

ELECTRIC FRANCHISE ORDINANCE

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CITY OF BELLS, TEXAS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLS, TEXAS:

1. Parties. The City of Bells, Texas, herein called the City, a municipal corporation created under Title 28 of the Texas Revised Civil Statutes, hereby grants the nonexclusive right, privilege, and franchise herein stated to Texas-New Mexico Power Company, a corporation, its successors and assigns, herein called Grantee.

2. Nature of Grant. The city, acting pursuant to Title 28 of the Texas Revised Civil Statutes, and Article 1175 of said Statutes, hereby grants to Grantee a nonexclusive right, privilege, and franchise to erect, maintain, operate, and remove electric lines and pertinent facilities over, under, across, upon, and along the streets, alleys, and other public property within the City.

3. Purpose. This franchise is granted for the purpose of providing the City, and its inhabitants, with electric service within the City's territorial limits and adjacent areas and transporting electric energy to, from, and through the City's territorial limits.

4. Term. This franchise shall exist for a term of Thirty (30) years from date of passage.

5. Location of Facilities. Grantee's poles and other facilities shall be placed and erected in such manner as not to interfere with traffic, and the location, relocation, construction, and manner of erection of such poles and facilities shall at all times be subject to the police power of the City.

6. Relocation of Facilities. Grantee, whenever ordered to do so by the governing body of the City, shall at its own expense change, rearrange, relocate, alter or remove any of Grantee's Facilities maintained by Grantee under this

Franchise when the changing rearranging, relocation, altering or removal thereof may be reasonably necessary in the reconstruction or construction of any public work or project or public improvement undertaken or directed by the City, alone or jointly. The City acknowledges that any modifications to the Grantee's Facilities may affect the safety and reliability of electric transmission and delivery within the City and the City hereby agrees to consult with Grantee on any such rearrangement, relocation, alteration or removal before ordering Grantee to do so.

Notwithstanding the foregoing, Grantee shall not be responsible for relocation costs:

- a) where by City application, specific monies can be and are obtained from federal and state sources for relocation costs, provided that no City matching funds would be required, the scope of the City project would not be diminished, and the City would not be required, to spend additional monies.
- b) if the specific excavation, construction or relocation is done to accommodate the actions or plans of private individuals or entities who are developing or intend to develop property, then such private individuals or entities shall be responsible for the relocation costs, provided that in no event shall the City be liable for such relocation costs; or
- c) state or federal law requires the City to pay for such relocation.

7. Excavation and Obstructions. Any and all excavations and obstructions in and upon the streets, alleys, and other public places in the City caused by Grantee's operations under this Ordinance shall be repaired and removed as quickly as is reasonably possible, under the circumstances.

8. Indemnity. The Grantee shall hold the City harmless from any liability arising from any negligent act, or omission of the Grantee in the erection, maintenance, and operation of its facilities in the city.

8. Compensation: As authorized by Section 33.008(b) of the Texas Utility Code, compensation for the right, privilege, and franchise herein conferred, Guarantee shall pay to the City for each calendar quarter, or portion thereof, during the term of this franchise, a fee for the use of the public streets based on all kilowatt hours (kWh) delivered within the City limits regardless of customer class. The charge per delivered kWh shall be determined by (1) dividing the total electric franchise fee revenue for calendar year 1998 by the total number of kWh delivered to all customers within the City limits in 1998 and (2) multiplying the charge per kWh determined for 1998 by the number of kWh delivered within the City during each calendar quarter. Grantee calculated that charge to be \$0.0015881 per kWh. The charge herein made shall be in lieu of, to the extent permitted by law, any other charges or fees of any kind by the City based on, connected with, or incident to the exercise of the non-exclusive rights, privilege, and franchise herein granted.

9. Prior Ordinances Repealed. Those certain Electric Franchise Ordinances, each granting a franchise to Texas-New Mexico Power Company, adopted on October 25, 1960, and on May 25, 1981, are hereby superseded and repealed.

10. Adoption. Passed and adopted with all necessary procedural formalities by the City Council of the City of Bells, Texas, at a regular meeting held at the regular place, at which meeting a quorum was present throughout, and approved by the Mayor, on this 5 day of July, 2011.

Gay Martin
Mayor

Attest.
Anna Duvell
City Secretary

THE STATE OF TEXAS

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I, Joanna Duevel, City Secretary of the City of Bells, Texas, do hereby certify that the above and foregoing is a true and correct copy of an Ordinance of the City of Bells, duly passed by the City Council and approved by the Mayor on the 5 day of July, 2011, and now appearing on the records of Ordinances of the City of Bells, Texas.

GIVEN UNDER BY HAND AND SEAL of the City of Bells, Texas, this 5 day of July, 2011.

Joanna Duevel
City Secretary