

TRUSTEES' RESOLUTION

RESOLUTION NO. 90-6

No. \_\_\_\_\_  
Series of 1990

\_\_\_\_\_ Series of 1990

TITLE: RESOLUTION APPROVING THE ASSIGNMENT OF FRANCHISE BY PUBLIC SERVICE COMPANY OF COLORADO TO UNITED POWER, INC., FORMERLY UNION RURAL ELECTRIC ASSOCIATION, INC. FOR ELECTRIC UTILITY SERVICE WITHIN THE TOWN OF HUDSON.

WHEREAS, the Town of Hudson, Weld County, Colorado ("Town"), has the power to grant a franchise for electric service within the Town; and

WHEREAS, by Ordinance No. 83-7, as amended by Ordinance No. 89-1, the Town awarded a franchise for electric service to Public Service Company of Colorado ("PSCo") for all areas located within the Town; and

WHEREAS, pursuant to Article V, Section 4, of Ordinance No. 89-1, PSCo has assigned all of its rights as a franchisee to United Power, Inc., formerly Union Rural Electric Association, Inc. ("United") pursuant to an assignment, a copy of which is attached hereto as Exhibit A; and

WHEREAS, PSCo and United request the approval of said assignment by the Town with United to take over and become the franchisee under the franchise upon cutover of service; and

WHEREAS, United has agreed that upon its taking over service the franchise ordinance should be amended to incorporate more modern terms and conditions found in electric franchises from the cities of the northern metropolitan area; and

WHEREAS the Town, having heard and considered the presentations of PSCo and United, believes it in the best interest of citizens of the Town that the assignment be approved with the understanding that the Town's franchise ordinance will be so amended.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF HUDSON, COLORADO, THAT:

1. The Town hereby approves PSCo's assignment to United of PSCo's franchise held pursuant to Ordinance No. 83.7, as amended by Ordinance No. 89-1, of the Ordinances of the Town of Hudson, Weld County, Colorado, with said assignment to be effective upon the cutover of service.
2. The Mayor and City Clerk are authorized and directed to execute the assignment attached as Exhibit A to indicate the Town's approval to said assignment with the understanding that the

franchise ordinance and agreement will be amended as hereafter set forth.

3. This approval is with the understanding and agreement of United that, after the effective date of assignment (the date of cutover of service to United), the franchise ordinance and agreement will be amended to make Union the franchisee and to incorporate the more modern terms and conditions found in franchise ordinances from the cities of the northern metropolitan area, such as Arvada, Brighton, Broomfield, and Commerce City. The amendments shall relate back to the effective date of the assignment. United shall pay the Town's copying and publishing costs incurred as a result of said amending ordinance.

4. It is the intent of the Board of Trustees of the Town that, upon cutover of service, PSCo will no longer have franchise obligations to render electric service within the Town.

SECONDED BY Board of Trustee Member Judith Parker.

INTRODUCED this 25<sup>th</sup> day of April, 1990.

BOARD OF TRUSTEES,  
TOWN OF HUDSON, COLORADO

Robert D. Masden

ROBERT MASDEN  
Mayor

ATTEST:

Shirley E. Robertson  
SHIRLEY ROBERTSON  
Town Clerk

PASSED ON FIRST AND FINAL READING THIS 25<sup>th</sup> day of April, 1990.

BOARD OF TRUSTEES,  
TOWN OF HUDSON, COLORADO

Robert D. Masden

ROBERT MASDEN  
Mayor

ATTEST:

Shirley E. Robertson  
SHIRLEY ROBERTSON  
Town Clerk

APPROVED AS TO FORM:

James S. Maloney  
JAMES S. MALONEY  
Town Attorney

ASSIGNMENT OF ELECTRIC FRANCHISE FROM THE TOWN OF HUDSON

This Assignment is made and entered into the day and year hereafter written by and between Public Service Company of Colorado ("PSCo") and United Power, Inc. ("United") as follows:

RECITALS

A. Pursuant to agreements, dated April 6, 1987, and February 23, 1990, PSCo and United have agreed to exchange exclusive electrical service territories certificated to each by the Public Utilities Commission of the State of Colorado ("PUC"). Part of the service territory to be transferred to United includes the Town of Hudson, Colorado ("Town").

B. PSCo, by Ordinance No. 83-7, passed, adopted, and approved December 14, 1983, as amended by Ordinance No. 89-1, adopted May 24, 1989, has been granted a nonexclusive franchise by the Town to provide electric service to the Town and its residents within the Town's boundaries ("Franchise").

C. Section 4 of Article V of the Franchise permits the transfer or the assignment of the franchise by PSCo. The parties shall seek the Town's approval of such assignment, which approval shall not be unreasonably withheld.

D. Pursuant to the Agreement, it is the mutual desire of the parties that PSCo assign the Franchise for electric service upon the terms hereafter set forth.

ASSIGNMENT

For good and sufficient consideration, including the mutual covenants contained herein, and pursuant to the February 23, 1990, Agreement of the parties,

PSCo hereby assigns and transfers unto United all its rights and duties as franchisee for electric service under the franchise for electricity granted to PSCo by Town pursuant to Ordinance No. 83-7, passed, adopted, and approved effective December 14, 1983, as amended by Ordinance No. 89-1, adopted May 24, 1989, subject to the following terms and conditions:

1. This Assignment shall be effective upon its approval by the Town and the cut-over of service responsibilities to United.

2. By acceptance of the Assignment, United, as of the effective date, assumes and agrees to perform all the duties of the franchisee under the Franchise, as amended, as they exist today or as they may be amended by subsequent lawful action.

3. This Assignment is without recourse against PSCo for the failure of United to perform any of the duties of the electric franchisee under the Franchise, as amended, from and after the effective date of the Assignment.

4. The Town approves this Assignment in writing, which approval is also an acknowledgment that, from and after the effective date of this Assignment, PSCo is released from compliance with the terms and conditions of the electric franchise, as amended, and that the Assignment is without recourse against PSCo for the failure of United to perform any of the duties of the electric franchisee under the franchise, as amended.

Each party represents to the other that it has obtained the appropriate corporate approval to make this agreement enforceable against it and that the individual signing on behalf of it is authorized to do so.

DATED this 6th day of April, 1990.

PUBLIC SERVICE COMPANY OF COLORADO

By: Clark B Ewald  
(Vice) President

Accepted and approved this 6th day of April, 1990.

UNITED POWER, INC.

By: James Boyd Jr.  
(Vice) President

Assignment is approved this 25<sup>th</sup> day of April, 1990.\*

TOWN OF HUDSON

ATTEST:

Shirley E. Robertson By: Robert D. Madd  
Town Clerk Mayor

\*With the agreement with United Power, Inc., that the franchise ordinance will be amended as provided in the Town's resolution of even date herewith.