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ORDINANCE NO. 28 - 1946

AN ORDINANCE GRANTING TO PUBLIC SERVICE COMPANY OF COLORADO, A CORPORATION ORGANIZED AND EXISTING UNDER AND BY VIRTUE OF THE LAWS OF THE STATE OF COLORADO, ITS SUCCESSORS AND ASSIGNS, THE RIGHT, PRIVILEGE AND AUTHORITY TO ERECT, CONSTRUCT, MAINTAIN AND OPERATE A SUBSTATION OR SUBSTATIONS, ELECTRIC LIGHT AND POWER PLANTS, TRANSMISSION LINES, AND A DISTRIBUTION SYSTEM FOR THE DISTRIBUTION AND SALE OF ELECTRICITY WITHIN THE CORPORATE LIMITS OF THE TOWN OF HILLROSE, MORGAN COUNTY, COLORADO

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF HILLROSE, MORGAN COUNTY, COLORADO:

ARTICLE I.

The word "Town", as hereinafter employed, shall designate the Town of Hillrose, Morgan County, Colorado, the grantor, and the word "Company" shall designate the Public Service Company of Colorado, a corporation, its successors and assigns, the grantee.

ARTICLE II.

Section 1. That there be and hereby is granted to the Company, the right, privilege and authority to erect, construct, maintain, extend and operate within the corporate limits of said Town and any future additions thereto, one or more electric substations, electric light and power plants, with the transmission and distribution system appertaining thereto, of as large capacity as the Company may deem advisable or necessary, for which purpose said Company is hereby further granted the right, privilege and authority of installing, operating upon, across, along, under and over any and all streets, alleys and public grounds of the Town, transmission and distribution equipment, consisting of underground conduits, poles and cross arms, underground or overhead wires and cables, transformers and all other appliances necessary or convenient for the generation, sale, transmission, distribution and delivery of electricity, electrical current and power, within the corporate limits of the Town, or any future addition thereto, for light, heat, power or any other purpose, for the use of said Town, and

the inhabitants thereof, and any person, persons or corporation in or doing business in said Town, or the vicinity thereof, or in any future addition thereto.

Section 2. That there be and hereby is further granted to the Company, the right, privilege and authority, in the erection, construction, operation and maintenance of its said electrical plant or plants, to bring into the corporate limits of said Town, transmission lines or wires from outside said corporate limits or any addition thereto, and to transmit and distribute the same within the corporate limits of said Town, or any addition thereto, or outside thereof, and to extend and transmit the same through the corporate limits of said Town, or any addition thereto.

Section 3. The location of all such structures, apparatus and equipment of the Company shall be such as not to interfere unnecessarily with the use of streets and alleys for traffic, nor with the use of any gate, coal chute, manhole, door or other aperture in any fence or building, or to interfere with the rights or reasonable convenience of property owners adjoining any of the said streets or alleys; and should it become necessary to interfere with any sidewalk or pavement, or other public or private improvement, the Company shall repair such sidewalk, pavement or other improvement, and leave it in as good order and condition as it formerly was; and all of said structures, apparatus and equipment shall at all times be subject to such police power, reasonable dominion and regulations as the Town Board may by Resolution or Ordinance hereafter provide.

Section 4. The Company shall have the right, power and authority to employ any means to secure and acquire power to operate any of its structures or plants, and to generate, supply and furnish electricity, electrical current and power to said Town, and the inhabitants thereof.

Section 5. That the Company shall so maintain its structures, apparatus and equipment, as to afford all reasonable protection against injury or damage to persons or property therefrom;

and the Company shall save the Town free and harmless from all liability or damage accruing against said Town, by reason of the Company's exercise of rights and privileges granted by this ordinance.

Section 6. In consideration of the granting of this franchise, the Company will maintain twenty-four (24) hour electric service except when prevented from so doing by acts of God, unavoidable accidents, strikes, or other causes beyond its control, in which event the Company shall restore its service as promptly as possible and will supply and distribute electricity for lighting, heating, power and other lawful purposes to the Town and its inhabitants.

Section 7. The Company shall at all times maintain its property in said Town at the highest practical efficiency and in good operating condition, and continuously furnish an ample supply of standard electric energy to all its customers. The Company shall make reasonable extensions of its lines to serve customers in said Town.

ARTICLE III.

Section 1. It shall be unlawful for any person to cut or raise any wires or remove any poles, or in any other way interfere with any of the Company's structures, apparatus, equipment or lines without first giving the Company forty-eight hours' notice of such desire or intention, stating the time and place where such wires are to be cut or raised, or poles removed, or structures, apparatus or equipment interfered with, in order that the Company may arrange to perform or oversee such work, and the Company may demand and receive reasonable compensation or damages therefor, before such work is undertaken or prosecuted.

ARTICLE IV.

Section 1. Upon the expiration of five years from the date when this franchise becomes effective, either the Town or the Company, upon and after sixty days' written notice to the other, may demand and receive a readjustment of the rates hereinafter specified if warranted by then existing conditions. Provided, however, that the provisions of this Article IV, Section 1, shall not be construed to

prevent a readjustment of rates at an earlier date, as provided in Article VI, Section 1, hereof, and provided further that the readjustment of rates as provided in this Article IV, Section 1, shall be subject to regulation by any lawfully constituted authority in the manner provided by law.

ARTICLE V.

Section 1. In consideration of and as compensation for the granting of this franchise, the Company will supply and distribute electricity for lighting, heating, power and other lawful purposes to the Town and its inhabitants at fair and reasonable rates, which rates shall be subject to regulation as provided by law.

Section 2. The Company may promulgate such terms and conditions governing the utilization of its electricity, and the interference with, or alteration of any of the Company's property upon the premises of its customers, as shall be necessary to insure a continuous and uninterrupted service to each and all of its customers and the proper measurement thereof. Upon violation by any customer of such terms and conditions or upon refusal or failure of any customer to pay the Company's bill within two weeks from the date upon which said bill shall have been rendered, the Company may discontinue service to such customer, and may enter upon the premises of such customer, and remove therefrom the Company's meter or meters and other appliances owned by it, and its service wires to such premises, and shall not resume service to such customer until the violation of its rules shall have ceased, or until any fault or defect in the customer's apparatus, wiring or appliances shall have been corrected, or any arrears in the customer's indebtedness to the Company shall have been fully paid.

ARTICLE VI.

Section 1. This ordinance shall be in full force and effect from and after its passage, approval and publication, as by law required, and acceptance and approval thereof in writing by the Company within thirty (30) days from and after said publication.

Section 2. This Ordinance shall remain in full force and effect and the terms, conditions and covenants thereof shall endure for a period of twenty years from and after.

Section 3. This ordinance shall be of no force or effect unless the Company shall accept the same within a period of thirty (30) days from and after the date when this ordinance shall have been properly and legally passed and adopted.

Section 4. Upon expiration of this franchise, if the Company shall not have acquired an extension or renewal thereof and accepted same, it may have, and it is hereby granted, the right to enter upon the streets, alleys and other public places of the Town, for the purpose of removing therefrom any or all of its substations, structures, apparatus and equipment, transmission and distribution system and appliances, poles and wires pertaining thereto, at any time after the Town has had ample time and opportunity to purchase, condemn or replace them. In so removing its transmission and distribution system and appliances pertaining thereto, the Company shall, at its own expense, refill any excavations that shall be made by it, and shall leave such streets, all alleys and other public places in as good condition as that prevailing prior to the Company's removal of its equipment and appliances.

Section 5. Nothing in this ordinance shall be so construed as to prevent the Company from assigning all of its rights, title or interest, gained or authorized under or by virtue of the terms of this ordinance.

ARTICLE VII.

Section 1. It is understood that if the United States Government, through the United States Bureau of Reclamation or other governmental agency supplies electric energy, other than dump power, to the Company with which the Town can be served, at lower rates than the present rate schedule of said Bureau of Reclamation, the Company will reduce its charges to the Town and all consumers in the Town in such percentages as will give full effect to such reduction so that the full benefit of such reduction to the Company shall be promptly

and directly passed on to the consumers by new schedule of rates to be adopted by the Board of Trustees of the said Town of Hillrose.

ARTICLE VIII.

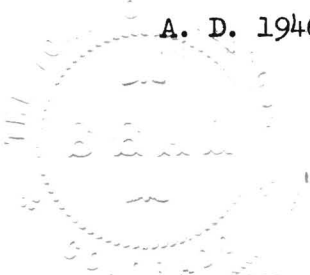
Section 1. As a further consideration for this franchise, including all occupancy rights, and in lieu of all occupancy and license taxes, or other levies that might be imposed, the Company shall, annually, pay to the Town a sum equal to one percent (1%) of its gross earnings derived from its operations within the corporate limits of the Town, excluding the amount received from the Town, itself, for electricity furnished for street lighting, or other purposes. Such payments shall be made on or before the first day of _____ of each year for the calendar year next previous, including the portions of the years at the beginning and expiration of this franchise.

Section 2. It is hereby agreed that the amount above specified shall be and hereby is accepted by the Town in lieu of any and all license or occupation taxes, and all other special taxes, assessments or excises upon the poles, wires or other property of the Company either as a franchise tax, occupancy tax, license tax, or for the inspection of poles, wires, or other property of the Company, or otherwise. For the purpose of ascertaining or auditing the correct amount to be paid under the provisions of this paragraph, the Town Clerk and/or any committee appointed by the Town Board of said Town shall have access to the books at the local office of said Company in said Town for the purpose of checking the gross income received from operations within said Town.

Passed, adopted and approved this

1st day of *July*

A. D. 1946.


W. Schlatter

Mayor

ATTESTED:

[Signature]

Town Clerk and Recorder