ordinance between Public Service Company of New Mexico (PNM) and the County of Santa Fe (County) shall be known as the "County Electric Franchise Ordinance".

ARTICLE II - GRANT OF FRANCHISE

The County hereby grants PNM, subject to the terms and conditions herein, the right, privilege and non-exclusive electric franchise for the uses and purposes hereinafter contained.

ained.

ARTICLE III - RIGHT-OF-WAY AND EXCAVATION

A. Right-of Way. In order to meet the burden and responsibilities placed upon PNM by accepting this County electric franchise ordinance, PNM shall have the right during the term hereof to install, remove, change, alter, extend, lay, operate or maintain electric power plants, systems, lines, or other appurtenances as may be necessary for the proper operation of the system for the generation, transmission, distribution or sale of electricity for light, heat, power or any other useful service in, upon, across or under any alley, street, road, highway or other public place now or hereafter dedicated owned or controlled by the County; and PNM, without unreasonable obstruction of any alley or street, may place, construct, erect, maintain or operate substation sites, or other equipment, devices and

1 appurtenances upon PNM property as may be necessary for the proper operation
2 and maintenance of the electric system.

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

13 ARTICLE IV - PROTECTION OF PROPERTY

14 PNM and the County recognize the necessity to take all reasonable precautions
15 for the protection of PNM's properties. PNM agrees, in the course of its business,
16 to provide such protective rules and facilities as may be reasonable required in the
17 circumstances. The County agrees to cooperate with PNM by enacting all necessary
18 and requisite ordinances to provide the aforementioned protection of property of
19 PNM and, as well, such police protection or other protections as may be reasonably
20 required by PNM.

21 ARTICLE V - RELOCATION OF ELECTRIC FACILITIES

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

27 ARTICLE VI - APPLICABILITY OF COUNTY ORDINANCE INCLUDING COUNTY 28 GENERAL PLAN COUNTY LAND DEVELOPMENT CODE, and ORDINANCE NO.

1 Company shall conform the planning, construction, and operation of the
2 electric system to all valid applicable ordinances of the County, including but
3 not limited to the County General Plan and the Land Development Code and
4 Ordinance No. 1979-1 as they may be adopted and amended by the County.

5 ARTICLE VII - RELATION OF PARTIES

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

9 ARTICLE VIII - FORFEITURE

10 If PNM or the County shall fail to faithfully perform the obligations of the
11 County electric franchise ordinance with respect to any of the provisions set forth
12 herein, then and in such event, the County electric franchise ordinance shall become
13 subject to forfeiture. It is further agreed that any failure to comply with the
14 provisions of the County electric franchise ordinance which results from an "Act of
15 God", or to circumstances beyond the control of PNM, shall not be cause for forfeiture
16 within the contemplation of this section.

17 ARTICLE IX - ACCEPTANCE

18 PNM shall, within thirty (30) days after the passage and approval of the
19 County electric franchise ordinance, file in the office of the County Clerk of the
20 County a written statement of acceptance duly signed and acknowledged by the
21 proper officers of PNM authorized to execute such acceptance and, when accepted,
22 the County electric franchise ordinance shall be a contract duly executed by and
23 between the County and PNM.

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

ARTICLE X - TERM OF COUNTY ELECTRIC FRANCHISE

25 All grants and privileges herein granted and conferred upon PNM shall continue
26 in full force and effect for the period of twenty-five (25) years from and after the
27 effective date of this County electric franchise ordinance.

ARTICLE XI - AMENDMENTS

Any time during the term of the County electric franchise ordinance, either

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

6 **ARTICLE XII - CAPTIONS, ARTICLE NUMBERS AND SECTION NUMBERS**

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

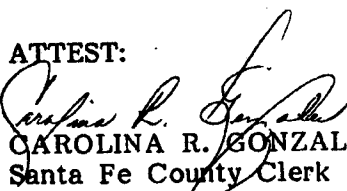
12 DATED, SIGNED, PASSED and APPROVED this 8th day of December, 1980.

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14
15 **BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY**

16 by: 
17 **BENNIE J. CHAVEZ, Chairman**

18 This Ordinance was recorded in the Santa Fe County Ordinance Book No.
19 pg. on ,1980.

20
21 **ATTEST:**

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

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26 **PUBLIC SERVICE COMPANY OF NEW
MEXICO**

27 by: 

28 **ATTEST:**


SECRETARY

1 STATE OF NEW MEXICO)
2 COUNTY OF SANTA FE) ss
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4 I, CAROLINA R. GONZALES, Clerk of the County of Santa Fe,
5 New Mexico, hereby certify that the above foregoing Acceptance
6 of the County Electric Franchise Ordinance, Ordinance No.
7 1980-_____ by Public Service Company of New Mexico was received
8 and duly filed in the Records of my office as Clerk of the County
9 of Santa Fe, New Mexico, on the 5th day of January, 1980. 1981
10 Executed under my hand and seal of the County of Santa Fe,
11 New Mexico, this 5th day of January, 1980. 1981
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Carolina R. Gonzales
CAROLINA R. GONZALES, Clerk
County of Santa Fe

COUNTY OF SANTA FE ISS
STATE OF NEW MEXICO 1471392
I hereby certify that this instrument was filed
for record on the 5 day of Jan, A.D.,
1981, at 9.03 o'clock A.M.,
and was duly recorded in book 413
page 220-226 of the records of Santa Fe County.

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

Steve Varela
Deputy



PUBLIC SERVICE COMPANY OF NEW MEXICO

Post Office Box 1268 / Santa Fe, New Mexico 87501

December 22, 1980

Board of County Commissioners
County of Santa Fe
Post Office Box 276
Santa Fe, New Mexico 87501

Gentlemen:

In negotiating the County Electric Franchise, the County expressed its desire to have PNM pay the County a county franchise fee for the electric franchise. PNM has in the past rejected and continues to reject the payment of any fees to a county government which are in the nature of a franchise tax. However, during the course of the county electric franchise negotiations there were discussions concerning an understanding with respect to a county overhead streetlight agreement.

PNM is willing to enter into an agreement with the County in which PNM agrees to maintain existing county overhead streetlights which are located within the area in which PNM operates within Santa Fe County. PNM will provide repair, maintenance and new parts as necessary to maintain the existing overhead streetlights for an amount up to but not to exceed One Thousand Dollars (\$1,000) for each calendar year for a period of twenty-five years. The value of the repair, maintenance and parts provided shall be the value determined by PNM in its sole discretion provided that the value of those services shall represent the reasonable value of such services rendered or the reasonable value of those parts provided. All amounts for repair and maintenance service required and provided in excess of \$1,000. per year shall be billed to the County and the County shall remit within 30 days after billing.

The County shall be obligated to pay PNM for the electrical service to operate the overhead streetlights based upon the tariffs then in effect as approved by the New Mexico Public Service Commission.

Consistent with discussions between PNM and the County, it is hoped that this agreement will have the

Board of County Commissioners
December 22, 1980
Page Two

effect of providing the needed streetlight maintenance to better provide lighting to the citizens of the County of Santa Fe.

If this understanding meets with your approval, we would respectfully request that you sign below to indicate your acceptance of our understanding.

Sincerely,

Public Service Company of N.M.

By *Payne R. Hamerly*

cc: Carlos Martinez, County Manager
Earl Potter, County Attorney

Approved by Board of County Commissioners for the
County of Santa Fe by:

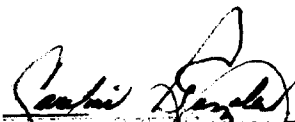
Date 12-8-80

Benny Chavez
Benny Chavez
Chairman

400173

This ordinance was recorded in the Santa Fe
County Ordinance Book on MAY 12, 1980, 1980.

ATTEST:

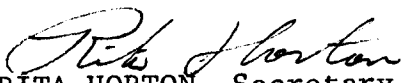

CAROLINA GONZALES
Santa Fe County Clerk



THE ABOVE IS ACCEPTED AND APPROVED by ESTRANOSA
WATER CORPORATION, a New Mexico corporation, this 12TH
day of MAY, 1980.

By 
TOM HORTON, President

ATTESTED TO:

By 
RITA HORTON, Secretary

COUNTY OF SANTA FE)
STATE OF NEW MEXICO)

I hereby certify that this instrument was filed
for record on the 22nd day of May, A.D.,
1980, at 1:35 o'clock P.M.,
and was duly recorded in book 400
page 166 of the records of Santa Fe County.

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


Deputy

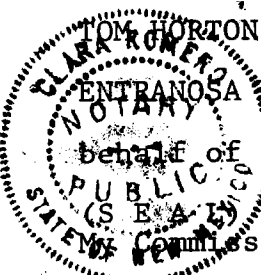
ACKNOWLEDGMENT FOR CORPORATION

STATE OF NEW MEXICO)
COUNTY OF SANTA FE) ss.

The foregoing instrument was acknowledged before
me this 19th day of May, 1980, by

TOM HORTON, President, and RITA HORTON, Secretary, of
ESTRANOSA WATER CORPORATION, a New Mexico corporation, on
behalf of said corporation.

My Commission Expires:




NOTARY PUBLIC

3-19-83

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ACCEPTANCE OF FRANCHISE

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KNOW ALL MEN BY THESE PRESENTS:

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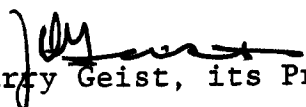
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25

That in compliance with Article IX of the County electric franchise ordinance No. 1980-8 heretofore adopted and passed by the Governing Body of the County of Santa Fe, New Mexico, on the 8th day of December, 1980, Public Service Company of New Mexico, grantee therein, does hereby accept the County Electric Franchise Ordinance thereby granted, together with all terms and provisions stated therein.

This acceptance is to be effective on Dec. 23rd, 1980, with the intent that it be filed with the Clerk of the County of Santa Fe, New Mexico, as required by the County Electric Franchise Ordinance.

PUBLIC SERVICE COMPANY OF NEW MEXICO

By: 
Jerry Geist, its President

ATTEST:


SECRETARY
STATE OF NEW MEXICO)
COUNTY OF SANTA FE) ss

The foregoing instrument was acknowledged before me this 30th day of December, 1980, by Jerry Geist of the Public Service Company of New Mexico, a New Mexico Corporation, on behalf of said corporation.


Notary Public

My Commission expires:

September 26, 1982

1 STATE OF NEW MEXICO)
2 COUNTY OF SANTA FE) ss

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4 The foregoing instrument was acknowledged before me

5 this 30th day of December, 1980, by

6 *Jerry Gist* of Public Service

7 Company of New Mexico, a New Mexico Corporation, on behalf of

8 said corporation.

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Raney K. Anderson
Notary Public

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My Commission Expires:

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September 30, 1982

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