

ORDINANCE NO. 83-7

AN ORDINANCE GRANTING AN ELECTRIC FRANCHISE BY THE TOWN OF HUDSON, WELD COUNTY, COLORADO, TO PUBLIC SERVICE COMPANY OF COLORADO, ITS SUCCESSORS AND ASSIGNS

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF HUDSON, WELD COUNTY, COLORADO:

ARTICLE I.

Whenever the word Town is hereinafter employed it shall designate the Town of Hudson, Weld 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. Grant of Authority. There is hereby granted to the Company the right, privilege and authority to locate, build, construct, acquire, extend, maintain and operate into, within and through said Town, a plant or plants, substations, and works, for the generation, manufacture, transmission and distribution of electrical energy for light, heat and power or other purposes, with the rights and privileges for the period and upon the terms and conditions hereinafter specified to furnish and sell electrical energy to the Town, and the inhabitants thereof, 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. Manner of Use - Repair. 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 and supplying electrical energy to said Town and the inhabitants thereof and in the territory adjacent thereto. The Company shall so locate its plants, substations, works, and transmission structures, lines, equipment, and conduits within said Town so as to cause minimum interference with the proper use of streets, alleys and other public ways and places and to cause minimum interference with the 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.

ARTICLE IV.

Section 1. Franchise Payment. As a further consideration for this franchise, and accepted by the Town in lieu of all occupancy, occupation and license taxes or other taxes on the right to do business, or other special taxes, assessments or excises upon the property of the Company (except uniform taxes or assessments applicable to all taxpayers or businesses), the Company, pursuant to Section 40-3-106, Colorado Revised Statutes and orders of the Public Utilities Commission of the State of Colorado shall collect from its customers in the Town and pay to the Town a sum equal to three percent (3%) of its receipts from such customers for the sale of electrical energy within the corporate limits of the Town, except for electrical energy furnished to the Town for street lighting and all revenue received in excess of five-thousand dollars (\$5,000) annually from each customer at any one location. The term "receipts" as used herein shall be construed to mean any revenue derived under authorized rates, temporary or permanent, within the Town from the sale of electrical energy after the net write-off of uncollectible accounts and corrections to billings. The Company shall pay on or before January 31 and July 31, the franchise payment charges due for the immediately preceding 6 month calendar period ending December 31 and June 30, respectively. The Company shall promptly correct any overpayment and underpayment previously made. The Town shall have access to the books of the Company for the purpose of checking the gross revenue received from operations within said Town.

Section 3. Town Held Harmless. 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. The Company shall be given notice of the pendency of any action against the Town arising out of such exercise by the Company of said rights and privileges and shall be permitted at its own expense to appear and defend or assist in the defense of the same.

Section 4. Changes at Company Expense. 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 change street grades, or make street or sidewalk improvements, such changes shall be made by the Company at its own expense.

Section 5. Use of Poles by Town. The Town shall have the right, without cost, to use all poles of the Company of said Town for the purpose of stringing wires thereon for its fire alarm and police signal systems, providing this use of said poles by said Town shall not interfere with the Company's use of its poles and the Town saves the Company harmless from any claims or expense resulting from its use.

ARTICLE III.

Section 1. Rates - Regulation. The Company shall furnish electrical energy within the limits of the Town or any addition thereto, and to the inhabitants thereof, and to any person or persons or corporation doing business in the Town or any addition thereto, at the applicable and effective 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, as are from time to time filed with or fixed by The Public Utilities Commission of the State of Colorado.

ARTICLE V.

Section 1. Term - Effective Date. This franchise shall be for a twenty-five (25) year term commencing with the effective date of this ordinance.

Section 2. Removal. 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 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 may 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. Town's Authority Reserved. 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 authority, provided 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.

Section 4. Assignments. 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.

INTRODUCED, READ AND ORDERED PUBLISHED, this 14th day of Dec
December, 1983.

PASSED AND APPROVED, this 14th day of December,
1983.

Andra H. Bollers
Mayor

ATTEST:
Shirley E. Robertson
Town Clerk

343013

APPROVED
AS TO FORM
K S & O
BY M. DeRini