

ORDINANCE NO. 103-51

AN ORDINANCE GRANTING A FRANCHISE BY THE TOWN OF LA JARA, CONEJOS COUNTY, COLORADO, TO PUBLIC SERVICE COMPANY OF COLORADO, ITS SUCCESSORS AND ASSIGNS, TO LOCATE, BUILD, CONSTRUCT, ACQUIRE, PURCHASE, MAINTAIN AND OPERATE INTO, WITHIN AND THROUGH THE TOWN OF LA JARA, A PLANT OR PLANTS, SUBSTATIONS, AND WORKS, FOR THE PURCHASE, GENERATION, TRANSMISSION AND DISTRIBUTION OF ELECTRICAL ENERGY, AND TO FURNISH, SELL AND DISTRIBUTE SAID ELECTRICAL ENERGY TO THE TOWN OF LA JARA, AND THE INHABITANTS THEREOF, FOR LIGHT, HEAT, AND POWER OR OTHER PURPOSES BY MEANS OF CONDUITS, CABLES, POLES AND WIRES STRUNG THEREON, OR OTHERWISE, ON, OVER, UNDER, ALONG, ACROSS AND THROUGH ALL STREETS, ALLEYS, VIADUCTS, BRIDGES, ROADS, LANES, AND OTHER PUBLIC WAYS AND PLACES IN SAID TOWN OF LA JARA, AND FIXING THE TERMS AND CONDITIONS THEREOF.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF LA JARA, CONEJOS COUNTY, COLORADO:

ARTICLE I.

Whenever the word Town, is hereinafter employed, it shall designate the Town of La Jara, Conejos County, Colorado, the grantor, and whenever the word Company is used it shall designate not only Public Service Company of Colorado, a Colorado corporation, the grantee, but also its successors and assigns.

ARTICLE II.

Section 1. There is hereby granted to the Company the right, privilege and authority to locate, build, construct, acquire, purchase, extend, maintain and operate into, within and through said Town a plant or plants, substations, and works, for the purchase, generation, transmission and distribution of electrical energy, with the right and privilege for the period and upon the terms and conditions hereinafter specified to furnish, sell and distribute said electrical energy to the Town and the inhabitants thereof, for light, heat and power or other purposes, by means of conduits, cables, poles with wires strung thereon, or otherwise, on, over, under, along, across and through any and all streets, alleys, viaducts, bridges, roads, lanes, and other public ways and places in said Town and on, over, under, along, across and through any extension,

connection with or continuation of the same and/or on, over, under, along, across and through any and all such new streets, alleys, viaducts, bridges, roads, lanes and other public ways and places as may be hereafter laid out, opened, located or constructed within the territory now or hereafter included in the boundaries of said Town.

Section 2. The Company is further granted the right, privilege and authority to excavate in, occupy and use any and all streets, alleys, viaducts, bridges, roads, lanes, and other public ways and places under the supervision of properly constituted authority for the purpose of bringing electrical energy into, within and through the Town of La Jara and supplying electrical energy to said Town and inhabitants thereof and in the territory adjacent thereto, provided, however, that the Company shall so locate its plants, substations, works, transmission and distribution structures, lines, equipment and conduits within said Town as to cause minimum interference with the proper use of streets, alleys and other public ways and places and to cause minimum interference with rights or reasonable convenience of property owners whose property adjoins any of the said streets, alleys or other public ways and places. Should it become necessary for the Company, in exercising its rights and performing its duties hereunder, to interfere with any sidewalk, pavement or any other public or private improvement, the Company shall repair in a workmanlike manner such sidewalk, graveled or paved street, road, alley, or other public improvement after the installation of its poles, conduits or other structures. The Company shall use due care not to interfere with or damage any water mains, sewers, or other structures now or which may hereafter be placed in said streets, alleys or other public places.

Section 3. The Company shall so maintain its structures, apparatus, equipment, poles, wires and conduits as to afford all reasonable protection against injury or damage to persons or property therefrom, and the Company shall save the Town harmless from all liability or damage and all reasonable expenses necessarily accruing against the Town arising out of the negligent exercise by the Company of the rights and privileges hereby granted; provided, that the Company shall have had notice of the pendency of any action against the Town arising out of such exercise by

the Company of said rights and privileges and permitted at its own expense to appear and defend or assist in the defense of the same.

Section 4. If at any time it shall be necessary to change the position of any pole, conduit or service connection of the Company to permit the Town to lay, make or change street grades, pavements, sewers, water mains or other Town works, such changes shall be made by the Company at its own expense.

Section 5. The Town shall have the right, without cost, to use all poles of the Company within said Town for the purpose of stringing wires thereon for its fire alarm and police signal systems; provided, however, the Company assumes and shall be subject to no liability and shall be subject to no additional expense in connection therewith. It is further provided that the use of said poles by said Town shall not interfere in any unreasonable manner with the Company's use of same.

#### ARTICLE III.

Section 1. The Company shall furnish electrical energy within the corporate limits of the Town or any addition thereto, to the Town, and to the inhabitants thereof, and to any person or persons or corporation doing business in the Town or any addition thereto, at the rates and under the terms and conditions set forth in the Rate Schedules, Standards for Service, Rules and Regulations, and Service Connection and Extension Policies, filed with or fixed by the Public Utilities Commission of the State of Colorado, or by any other competent authority having jurisdiction in the premises.

Section 2. The Company shall not, as to rates, charges, service, facilities, rules, regulations or in any other respect make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage, provided that nothing in this grant shall be taken to prohibit the establishment from time to time of a graduated scale of charges and classified rate schedules to which any customer coming within an established classification would be entitled.

Section 3. Company will from time to time during the term of this franchise make such enlargements and extensions of its distribution system as the business of the Company and the growth of the Town justify, in accordance with its Standards for Service, Rules and Regulations and Service Connection and Extension Policies for electric service concurrently in effect and on file with the Public Utilities Commission of the State of Colorado or other competent authority having jurisdiction in the premises.

Section 4. The Company, from time to time, may promulgate such rules, regulations, terms and conditions governing the conduct of its business, including the utilization of electrical energy and payment therefor, 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 the customers and the proper measurement thereof and payment therefor, provided that the Company shall keep on file in its office at La Jara, Colorado, available to the public, copies of its Rate Schedules, Standards for Service, Rules and Regulations and Service Connections and Extension Policies concurrently in effect and as filed with the Public Utilities Commission of the State of Colorado or other competent authority having jurisdiction in the premises. Copies thereof shall also be filed with the Town Clerk.

#### ARTICLE IV.

Section 1. As a further consideration for this franchise, and accepted by the Town in lieu of all occupancy and license taxes and all other special taxes, assessments or excises upon the conduits, poles, wires or other property of the Company, or other levies that might be imposed, either as a franchise tax, occupancy tax, license tax, permit charge, or for the inspection of meters, poles, conduits, or other property of the Company, or otherwise, the Company shall pay to the Town a sum equal to one percent (1%) of its gross revenue derived from the sale of electricity within the corporate limits of the Town for electrical energy furnished for light, heat or power, or other purposes excluding the amount received from the Town itself for electric service furnished

it and after adjustment for the net write-off of uncollectible accounts and corrections of bills theretofore rendered. Such payment shall be made on or before the first day of March of each year for the calendar year next previous. 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 Board of Trustees of said Town shall have access to the books of said Company for the purpose of checking the gross income received from operation within said Town.

#### ARTICLE V.

Section 1. This Ordinance shall be in full force and effect from and after its passage, approval and publication, as by law required, upon acceptance thereof in writing by the Company on or before the tenth day after said publication, and the terms, conditions and covenants hereof shall remain in full force and effect for a period of twenty-five (25) years from and after such passage, approval and publication, and acceptance thereof.

Section 2. Upon the 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, bridges, viaducts, roads, lanes and other public places of the Town, for the purpose of removing therefrom any or all of its plants, structures, conduits, cables, poles and wire, or equipment pertaining thereto, at any time after the Town has had ample time and opportunity to purchase, condemn or replace them. In so removing said conduits, cables, poles and wire, the Company shall, at its own expense and in a workmanlike manner, refill any excavations that shall be made by it in the graveled or paved streets, alleys, bridges, viaducts, roads, lanes and other public places, after the removal of its poles, conduits or other structures.

Section 3. 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.

Section 4. The right is hereby reserved to the Town to adopt, from time to time, in addition to the provisions herein contained, such ordinances as may be deemed necessary in the exercise of its police power,

provided that such regulations shall be reasonable and not destructive of the rights herein granted, and not in conflict with the laws of the State of Colorado, or with orders of other authorities having jurisdiction in the premises.

INTRODUCED, READ AND ORDERED PUBLISHED, the 12th day of June, A. D. 1951.

J. W. Braiden  
Mayor.

ATTEST:

Bonnie J. Sullivan  
Town Clerk.