

## FRANCHISE ORDINANCE

An ordinance granting to the San Miguel Power Association, a Colorado Electrical Cooperative, herein sometimes referred to as Grantee, a franchise to provide electrical power to the residents and occupants of the Town of Ophir, Colorado and providing for the regulation of the Grantee's activities and the payment to the Grantee of certain sums as set forth herein.

Be It Ordained by the General Assembly of the Town of Ophir:

### ARTICLE 1

The Town of Ophir, acting by and through its general assembly, herein referred to as Grantor, hereby grants to the Grantee a franchise as set forth below.

### ARTICLE 2

This franchise is granted for an indefinite term, commencing with the date on which it is accepted in writing by the Grantee and ending at such time as all monies due to the Grantee hereunder have been paid in full.

Grantee shall file a written acceptance of this franchise with the Town Clerk, within 30 days after the date of this ordinance has been duly adopted by the Town of Ophir. The franchise shall go into effect only when such acceptance has been filed with the Town Clerk.

### ARTICLE 3

The kind and quality of service to be furnished by the Grantee hereunder shall conform in all respects to standard electrical engineering and operating practices, not less than, in any regard, to that furnished by Grantee to other municipalities in San Miguel County, Colorado.

### ARTICLE 4

All charges for electric service furnished hereunder shall be reasonable and shall be subject to the control of those entities or approvals as required by Colorado Law.

ARTICLE 5

All poles, towers, wires, transmission lines and other structures and appurtenances shall be erected so as not to interfere with traffic or the private use of property within the Town of Ophir. No pole, tower, structure or appurtenance shall be built or located within the Town of Ophir until Grantee obtains the written approval of the Town of Ophir, but such Town of Ophir approval shall not be unreasonably withheld so as to unduly interfere with the proper operation of the said lines, poles or structures.

ARTICLE 6

The Town of Ophir hereby reserves the right to purchase the property of said company used and useful in the Town of Ophir limits at any time during the life of this franchise by paying to the San Miguel Power Association just compensation as agreed upon by the parties hereto. In the event such parties cannot agree on the price therefor, then such compensation shall be determined in accordance with the resolution procedure set forth in the Colorado Uniform Arbitration Act.

ARTICLE 7

The Town of Ophir hereby establishes a franchise fee in the amount of 10% of the reasonable charges for electrical service, which fee shall be collected by San Miguel Power Association as a part of its normal billing procedures and collected from the individual users of San Miguel Power Association's services and power within the Town of Ophir. Those monies shall be earmarked for reimbursement to San Miguel Power Association for the costs of construction of a transmission line described in the agreement which is attached hereto and incorporated herein by this reference. This fee shall be payable entirely to San Miguel Power Association so long as it is collected until such time as Grantee has been reimbursed entirely for the difference in actual cost, but not interest or other charges, between building the 115 kilovolt transmission line in the location of the existing line located in the Town of Ophir and in the location shown in Exhibit A which is an attachment to the agreement which is attached hereto. SMPA shall keep such books and records as are sufficient to enable the Town of Ophir to verify that the reimbursement for the costs of such transmission line is being paid. The Town of Ophir, its

agents and employees shall have the right of full access to such records of Grantee as are necessary to show said reimbursement for the transmission line and such agents and employees shall have the right to examine the books and records of Grantee at any time without cost to the Town of Ophir.

ARTICLE 9

Grantee shall provide to the Town of Ophir a statement verified under oath, on an annual basis indicating the current status of the reimbursement and the total amount of revenues collected pursuant to this particular ordinance.

ARTICLE 10

Grantee shall hold the Town of Ophir, its agents, employees and officers harmless from any expense, claim, cause of action, or liability for any act or failure to act of Grantee, its agents, officers and employees, pursuant to the activities, operations and services authorized hereunder.

ARTICLE 11

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

ARTICLE 12

Grantor reserves the right to enforce reasonable regulations concerning the construction, operation and maintenance of any and all of the facilities, structures, or appurtenances of Grantee located within the boundaries of the Town of Ophir including the placement of all such facilities. Specifically, Grantee acknowledges that the Town of Ophir has previously adopted Ordinance No. 80-1 which provides for the undergrounding of electrical facilities in the Town of Ophir so long as said undergrounding is paid for by the users thereof. Grantee acknowledges that any additional construction, alteration or improvement of existing distribution lines are required to be undergrounded pursuant to said ordinance. Said undergrounding shall, in addition to compliance with the Town of Ophir ordinances, comply with applicable regulations of Grantee.

ARTICLE 13

This franchise only grants rights to Grantee for the distribution of electrical power in and to the Town of Ophir. No rights are granted herein for any transmission lines, structures, or facilities.

ARTICLE 14

At all times during the term hereof, Grantee shall, at its own expense, maintain in full force and effect general comprehensive liability insurance with an insurance company approved by the Town Clerk. The policy or policies shall be in a form satisfactory to the Town Attorney of the Town of Ophir. The coverage represented by said policy or policies shall be for the protection of Grantor, members of its boards and commissions, its officers, agents and employees against liability for loss or damages for bodily injury, death and property damage occasioned by the activities of the Grantee under this franchise. Minimum liability limits under the policy or policies are to be \$300,000.00 for personal injury or death of any one person and \$500,000.00 for personal injury or death of two or more persons in any one occurrence and \$1,000,000.00 for damage to property resulting from any one occurrence. The amount of the minimum liability limits under said policies shall be adjusted from time to time so that said minimum liability limits are sufficient to adequately protect the Town of Ophir, its agents, employees and officers. The policies mentioned in the foregoing paragraph shall each contain a provision that a written notice of cancellation or reduction in coverage of the policies shall be delivered to Grantor 30 days in advance of the effective date thereof.

ARTICLE 15

Grantee specifically agrees and covenants that it shall not charge rates for any services or supplies rendered pursuant to this franchise which are different than (or result in increased costs to the residents of the Town of Ophir) rates charged to other users of Grantee's services in San Miguel County, Colorado. Grantee specifically acknowledges that it shall not charge differential rates under the theory or authority that the Town of Ophir receives benefits different than those received by other users within its service area.