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UniSourceEnergy SERVICES

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2004 JUN 28 A 11: 28
AZ CORP COMMISSION
DOCUMENT CONTROL

June 24, 2004

Docket Control
Arizona Corporation Commission
1200 W. Washington
Phoenix, Arizona 85007

RE: Compliance Filing, Decision No. 66028, Docket No. E-01032C-00-0751, Docket No. G-01032A-02-0598, Docket No. E-01933A-02-0914, Docket No. E-01032C-02-0914, Docket No. G-01032A-02-0914.

Docket Control,

Decision No. 66028 requires UniSource Energy to "file copies of the franchises for its proposed operating company subsidiaries, ElecCo and GasCo, within 365 days of the Commission's Decision in this proceeding". This filing responds to that requirement.

The enclosed Nogales franchises have been approved by the City Council and agreed to by Unisource. These franchises will be placed on the September 7, 2004 ballot for public approval.

Please find enclosed one original and seventeen copies. If you have any questions, please call me at 520-745-3432.

Arizona Corporation Commission
DOCKETED
JUN 28 2004
DOCKETED BY

Sincerely,

Jason Musgrove
Regulatory Services Analyst

UniSource Energy

Subsidiary Franchises

TUCSON

ELECTRIC DISTRIBUTION AND TRANSMISSION FRANCHISE

A FRANCHISE TO TUCSON ELECTRIC POWER COMPANY, AN ARIZONA CORPORATION, ITS SUCCESSORS AND ASSIGNS, GRANTING THE RIGHT, PRIVILEGE, AND FRANCHISE TO CONSTRUCT, MAINTAIN, AND OPERATE UPON, OVER, ALONG, ACROSS, AND UNDER SPECIFICALLY ENUMERATED STREETS, AVENUES, ALLEYS, HIGHWAYS, BRIDGES, AND OTHER RIGHTS-OF-WAY IN THE CITY OF TUCSON, ARIZONA, ELECTRIC LINES, TRANSMISSION, AND DISTRIBUTION SYSTEM AND NECESSARY APPURTENANCES FOR THE PURPOSE OF SUPPLYING ELECTRICITY, TO THE CITY AND ITS SUCCESSORS, THE INHABITANTS THEREOF, AND PERSONS AND CORPORATIONS WITHIN THE LIMITS THEREOF; AND PRESCRIBING CERTAIN RIGHTS, DUTIES, TERMS, AND CONDITIONS.

SECTION 1. DEFINITIONS.

For the purposes of this Agreement, the following terms, phrases, words, and their derivatives shall have the meanings given in this Section. When consistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is mandatory and "may" is permissive. Words not defined in this Section or in A.R.S. §§ 40-201, et seq., shall be given their generally accepted meaning in the electric utility industry.

1. "Agreement" means this Franchise Agreement;

2. "Board" means the Dispute Resolution Board;

3. "City" means the City of Tucson;

4. "Committee" means the Utility Planning and Coordinating Committee;

5. "Company" means Tucson Electric Power Company, a corporation organized and existing under and by virtue of the laws of the State of Arizona, its successors, and assigns;

EXHIBIT 1 TO ORDINANCE NO. 9429

6. "Council" means the Mayor and Council of the City of Tucson;

7. "Electric Service Provider" (ESP) means a company supplying, marketing, or brokering at retail any competitive services pursuant to a certificate of convenience and necessity;

8. "Facility" means and includes, but is not limited to, electric works, systems, improvements, and equipment of the Company such as electric substations, boxes, conduits, transformers, wires, cables (including but not limited to fiber optic cable), poles, meters, and all necessary appurtenances thereto located within the geographical area as defined in Section 2;

9. "Member" means a member of the Committee;

10. "Right-of-way" means the surface, the air space above the surface and the area below the surface of any public streets, roadways, highways, avenues, lanes, alleys, courts, places, curbs, sidewalks, public utility easements, or other public ways in the City which have been or may hereafter be dedicated to or otherwise acquired by the City; and

11. "Wire" is inclusive of, but not limited to, fiber optic cable, radio frequency (RF) cable, and electrical wire or telephone/data cable.

SECTION 2. GRANT OF FRANCHISE.

There is granted to the Company the right, privilege, and franchise to construct, maintain, and operate upon, over, along, across, and under the present and future Right-of-way of the City an electric transmission and distribution system together with all necessary appurtenances for the purpose of supplying electricity to the City, its successors, its inhabitants, and all persons and corporations either within or beyond the

limits thereof. This grant shall extend to all Right-of-way as is now designated or may be designated in the future within the corporate limits of the City and any part thereof or as now located or as they may be hereafter altered or extended with the present or future limits of the City commonly or officially designated in part as those set forth upon the City of Tucson Zoning Maps described in Section 1.3.1 of the City Land Use Code as now in effect or hereafter amended. Nothing contained in this Agreement shall be construed to authorize the Company to engage in activities other than electric sales and transportation for service as established through the franchise to the City.

SECTION 3. NON-EXCLUSIVITY.

The right to use and occupy the Right-of-way for the purposes set forth in this Agreement is not and shall not be deemed an exclusive franchise. The City reserves the right to itself to make or grant a similar use in the Right-of-way to any person, firm, or corporation.

SECTION 4. EFFECTIVE DATE AND DURATION.

This Agreement shall become effective on April 15, 2001, after approval by a majority of the qualified electors residing within the corporate limits of the City and voting at a municipal election called pursuant to Article 13, § 4 of the Arizona Constitution, A.R.S. § 9-501, et seq., and Chapter XVII of the City Charter to be held in the City on November 7, 2000, for that purpose and shall continue until April 15, 2026. The Company shall file with the City, on or before the approval of this Agreement by the Council, its written acceptance of all terms, provisions, and conditions of this Agreement.

SECTION 5. RENEGOTIATION OF TERMS.

(a) Renegotiation. Five (5) years after the date upon which this Agreement becomes effective, or upon assignment of this Agreement pursuant to Section 25, the City or Company may request the renegotiation of the terms of the following sections: 9 (Office), 16 (Utility Planning), 17 (Construction, Maintenance, and Repair of Right-of-way), 20 (Permits and Licenses), and 21 (Undergrounding). If the Company refuses to enter into negotiations, the City may terminate this Agreement by giving written notice of termination to the Company. If the City terminates this Agreement pursuant to this Section, the Agreement ends on the anniversary date immediately subsequent to the notice of termination. The renegotiated provisions shall become effective immediately upon acceptance by the Company and approval by the Council.

(b) Impasse. In the event the parties to this Agreement reach an impasse after entering into negotiations, the issue may be referred to the Board for resolution. The recommendation of the Board is not binding on either party. If either party rejects the recommendation of the Board, the City may terminate this Agreement in accordance with Subsection (a).

SECTION 6. GEOGRAPHICAL SCOPE.

This Agreement shall extend to and include all those specific and particular streets, avenues, alleys, highways, bridges, and other Rights-of-way within the limits of the City, and any part thereof, either as now located and as they may be hereafter located, annexed, altered, or extended within the present or future limits of the City.

SECTION 7. THIRD PARTY ACCESS TO COMPANY'S SYSTEM.

(a) Access Requirements. Except as provided by Subsection (b), entities other than the City and Company may occupy or use the Company's Facilities only if:

1. the entity obtains the permission of the City and Company and pays all appropriate fees to the City;

2. such use or occupation of the Facilities by the entity does not interfere with the Company or City's use of the Facilities or the use of such Facilities by entities holding a valid franchise from the City;

3. such use or occupation does not endanger public health or safety; and

4. the entity indemnifies and holds the City and Company harmless for any such use or occupation and the Company incurs no additional expense in connection therewith.

(b) Access Allowed for Electric Service Providers. Subsection (a) does not apply to Electric Service Providers holding a valid certificate of convenience and necessity from the Arizona Corporation Commission and who use the Company's distribution system to deliver electricity to customers in the City.

SECTION 8. COMPANY STOCK.

The Company, or any entity holding this Agreement or doing any business hereunder, shall not issue any of its corporate stock on account of this grant. Any violation of the terms of this Section shall, at the option of the City and upon the passage of appropriate ordinance by the Council, operate as a forfeiture of this grant.

SECTION 9. OFFICE LOCATION AND SERVICE RESPONSE.

The Company shall maintain an office within the corporate limits of the City, provide a toll free telephone number, and shall provide prompt, reasonable responses to customers' service requests. The office must be sufficient in size and staffing to serve the needs of its customers throughout its service territory. The Company shall provide a 24-hour toll free telephone number for emergency use that is available seven (7) days a week.

SECTION 10. FRANCHISE FEE.

(a) Imposition of Fee. The Company agrees to pay the City a fee based upon the delivery of electricity to all customers within the present or any future corporate limits of the City and upon the delivery of electricity consumed by the City outside of its corporate limits. Subject to subsection (b), the structure of such fee is to be determined in accordance with Exhibit "A". The Company may credit against the fee the net write-off for uncollectible accounts and corrections of bills. Such payments are due and payable in quarterly installments to the City within thirty (30) days after the end of each quarterly period. The first payment made under this Subsection shall be due thirty (30) days after June 30, 2001.

(b) Revision of Fee. It is the intent of the parties that the fee imposed by Subsection (a) generates revenues in an amount no less than two and one quarter percent (2.25%) of the gross revenues (after adjustment for the net write-off of uncollectible accounts and correction of bills) of the sale and delivery of electricity from all sources within the corporate limits of the City and of the gross revenues of the sale and delivery of electricity from all sources consumed by the City outside of its corporate

limits (hereafter referred to at the "Intended Revenue Amount"). If, during any three (3) year time period in which this Agreement is in effect, the average amount of revenues generated by the fee imposed by Subsection (a) is less than ninety percent (90%) of what the Intended Revenue Amount would have been in the first year of the time period, then this Section and Exhibit "A" shall be renegotiated. This Section and Exhibit "A" shall be modified so that the revenues generated by such Exhibit are at least equal to the average of what the Intended Revenue Amount would have been during that time period.

(c) Public Benefits Fee.

(1) Imposition of Fee. Of the total revenues received by the City from the fee imposed by Subsection (a), one-ninth (1/9) of such revenues may be used in accordance with Paragraph (2).

(2) Use of Fee. The revenues described in Paragraph (1) may be appropriated by the Council to be used as follows:

(A) Low Income Assistance. To fund low-income energy assistance programs such as weatherization, residential lifeline service, senior discount, bill assistance, and rate discount programs.

(B) Undergrounding. To pay the City's share of electric transmission and distribution line undergrounding expenses incurred under Section 21.

(C) Renewable Energy Incentives. To fund programs designed to encourage the use of renewable energy.

(d) Lien. For the purpose of securing to the City the payments required to be made under this Section, the City shall have a lien and the same shall be charged upon all the property, estate, and effects of the Company in any form, real, personal, or mixed. The City may enforce this lien by civil action in a court of competent jurisdiction, but such lien shall be subordinate to any mortgages or deeds of trust securing any bona fide indebtedness.

SECTION 11. FRANCHISE AGREEMENT NOT IN LIEU OF OTHER FEES OR TAXES; TREATMENT OF PUBLIC UTILITY EASEMENTS.

(a) In General. The fee payments required by Section 10 and any other fees required to be paid under this Agreement shall not exempt the Company from the payment of any other license fee, permit fee, tax of any nature, or charge on the business, occupation, property, or income of the Company that may be imposed by the City except as may otherwise may be provided in the ordinance imposing such other license fee, tax, or other charge. This section shall be interpreted as requiring the Company to obtain a permit for construction only as required by the City Charter, Code, or ordinance.

(b) Public Utility Easements. The City may not impose any additional fees for the Company's use of public utility easements because of such easements being a part of the Right-of-way under this Agreement.

SECTION 12. INFORMATION REQUIREMENTS; AUDITS; BILLING.

(a) Existing and Future Infrastructure. The Company shall provide to the City, within one (1) year following the effective date of this Agreement, a map of all Company Facilities and all other significant features located within the Right-of-way. This map

must be in an electronic format. Upon completion of new or relocation construction of any underground Facilities in the Right-of-way, the Company shall, within sixty (60) days after the date of completion, provide the City with installation records showing the location of the underground and above ground Facilities in an electronic format.

(b) Transaction Data. The Company shall provide to the City Director of Operations or the Director's designee, on a quarterly basis, a list of each customer class and rate code as categorized by the Company for customers taking service within the corporate limits of the City. The Company shall provide, on a quarterly basis, monthly and total sales for each customer class by rate code with each fee payment. Breakdown of data shall be by (1) monthly volumetric usage by customer class and rate code, (2) details of any exemptions, (3) supporting worksheets, and (4) a count of customers, by customer class, who have switched to direct access. If requested by the City, the Company shall provide the City with data broken down into (1) the number of customers by class and rate code, (2) gross Company revenue by customer class and rate code, and (3) monthly demand data by customer class and rate code. The City may not request such data more than once every twelve (12) months.

(c) Audit Requirements.

1. Record Requirements. The Company shall keep and maintain complete and accurate books and records of its business and operations for the purpose of insuring compliance with this Agreement.

2. Inspection of Records. For the purpose of verifying the data provided pursuant to Subsection (c)(1) above, all records of the Company used in compiling such data shall, at the close of each quarterly period, be open for

inspection of such officer, persons, or persons as may be appointed for that purpose by the City. The City may audit the Company accounts relating to delivery of electricity to its customers within the corporate limits of the City and to the City outside its corporate limits, gross revenues, and property subject to taxation by the City for the purpose of verifying the distribution of such property by taxing districts and confer with the Company regarding any alleged or reported discrepancies or irregularities in Company procedures or activities relating to data submitted pursuant to this Section. The Company shall provide responses to inquiries made by the City within a reasonable amount of time.

(d) Information Required by Other Regulatory Agencies. The City may request in writing, copies of any and all reports, data, and any other type of information which the Company is required to submit to any other governmental or quasi-governmental body, including, but not limited to, the United States of America, the Federal Energy Regulatory Commission, the State of Arizona, and the Arizona Corporation Commission. Reports, data, and any other types of information filed confidentially and not available to the public do not have to be submitted to the City.

(e) City Energy Usage. The Company shall provide to the City all information it maintains with respect to energy usage by the City at each location in which electricity is delivered to a City owned or maintained location. Such information may be requested only once every twelve (12) months and shall be provided at the cost set by the Company's billing tariff as approved by the Arizona Corporation Commission.

(f) Revisions of Standards. The City, due to regulatory and technological developments, may revise the standards set by this Section.

SECTION 13. RELIABILITY OF UTILITY SERVICE.

(a) Service Outage Map. On an annual basis, the Company shall provide to the City a report of all service outages that last for longer than one (1) hour, technical upgrades made to its distribution system, and efforts made to improve the reliability of the distribution system.

(b) Reporting and Access. The Company shall report in advance to the City any plans to include technological advances relating to communications systems, such as fiber optics, which may utilize Facilities already in place for the transmission of communication signals, which Facilities may be installed by the Company for its use, the use of the City, or for use of others as the Company may license. The City may use said Facilities if it reaches a prior agreement with the Company regarding consideration for the use of said Facilities. In no event shall the City's use impair the Company's ability to use its own Facilities. Upon request of the City, the Company will provide a detailed report for the use of such communications systems subject to protecting confidential information. Nothing contained herein shall be construed to authorize the Company to engage in communications activities for sale or lease nor shall this Agreement be construed as a franchise or license for said telecommunications activities within the City.

SECTION 14. EMERGENCY PROCEDURES.

(a) Company Equipment and Staff Requirements. The Company shall maintain equipment and staff capable of providing timely emergency repairs and restoration of service in case of power outages and other events which may present a danger to public safety or health.

(b) Joint Emergency Procedures. The Company shall cooperate with the City in developing joint standard operating procedures for emergencies requiring the response of City departments, such as Police and Fire, and the Company.

SECTION 15. INTERCONNECTIONS.

The Company shall provide information to its customers necessary for interconnection of distributed generation with its distribution system. The Company must allow such connections to its distribution system. The Company shall not impose any requirements, standards, or tests on any grid-interconnected system exceeding applicable regulatory standards.

SECTION 16. UTILITY PLANNING AND COORDINATION COMMITTEE.

(a) Establishment. There shall be established a Utility Planning and Coordination Committee composed of appropriate personnel of the Company to be designated by the Company, and the City Engineer, the City Planning Director, or their designee, and any other appropriately qualified personnel of the City which may be designated by the City. Membership on the Committee may also include representatives from any other utility or governmental agency providing utility service deemed by the City to be appropriate for fulfilling the Committee's duties and purposes. Such other utilities or governments providing utility service shall be participating Members in all respects except for participation in the official reports and recommendations of the Committee under this Agreement as described in Subsection (b).

(b) Reports. The Committee shall submit to the Council such official reports and recommendations as are specifically provided for in this Section and such other

reports and recommendations as the City and Company may from time to time mutually determine to be appropriate. Any such official report or recommendation shall be by mutual agreement of both the City's and Company's representatives on the Committee. In the absence of mutual agreement, the Committee may submit for the consideration of the Council a summary report setting forth the various views of the Members relative to the particular matter, but such summary report shall not have the weight of an official report or recommendation of the Committee as a whole.

(c) Purposes. The purposes of the Committee shall be to:

1. provide coordination between the Company and the City in the expansion, maintenance, or relocation of the utility system of any of the Members and other existing or permitted activities within or uses of the City's Right-of-way.

2. insure that long-range planning of the Members and the City on the extension of utility services maximizes the efficient and orderly expansion of the utility system and minimizes the impact upon the infrastructure of other users of the Right-of-way.

3. insure that the Members' and the City's utility systems are expanded and modified in the public interest, avoiding undue cost burdens upon customers and taxpayers, that such expansions and modifications are coordinated in a manner to avoid arbitrary or reasonably avoidable interference with the City's planned uses of its Right-of-way, or with utility systems of others, and that environmental consequences have been considered.

4. minimize costs associated with growth or changes to the Members' utility systems and the City's infrastructure occasioned by changes, relocations, or other modifications in those systems which presently affect existing utility systems of the Members and the City.

5. develop joint emergency procedures.

6. coordinate efforts to provide to the City location information of Members' utility systems within the Right-of-way in an electronic format compatible with the City's GIS system for recording utility system locations.

(d) Submission of Plans. All proposed changes in a Member's utility system within the corporate limits of the City shall be submitted to the Committee thirty (30) days before a Member's commencing construction on any such project. Changes submitted to the Committee shall be new transmission or distribution lines operating at 46 (forty-six) kV or greater, relocation or increase in capacity of existing electric distribution Facilities of any size from rear lot lines or alleys to other Rights-of-way, or extensions of transmission or distribution Facilities in excess of one-quarter (1/4) mile within any Right-of-way, and, on the City's part, any extensions of City water lines or other municipal utility systems which would cause relocation of a Member's utility system. The Committee shall meet and review any changes proposed by a Member in its utility system or proposed by the City in its water system within the corporate limits of the City and, should appropriate governmental action be deemed advisable, submit a recommendation of such action to the Council. In the event that any Member's submission results in the delay of service to a customer otherwise entitled to service,

the extension may be completed and submitted for review at the next regular meeting of the Committee.

(e) Growth Report. The Committee shall, at the request of the City, prepare and present to the Council an official report and analysis of the projected growth of the City relating to future utility requirements, taking into account such factors as present and proposed zoning, public building projects, annexation programs, public streets, highways and transportation plans, building codes, and economic development trends and objectives. This analysis shall be designed to project the general location and capacity requirements of the Members within the City for generation, transmission, and substation Facilities for electric power and such major municipal utility projects as may be required by the City or other utilities serving within the City. This analysis and projection shall address periods of five (5) years and ten (10) years, shall be reviewed and updated on a periodic basis by the Committee, and shall be submitted to the Council for review.

(f) Meetings. The Committee shall meet at least once a month or as often as necessary as determined by the Members.

(g) Exception. Nothing contained in this Section shall be construed to prohibit the Company from going forward with any activity that is otherwise in conformance with the orders, rules, and regulations of the Arizona Corporation Commission and other applicable legal requirements.

SECTION 17. CONSTRUCTION, MAINTENANCE, AND REPAIR OF THE RIGHT-OF-WAY.

(a) Interference with Public Uses. The electric transmission and distribution systems, and appurtenances herein provided for, to be constructed, installed, operated and maintained hereunder, shall be so located or relocated as to interfere as little as possible with traffic or other authorized uses, including that of other utilities, over, under, or through the Right-of-way. Those phases of construction relating to traffic control, back-filling, compaction, and paving, as well as the location or relocation of said electric systems and appurtenances herein provided for, shall be subject to regulation by the City.

(b) Repair of the Right-of-way. If, in the installation, use, or maintenance of its Facilities, the Company damages or disturbs the surface or subsurface of any public road or adjoining public property of the public improvement located thereon, therein, or thereunder, the Company shall promptly, at its own expense and in a manner acceptable to the City, restore the surface or subsurface of the public road or public property or repair or replace the public improvement thereon, therein, or thereunder in as good a condition as before such damage or disturbance. If such restoration, repair, or replacement of the surface, subsurface, or any structure located thereon, therein, or thereunder is not completed within a reasonable time, or such repair or replacement does not meet the City's duly adopted standards, the City shall have the right to perform the necessary restoration, repair, or replacement either through its own forces or through a hired contractor and the Company shall reimburse the City for its expenses in so doing within thirty (30) days after its receipt of the City's invoice.

(c) Construction Delay Costs. The Company shall promptly repair and restore any property, street, alley, parkway, bridge, or public place in which the Company has performed any construction activity within a time period designated in the written notice to the Company. If, after the Company certifies to the City that its Facilities are no longer in conflict with a public project, the City discovers the Company's Facilities in the Right-of-way are still in conflict and so delays the project's construction causing the City to incur damages due to such delay, the Company shall reimburse the City for those damages attributable to the delay created by the conflict.

(d) City Notification of Delay. If the City becomes aware of a potential delay involving the Company's Facilities, the City shall promptly notify the Company of this potential delay.

SECTION 18. RELOCATION OF AND CONFLICTS WITH SERVICE.

(a) Relocation Requirement. Whenever the City shall, for a lawful purpose, require the relocation or reinstallation of any Facility of the Company or its successors in any of the Rights-of-way or public property of the City, the Company shall, upon notice of such requirement and within a reasonable amount of time, commence work to remove and relocate or reinstall such Facilities as may be reasonably necessary to meet the requirements of the City. The Company shall pay the costs of any such relocation or reinstallation unless it can demonstrate to the City that its Facilities were lawfully installed therein prior to the conveyance, dedication, or other transfer by any party of the Right-of-way to the public or to the City. For the purposes of this Section, the acquisition of Right-of-way by the City from another governmental entity shall not entitle the Company to reimbursement from the City for relocation or reinstallation

unless the Company can demonstrate to the City that the Company's Facilities were lawfully installed therein prior to the conveyance, dedication, or other transfer by any party of the Right-of-way to the other governmental entity. Any money and all rights to reimbursement from the State of Arizona or the federal government to which the Company may be entitled for work done by the Company pursuant to this Section shall be the property of the Company. The City shall assign or otherwise transfer to the Company all rights it may have to recover costs for such work performed by the Company and shall reasonably cooperate with the Company's efforts to obtain reimbursement.

(b) Discovery of Conflicts. If, during the design or construction for public improvements, the City discovers a potential conflict with proposed construction, the Company shall locate and, if necessary, expose its Facilities in conflict. The City shall make every reasonable effort to design and construct projects to avoid relocation expense to the Company. The Company agrees to furnish the location information within a time frame determined by the Committee or, in the absence of such a determination, a reasonable amount of time from the date of the discovery of the potential conflict.

(c) Company Obligations if Conflict Exists. If, during the course of a project, the City determines that the Company's Facilities are in conflict the following shall apply:

1. Prior to City's Notice to Proceed to its Contractor. The Company shall, within a reasonable time after receiving written notice from the City, remove or relocate the conflicting Facility.

2. After City's Notice to Proceed to its Contractor. The City and Company shall immediately begin the coordination necessary to remove or relocate the Facility. Actual construction of such removal or relocation shall begin within a reasonable amount of time after written notification from the City to the Company of the conflict.

(d) Prior Right of City. The City reserves the prior and superior right to lay, construct, erect, install, use, operate, repair, replace, remove, relocate, regrade, widen, realign, or maintain any street and public ways, aerial, surface, or subsurface improvement for all public purposes, including but not limited to water mains, traffic control conduits, cable and device, storm sewers, subways, tunnels, bridges, viaducts, or any other public construction within the Rights-of-way of the City. The Company shall move its Facilities, consistent with Subsection (a), that are located in the Right-of-way at its own cost to such a location as the City directs.

(e) Relocation of Non-Company Systems. Consistent with the limitations of Subsection (a), if a conflict exists between the Company's future or existing Facilities and future or existing City utility or communication systems, or non-City utility systems occupying the Right-of-way under authority of a City permit, franchise, or license, the City shall not bear the cost of relocating such City systems or non-City systems, regardless of the function served, where such systems must be relocated and the conflict between the Company's potential Facilities and existing Facilities can only be resolved by the movement of the existing City or permittee systems.

SECTION 19. PROJECT DESIGN MODIFICATIONS.

If City construction projects require design modifications as a direct result of the Company's Facilities in the Right-of-way, the City and Company shall make reasonable efforts, including design modification if practicable, to avoid conflicts with Company Facilities. The Company shall pay for any increased construction or redesign costs caused by such modification. Such modifications may be made only in the event the City and Company determine that modification of the project is more feasible than relocation of the Facility.

SECTION 20. PERMITS AND LICENSES.

(a) Permit Requirement. The Company shall, when required by the City Charter, Code, or ordinance, obtain a permit and pay all applicable fees prior to removing, relocating, or reconstructing, if necessary, any portion of its electrical transmission and distribution system in the Right-of-way. Whenever the Company causes any opening or alteration to be made for any purpose in any Right-of-way, the work shall be completed within a reasonable time and the Company shall, consistent with the requirements of the City Charter, Code, or ordinance, without expense to the City, and upon the completion of such work, restore the property disturbed in a manner consistent with the City's duly adopted standards or as required by its permit which may incorporate special standards when required for City purposes. Pursuant to the City Charter, Code, or ordinance, the City shall issue such permit to the Company on such conditions as are reasonable and necessary to ensure compliance with the terms and conditions of this Agreement and any other applicable ordinance or rule or regulation of the City.

(b) Permit Requirement in Emergency Situations. Notwithstanding Subsection (a), if the Company is required to make repairs in compliance with Federal and/or State codes that are of an emergency nature, the Company shall notify the City prior to such repairs, if practicable, and shall obtain the necessary permits in a reasonable time after notification.

SECTION 21. UNDERGROUNDING.

(a) In General. Subject to Subsection (c), in any area where the Company is not already required, pursuant to federal, State, or local law or agreement, to place its transmission or distribution lines underground, in any new construction or relocation of aerial transmission or distribution lines, the City may require the Company to place such lines underground if the City pays the difference between the cost of placing such lines underground and the cost of placing them aerially.

(b) City Projects. In the design and construction of any City project, the Company shall, at the City's option, relocate existing aerial lines underground. The Company shall provide to the City a design and an itemized cost estimate for such undergrounding. Subject to Subsection (c), the City shall pay all costs associated with the undergrounding required by this Subsection except for the Company's electrical engineering costs for design and cost estimate for such undergrounding.

(c) Exception to Undergrounding. The Company shall be required to place new aerial transmission or distribution lines underground only when such placement is feasible for technical or system reasons. Such reasons cannot include the monetary cost of the proposed undergrounding project.

(d) Joint Use of Trenches. In the construction of new underground Facilities or the relocation of existing aerial Facilities underground, the Company shall notify all Members of the Committee within a reasonable amount of time prior to construction. Any Member of the Committee shall be permitted to co-locate its utility system, lawfully permitted in the Right-of-way, in the proposed underground location upon such reasonable terms and conditions as the Company may require.

(e) Moratorium on Relocations. If the Company undergrounds a transmission or distribution line pursuant to Subsections (a) or (b) or Section 18(a), the Company shall not be required to pay any cost for relocating such line for a period of ten (10) years after completion of such undergrounding.

SECTION 22. CITY ACCESS TO COMPANY INFRASTRUCTURE.

(a) In General. The Company shall, without cost to the City, permit the use by the City of space in excess of the Company's existing or projected requirements upon its Facilities for Wires for fire alarm, police, and communications purposes of the City. The Company shall furnish, string on the available space on its poles, and draw in and maintain in the available space its conduits and subways of the Company, all Wires and fixtures necessary for fire alarm, police, and communication purposes of the City. The City shall pay the Company's actual cost for providing access to its infrastructure under this Section.

(b) City Access to Company Underground Facilities. Whenever the Company proposes to install new underground conduits or replace existing underground conduits within or under the Right-of-way, it shall notify the City as soon as reasonable prior to such construction and shall allow the City, at its own expense and without charge to the

Company, to share the trench of the Company to lay its own conduit. The City's access may not unreasonably interfere with the Company's Facilities, the utility systems of other entities lawfully permitted in the Right-of-way, or delay the accomplishment of the project.

(c) Excess Capacity. If requested by the City under Subsections (a) and (b), the design of any new or upgraded infrastructure of the Company shall provide for capacity dedicated for City use. The City shall pay all costs of design, construction, and maintenance of such infrastructure associated with such additional capacity.

(d) Indemnification. The City shall indemnify and hold harmless the Company, its officers, employees, agents, and servants against and from any and all claims, demands, causes of action, suits, proceedings, regardless of the merits of the same, damages, including damages to Company property, liability, and costs or expenses of every type, all or any part thereof which arises by reason of any injury to any person or persons, including death, or property damage, resulting from the negligence of the City, its officers, boards, commissions, agents, employees, and servants which may be occasioned by the use set forth in this Section or while performing any functions in proximity with the Company's operations under this Agreement except where the Company's negligence has in some manner contributed.

SECTION 23. FAILURE TO RENEW AGREEMENT.

If this Agreement is not renewed prior to the expiration of its term and the City has not purchased or condemned the Facilities, the Company and the City agree to abide by the terms of this Agreement for one (1) year after such expiration or until a new agreement is reached, whichever occurs first.

SECTION 24. REMOVAL OF FACILITIES.

When the Company abandons any of its Facilities and records such abandonment pursuant to A.R.S. § 40-360.30(A), it shall notify the City of such abandonment. Abandoned Facilities shall be removed from the Right-of-way to the satisfaction of the City at Company's cost unless permitted by the City to be left in place in such manner as the City may prescribe. The Company shall, to the satisfaction of and without cost or expense to the City, promptly remove such Facilities. All City property affected by such removal shall be repaired and restored by the Company consistent with the provisions of this Agreement upon written notice from the City. Any such Facilities which are not removed within one hundred twenty (120) days of either the date of abandonment or of the date the City issues a permit authorizing removal, whichever is later, shall automatically incur charges to be determined by the City. For the purposes of this Section, "abandoned" has the same meaning as that term has in A.R.S. § 40-360.21(1).

SECTION 25. SUCCESSORS OR ASSIGNS.

(a) Assignment Requirements. The right, privilege, or franchise granted by this Agreement shall not be leased, assigned, or otherwise alienated without the express consent of the City evidenced by an ordinance or resolution passed by the

Council. The Company shall provide not less than ninety (90) days' notice to the City prior to any such assignment. No dealing with the lessee or its assigns on the part of the City to require the performance of any act or payment of any compensation by the lessee or his assigns shall be deemed to operate as such consent. Any assignment shall become effective upon the passage of an ordinance or resolution by the City and written acceptance of this Agreement and any renegotiated terms by the successor.

(b) City Consent Provided. The consent of the City is given to the Company to subject this grant and any property constructed or operated under it to any present or future mortgage or other charge incurred by the Company in the ordinary course of business solely for the purpose of securing bonds, notes, or other obligations of the Company. A mortgagee, creditor, or trustee may exercise its rights under any such mortgage or charge without further consent of the City and may purchase at judicial, trustee's, or other involuntary sale and may own and exercise this Agreement and the rights granted by it, but shall be equally subject, with the Company, to the duties and obligations imposed by this Agreement.

SECTION 26. REGULATION BY THE CITY.

As required by the City Charter, the City expressly reserves to itself, subject to the limitations of the Constitution and laws of Arizona, the right, whether in terms reserved or not, to make all regulations which shall be necessary to secure, in the most ample manner, the safety, welfare and accommodation of the public, including, among other things, the right to pass and enforce ordinances to require proper and adequate extensions of the service of such grant, to protect the public from danger or inconvenience in the operation of any work or business authorized by this Agreement,

and to make and enforce all such regulations as shall be reasonably necessary to secure adequate, sufficient, and proper service, extensions, and accommodations for the people and ensure their comfort and convenience. The City, subject to the limitations of the Constitution and laws of Arizona, shall have full power to enforce, by forfeiture or otherwise, compliance by the Company with all of the terms and conditions of this Agreement for the effective security of efficient service or for the continued maintenance of the property of the Company in good condition and repair throughout the term of this Agreement.

SECTION 27. DISPUTE RESOLUTION.

(a) In General. If a dispute exists regarding an obligation of the City or Company under this Agreement and the matter cannot be resolved through the mutual agreement of the parties, such controversy may be submitted to arbitration. The arbitration procedures described in A.R.S. § 12-1501, et seq. (Uniform Arbitration Act), shall be followed to the extent they do not conflict with the provisions of this Section.

(b) Dispute Resolution Board. All disputes regarding an obligation of the Company or City under this Agreement may be submitted to a Dispute Resolution Board. The Board shall consist of one member selected by the City, one member selected by the Company, and a third person agreed upon by both parties. The person agreed upon by both parties shall be chairperson of the Board. The City and the Company shall share expenses for the Board equally.

(c) Decisions of the Board. The Board shall hear disputes promptly and render an opinion as soon as possible but in no event later than sixty (60) days after the

Board has concluded the arbitration proceedings. Decisions of the Board are not binding on the City or the Company.

SECTION 28. ENTIRE AGREEMENT.

This Agreement constitutes the entire agreement of the parties. There have been no representations made other than those contained in this Agreement or any exhibits.

SECTION 29. SEVERABILITY.

(a) In General. Except as provided in Subsection (b), if any provision of this Agreement is adjudged invalid or unconstitutional, the same shall not affect the validity of this Agreement as a whole or any part of the provisions hereof other than the part so adjudged to be invalid or unconstitutional.

(b) Exception. If any part of Section 10 is adjudged invalid or unconstitutional, this entire Agreement will be deemed to be invalid and without effect.

SECTION 30. INDEMNIFICATION AND INSURANCE.

(a) Indemnification. The Company shall indemnify, defend, and hold harmless the City from any and all claims, demands, suits, actions, proceedings, loss, cost, and damages of every kind and description, including any reasonable attorney's fees and/or litigation expenses, which may be brought or made against or by any person, caused by, arising out of, or contributed to, in part, by reasons of any act, omission, professional error, fault, mistake, or negligence of the Company, its employees, agents, representatives, or affiliates, their employees, agents, or representatives in connection with or incidental to the performance of this Agreement, or arising out of worker's compensation claims, unemployment compensation claims, or

unemployment disability compensation claims of employees of the Company and/or its affiliates or claims under similar such laws or obligations.

(b) Insurance. The Company shall maintain throughout the term of this Agreement liability insurance to adequately insure and/or protect the legal liability of the Company with respect to the installation, operation, and maintenance of its Facilities together with all the necessary and desirable appurtenances authorized by this Agreement to occupy the Right-of-way. Such insurance program will provide protection for bodily injury and property damage including contractual liability and legal liability for damages arising from the operation by the Company of its Facilities. Such insurance program shall comply with the insurance requirements of the City Risk Manager. The Company shall file with the City documentation of such liability insurance program within sixty (60) days following the effective date of this Agreement and thereafter upon request of the City. Failure to file such documentation shall render this Agreement voidable at the option of the City. The policy limits or any insurance maintained in compliance with this Section shall not limit the Company's indemnification requirements under Subsection (a).

SECTION 31. FORCE MAJEURE.

The Company shall not be deemed to be in violation of this Agreement for the delay of performance or failure to perform in whole or in part its obligations under this Agreement due to strike, war or act of war (whether an actual declaration is made or not), insurrection, riot, act of public enemy, fire, flood, act of God, or by other events to the extent that such events are caused by circumstances beyond the Company's control and are not caused by negligence on the part of the Company or any person

acting on its behalf. In the event that the delay in performance or failure to perform affects only part of the Company's capacity to perform its obligations under this Agreement, the Company shall perform such obligations to the extent it is able to do so in as expeditious a manner as possible. The Company shall promptly notify the City in writing of an event covered by this Section and the date, nature, and cause of the event. The Company, in such notice, shall indicate the anticipated extent of such delay and the obligations under this Agreement that will or may be affected by the delay or failure to perform.

SECTION 32. AFFIRMATIVE ACTION.

The Company and its affiliates shall adhere to a policy of equal employment opportunity and demonstrate an affirmative effort to recruit, hire, promote, and upgrade the position of employees regardless of race, color, religion, ancestry, sex, age, physical handicap, national origin, sexual or affectional preferences, or marital status.

SECTION 33. ELECTION.

This Agreement shall be submitted to be voted upon by the qualified electors residing within the corporate limits of the City at a general or special municipal election of the City to be held for that purpose. Before calling any such election, the estimated expenses of the election, to be determined by the Council, shall be first deposited by the Company for such franchise with the City Clerk.

SECTION 34. NOTICES.

Unless otherwise specified in this Agreement, all notices from the Company to the City pursuant to or concerning this Agreement shall be in writing and delivered to the City Engineer. The Company shall maintain within the City throughout the term of

this Agreement an address for service of notices from the City by mail and a local office and telephone number for the conduct of matters relating to this Agreement during normal business hours. The Company shall provide to the City, within thirty (30) days after the effective date of this Agreement, the name, position, and address of the individual who is designated by the Company to receive notices from the City pursuant to or concerning this Agreement.

DATED this _____day of JUL 1 0 2000, 2000.

By:_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
Ass't CITY ATTORNEY

TUCSON ELECTRIC POWER COMPANY

By:_____
James S. Pignatelli
Its Chairman, President and CEO

DD:hm

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EXHIBIT A TO TUCSON ELECTRIC POWER COMPANY FRANCHISE **EXHIBIT A**

CITY OF TUCSON FRANCHISE FEE BY RATE CLASS
SCHEDULE OF CHARGES PER kWh

Rate Class	Rate	Franchise Fee $ Per kWh
RESIDENTIAL		
01	Rate 01	$0.00210
02	Rate 02	$0.00157
201	Rate 201	$0.00183
21	Rate 21	$0.00177
51	Rate 51	$0.00662
70	Rate 70	$0.00187
COMMERCIAL		
10	Rate 10	$0.00244
11	Rate 11	$0.00194
31	Rate 31	$0.00117
52	Rate 51	$0.00769
76	Rate 76	$0.00196
BS	Contract-Based Rate	$0.00246
AP	Contract-Based Rate	$0.00091
INDUSTRIAL		
13	Rate 13	$0.00186
85	Rate 85	$0.00156
14	Contract-Based Rate	$0.00145
14	Contract-Based Rate	$0.00154
14	Contract-Based Rate	$0.00146
14	Contract-Based Rate	$0.00139
90	Contract-Based Rate	$0.00102
90	Contract-Based Rate	$0.00120
90	Contract-Based Rate	$0.00133
90	Contract-Based Rate	$0.00150
PUBLIC AUTHORITY		
40	Rate 40	$0.00184
41	Rate 41	$0.00155
43	Rate 43	$0.00185
44	Rate 44	$0.00174
45	Rate 45	$0.00116
46	Rate 46	$0.00110
47	Rate 47	$0.00155
50	Rate 50	$0.00600

PIMA COUNTY

FRANCHISE

IT IS ORDERED by the Board of Supervisors of Pima County, State of Arizona:

SECTION I.

That The Tucson Gas, Electric Light & Power Company, a corporation organized and acting under and by virtue of the laws of the State of Colorado, and duly qualified to transact business in the State of Arizona, and its successors and assigns be, and they are hereby granted the right, privilege and franchise, and are hereby authorized and permitted to use the public highways and roads of the said County of Pima, State of Arizona, hereinafter set forth and designated, and to place, erect, construct, repair, replace and maintain their pipes, poles, wires, cables, conduits, towers, transformer stations and fixtures, structures, appliances, apparata and equipment upon, along, over or across said public highways or roads of said County of Pima, for the transmission and distribution of electricity throughout said County of Pima, and for the sale and furnishing of the same for light, heat and power, and for any and all other purposes to which the same may now or hereafter be applied, to any and all persons, bodies, firms, associations and corporations, both private and municipal, in said County of Pima.

That the roads and highways, the use of which as above set forth, is hereby granted by this franchise, are:

Road No. 1	Approx. ¼ mi. west of the NE Cor. of Sec. 5, T. 14 S., R. 14 E., thence E. its entire length.
Road No. 2	Approx. ¼ mi. S. of the NW Cor. of Sec. 4, T. 14 S., R. 14 E., thence N. approximately ¼ mile from the SW Cor. of Sec. 33, T. 13 S., R. 14 E.
Roads No. 3 & 81	From the NE Cor. of Sec. 15, T. 15 S., R. 13 E., thence W. approx. 3/4 mile.
Road No. 4	Approx. ¼ mi. N. of the SE Cor. of Sec. 8, T. 14 S., R. 14 E., thence N. approx. ½ mi.
Road No. 6	From the NW Cor. of Sec. 31, T. 13 S., R. 14 E., thence E. its entire length.
Road No. 9	From the NE Cor. of Sec. 35 T. 14 S., R. 13 E., thence W. approximately 1½ mi.
Road No. 14	From the NW Cor. of Sec. 2, T. 14 S., R. 14 E., thence E. approx. 3/4 mi.
Road No. 15	From intersection with Road No. 13 on N. boundary of Sec. 14, T. 14 S., R. 13 E., thence south its entire length.
Road No. 18	From intersection with Tucson-Oracle Road, Sec. 24, T. 13 S., R. 13 E., thence E. approx. 1½ mi.
Road No. 28	From the SE cor. of Sec. 27, T. 11 S., R. 11 E., thence N. approx. ½ mi.
Roads No. 29-66	From intersection with Road No. 40, Sec. 21, T. 13 S., R. 13 E., thence E. its entire length.
Road No. 40	From intersection with Roads Nos. 26-66, Sec. 16, T. 13 S., R. 13 E., thence N. its entire length.
Road No. 52	From the N. boundary of Sec. 12, T. 15 S., R. 13 E., thence S. approx. ½ mi.
Road No. 53	From the SE cor. of Sec. 3, T. 14 S., R. 13 E., thence W. approx. 1/8 mi.
Road No. 54	From intersection with Road No. 53, Sec. 11, T. 14 S., R. 13 E., thence S. its entire length.
Road No. 61	From intersection with Old Vail Road, Sec. 25, T. 14 S., R. 13 E., thence E. its entire length.
Road No. 64	From intersection with Tucson-Nogales State Road No. 25, Sec. 24, T. 15 S., R. 13 E., thence W. its entire length.
Road No. 72	From intersection with Tucson-Nogales State Road No. 25, Sec. 13, T. 15 S., R. 13 E., thence W. approx. ¼ mi.
Road No. 74	From intersection with Tucson-Oracle Highway, Sec. 23, T. 13 S., R. 13 E., thence W. its entire length.
Road No. 75	From intersection with Roads Nos. 29-66, Sec. 22, [illegible]

Road No. 76	From the NW Cor. of Sec. 3, T. 14 S., R. 14 E., thence S. approx. ¼ mi.
Road No. 84	From intersection with N. 1st Ave., Road No. 126, Sec. 36, T. 13 S., R. 13 E., thence W. approx. 3/4 mi.
Road No. 88	From intersection with Road No. 1, Sec. 34, T. 13 S., R. 14 E., thence N. approximately ¼ mi.
Road No. 91	From City limits Sec. 6, T. 14 S., R. 14 E., thence N. its entire length.
Road No. 94	From intersection with Casa Grande State Road No. 8, Sec. 27, T. 13 S., R. 13 E., thence W. approx. 3/4 mi.
Road No. 95	From intersection with Tucson-Oracle Highway, Sec. 26, T. 13 S., R. 13 E., thence W. approx. 3/4 mi.
Road No. 99	From the NW Cor. Sec. 17, T. 14 S., R. 14 E., thence E. to the NW Cor. of Sec. 15, T. 14 S., R. 14 E., and from the intersection with Road No. 121, Sec. 13, T. 14 S., R. 14 E., thence W. approx. 1½ mi.
Road No. 101	From intersection with N. Campbell Ave., Sec. 29, T. 13 S., R. 14 E., thence E. approx. ½ mi.
Road No. 104	From intersection with Road No. 152, Sec. 1, T. 15 S., R. 13 E., thence S. its entire length.
Road No. 109	From intersection with E. Broadway Road No. 99, Sec. 15, T. 14 S., R. 14 E., thence S. its entire length.
Road No. 112	At a point approx. ¼ mi. W. of the NE cor. of Sec. 35, T. 11 S., R. 11 E., thence W. approx. 1 mi.
Road No. 121	From the intersection with E. Speedway, Sec. 12, T. 14 S., R. 14 E., thence S. to the intersection of E. Broadway.
Road No. 122	From intersection with Silver Lake Road and Road No. 50, Sec. 23, T. 14 S., R. 13 E., thence S. approx. ¼ mi.
Road No. 126	From a point approx. ¼ mi. S. of the NE cor. of Sec. 36, T. 13 S., R. 13 E., thence N. approx. 2 3/4 mi. to center of the E. boundary of Sec. 24, T. 13 S., R. 13 E.
Road No. 141	From the NE cor. of Sec. 27, T. 13 S., R. 13 E., thence E. approx. 1½ mi. and from the NE cor. Sec. 25, T. 13 S., R. 13 E., thence W. approx. 1/8 mi.
Road No. 147	From intersection with Road No. 18, Sec. 19, T. 13 S., R. 13 E., thence N. approx. ¼ mi.

And along, over and across such further and additional public roads and highways as may be expedient and for the convenience of the public.

Passed by the Board of Supervisors of said County of Pima, State of Arizona, this 3rd day of March, 1930.

Chairman
Board of Supervisors Pima County
State of Arizona.

Attest:

Clerk.

STATE OF ARIZONA }
County of Pima } SS

I, the undersigned Clerk of the Board of Supervisors in and for the County of Pima, State of Arizona, do hereby certify the foregoing to be a true and correct copy of the original franchise of The Tucson, Gas, Electric, Light & Power Company, a corporation, granted by the Board of Supervisors of Pima County, State of Arizona, in regular session March 3rd, 1930, filed for record in the office of said Board on said March 3rd, 1930, and duly recorded in the minutes of the meetings of said Board at page 577 of the records of 1930.

Witness my hand and seal of said Board at Tucson, Arizona, this 12th day of March, 1930.

Clerk Board of Supervisors
Pima County, Arizona.

Subscribed and sworn to before me this 12th day of March, 1930.

Notary Public.

My Commission Expires January 21, 1933

My Commission expires

SOUTH TUCSON

Res 7207

ORDINANCE 92-01

AN ORDINANCE GRANTING TO TUCSON ELECTRIC POWER COMPANY, ITS SUCCESSORS AND ASSIGNS, THE RIGHT, PRIVILEGE AND FRANCHISE TO CONSTRUCT, MAINTAIN AND OPERATE IN THE CITY OF SOUTH TUCSON, ARIZONA, ELECTRIC POWER PLANTS AND SYSTEMS FOR THE MANUFACTURE TRANSMISSION, DISTRIBUTION AND SALE OF ELECTRICITY THROUGHOUT THE SAID CITY OF SOUTH TUCSON AND FUTURE ADDITIONS THERETO.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF SOUTH TUCSON, AS FOLLOWS:

SECTION 1. A franchise is hereby granted to Tucson Electric Power Company to supply the inhabitants of the City of South Tucson, Arizona, with electricity for all purposes to which the same is now or may hereafter be applied, the duration of such franchise to be the period of twenty-five (25) years, to commence on the eighth (8th) day of May, 1992; provided that nothing in this ordinance shall be construed as granting to Tucson Electric Power Company an exclusive franchise for the purposes set forth. This franchise shall be subject to the right of the Parties to initiate renegotiation of certain terms of this franchise as hereinafter described on no more than three occasions, provided, however, that this franchise shall have been in effect for a period of five years before said renegotiation shall occur and provided that, following renegotiation of any terms of this franchise, there shall be no subsequent renegotiation of any term of this franchise until a minimum period of five years has elapsed. Provisions subject to renegotiation are (1) Section 8, paragraph 5 regarding undergrounding of electrical facilities and (2) Sections 5, 6 and 7 where and to the extent that intervening technological developments have occurred which make continued operation under such section burdensome or impractical, and which cannot reasonably be addressed in some manner other than franchise renegotiation. Negotiated changes in the franchise shall not require a vote of the people for approval and shall be in effect for the remainder of the duration of the franchise. The rights, privileges and obligations provided by this franchise shall remain in full force and effect until renegotiated provisions modifying such rights, privileges and obligations become effective as provided herein. Renegotiation pursuant to this, Section 1., shall be initiated by the Mayor and Council by written notice to Tucson Electric Power Company, or vice versa, stating particularly the matters to be renegotiated and the reasons therefor. Provisions in this franchise which are renegotiated shall become effective immediately upon written acceptance by Tucson Electric Power Company and adoption of an ordinance by the Mayor and Council approving the changes in the franchise. As used hereinafter, "Company" shall mean Tucson Electric Power Company, and "City" shall mean the City of South Tucson, Arizona. When used herein, the term "electricity" shall mean natural, artificial or manufactured electricity of any kind, or a mixture thereof, meeting applicable specifications for the purposes to which such electricity may be put.

SECTION 2 Tucson Electric Power Company, for the duration of this franchise and for the purposes hereinabove expressed, shall have the right:

(a) To erect and maintain, extend and enlarge, in said City of South Tucson, electric power plants for the manufacture of electricity and for the transmission and distribution of electricity and to operate and maintain the same; and

(b) To erect poles and fixtures, to construct underground conduits, subways and vaults, and to string and place wires and cables thereon and therein for the transmission and distribution of electricity throughout said City of South Tucson, and to maintain its existing electric transmission and distribution system and any extensions thereof, and to make any and all necessary excavations therefor, in, over, under and across all or any of the streets, alleys, avenues and public grounds of City of South Tucson;

Tucson Electric Power Company will exercise its obligations pursuant to this, Section 2., in a reasonable manner and as practicable so as not to interfere with the public use of said streets, alleys, avenues and public grounds, and subject to the valid applicable ordinances, rules and regulations of the City of South Tucson, all valid applicable State statutes, laws, and Constitutional provisions and all valid applicable orders or rules and regulations issued by the Arizona Corporation Commission.

In undertaking any construction, reconstruction or excavation work upon any facilities located, in on or above said streets, alleys, avenues and public grounds, Tucson Electric Power Company shall apply for and obtain a permit, when required, from properly designated City officials and shall comply with the valid ordinances, rules and regulations of the City of South Tucson. No permit shall be denied in any instance where the Company complies with the valid requirements therefor. In order to promote and protect continuing reliable electricity service, the Company may undertake such emergency measures as it deems necessary when circumstances warrant, notwithstanding any other provisions hereof.

The City of South Tucson shall not pay for the cost of repairs to City property made necessary by any of the operations of the Company under this franchise granted hereby, provided, however, that the Company may make repairs to streets, sidewalks, curbs and gutters in accordance with City specifications.

SECTION 3. The right, privilege and franchise hereby granted shall extend to and include all those streets, alleys, avenues and other public grounds as the same are now designated, or may be designated in the future within the limits of the City of South Tucson and any part thereof, or as now located or as they may be hereafter altered or extended within the present or any future

limits of said City of South Tucson, commonly and/or officially designated in part as those set forth upon the Zoning District Maps described in Section 24 (Zoning) of the South Tucson City Code, as further described by City Ordinance 78-3 on file with the City Clerk as of February 15, 1992, said Zoning District Maps indicating all streets, alleys and avenues lying within the City, and for purposes of this franchise, to be effective whether or not said Code Section or Rules and Regulations may hereafter be modified, amended or repealed; also all streets, avenues, alleys and other public grounds lying and being between or parallel to or connecting with such streets, avenues, alleys and other public grounds, or any of them, within the present or future limits of the City of South Tucson, to which there has not been ascribed a name by formal action of the governing body of the City of South Tucson.

SECTION 4. Tucson Electric Power Company hereby agrees to indemnify and hold harmless the City, its officers, boards, commissions, employees, and agents against and from any and all claims, demands, causes of action, suits, proceedings, regardless of the merits of the same, damages, including damages to City property, liability, costs or expenses of every type, all or any part thereof which arises by reason of any injury to any person or persons, including death, or property damage, resulting from the negligence of the Company, its officers, agents, employees and servants while exercising any of the rights, privileges and powers granted herein, except where the City's negligence has in some manner contributed.

The City of South Tucson hereby agrees to indemnify and hold harmless the Company, its officers, employees, agents and servants against and from any and all claims, demands, causes of action, suits, proceedings, regardless of the merits of the same, damages, including damages to company property, liability, costs or expenses of every type, all or any part thereof which arises by reason of any injury to any person or persons, including death, or property damage, resulting from the negligence of the City, its officers, boards, commissions, agents, employees and servants, which may be occasioned by the use set forth hereinabove or while performing any functions in proximity with the Company's operations under this franchise, except where the Company's negligence has in some manner contributed.

SECTION 5. In consideration of the granting of this franchise, and subject to the provisions of Section 9 hereof, Tucson Electric Power Company agrees to maintain the capacity of its electricity systems from time to time to meet the requirements and demands of the City of South Tucson, and its inhabitants, and to at all times maintain during the life of this franchise, an electric light and power distribution system, consistent with all valid applicable State statutes, orders and regulations issued by the Arizona Corporation Commission, equipped with and utilizing all such reasonable and efficient devices and improvements and alternative sources of energy as may from time to time be discovered or invented and considered by expert engineers to be

requisite therefor, for the distribution and sale of electricity to the said inhabitants of the said City of South Tucson.

SECTION 5.1. Said Tucson Electric Power Company, or its agents, upon proper identification, shall have the right at reasonable hours to enter any building or premises using electricity or other forms of power furnished by it, for the purpose or repairing or adjusting meters, or in order to take an account of electricity and other forms of energy used therein or thereon. The Company shall have the right to remove all meters, wires and connections owned by it from the building or premises of anyone who shall refuse or fail to pay for service rendered in accordance with rules filed with the Arizona Corporation Commission or on terms included in contracts with customers, and also in the event of such a refusal or failure, it shall have the right to sever the connections and cut off the supply of electricity or other forms of energy which the Company may supply.

SECTION 6. The City shall not bear the costs of the relocation of electrical facilities within the same street, alley, avenue, or other public ground of the City and within the limits of the City, which relocation may be reasonably required because of any specific regarding, rerouting, improving, widening or abandoning, within City right-of-way, of any such street, alley, avenue, or other public ground of the City, or when reasonably required to accommodate the construction, reconstruction, removal or relocation of sidewalks, sewer systems, water systems, storm drainage systems, traffic signal systems, street light systems, or utility systems owned and operated by the City, provided that the foregoing provisions shall not be applicable where State or Federal law requires payment of utility relocation costs.

SECTION 7. The privileges herein granted to Tucson Electric Power Company are granted in further consideration that the Company will, during the term of this franchise, without cost to the City of South Tucson, permit the use by said City of space in excess of the Company's existing or projected requirements upon the then existing conduits and subways of said Company for all municipal purposes, including furnishing electric energy by the City of South Tucson to itself, and from any source whatsoever,and that the Company will, during the term of this franchise, at actual cost to said Company, to be paid by the City of South Tucson, furnish, string on the available space on then existing poles and draw in and maintain in the available space in then existing conduits and subways of said Company, all wires and fixtures necessary for fire alarm, police and all municipal purposes of said City of South Tucson, including the furnishing of electric light and power by said City of South Tucson to itself for any and all municipal purposes and from any source whatsoever.

Construction, maintenance and operation pursuant to this Section shall comply with the then existing applicable construction and safety codes.

SECTION 8. Tucson Electric Power Company shall pay annually during the term of this franchise as compensation and as a further consideration for the use of the streets, avenues, alleys and public grounds of the City of South Tucson, for the purposes herein designated, a sum equal to two percent (2%) of its gross revenues derived from all sales of electricity and other forms of energy consumed within the corporate limits of the City of South Tucson, and of its gross revenues derived from all sales of electricity and other forms of energy consumed by the City of South Tucson outside of its corporate limits. Said annual payments shall be made in quarterly installments to the Treasury of the City of South Tucson for the use and benefit of said City, within thirty (30) days after the end of each quarterly period. The first payment to be made hereunder shall be made within thirty (30) days after June 30, 1992.

The term "gross revenues" as used herein shall be construed to mean any revenue earned from the sale of electricity and other forms of energy for consumption within the corporate limits of the City of South Tucson, and in addition thereto from all sales of electricity and other forms of energy consumed by the City of South Tucson outside of its corporate limits.

Tucson Electric Power Company agrees to provide to the City quarterly reports necessary to verify gross revenues derived from all sales of electricity consumed within and without the corporate limits of the City. Further, the City has the right to audit the Company's accounts relating to said revenues.

It is the intent and desire of Tucson Electric Power Company to proceed with an orderly program of establishing within its service territories the undergrounding of its electric system. Within the City of South Tucson, this program shall be accomplished by way of Company cooperation with properly designated City officials to insure coordination of all work with other City programs, and such program shall be in accordance with the effective rules and regulations of the Arizona Corporation Commission and other applicable regulatory and legal requirements regarding extensions of underground facilities. Any extensions and conversions undertaken pursuant to this Section shall proceed in accordance with and be limited by considerations of economic and operational feasibility.

Said payments or programs shall not be taken or considered to be in lieu of any tax or taxes to which the property to Tucson Electric Power Company, or its assigns, may otherwise be subject or liable.

SECTION 9. In the event of Tucson Electric Power Company being rendered unable wholly or in part by force majeure to carry out its obligations under this franchise, it is agreed that the obligations of the Company shall be suspended during the continuance of any inability so caused, and such cause shall, so far as reasonably practicable, be remedied with all reasonable

dispatch. The term "force majeure" as employed in this franchise shall mean flood, rain, wind, storm, lightning, earthquake or other acts of the elements, or accident or explosion, or war, rebellion, civil disturbance, mobs or other act of the public enemy, or acts of God, or interference of civil and/or military authorities, or strikes or vandalism, sabotage or malicious mischief, or usurpation of power, or the laws, rules, regulation or orders made or adopted by any regulatory or other governmental agency or body (Federal, state or local) having jurisdiction of any of the business or affairs of the Company, direct or indirect, or accidents to facilities, or lack, limitation or loss of electricity supply, or any other casualty or cause beyond the reasonable control of the Company, whether or not specifically provided herein and without limitation to the types enumerated, and which by the exercise of due diligence the Company is unable to prevent or overcome.

SECTION 10. No stock shall be issued by Tucson Electric Power Company, nor by any corporation holding or doing any business under this franchise, on account of said franchise.

SECTION 11. In the event the City of South Tucson shall at any time hereafter acquire by purchase or otherwise the properties of Tucson Electric Power Company, it is agreed that in any negotiations or proceedings looking toward the acquisition of the said properties by said City, the value of this franchise shall be fixed and determined at the sum of One Dollar ($1.00) and no more.

SECTION 12. Tucson Electric Power Company shall file with the City of South Tucson, on or before the passage and adoption of this ordinance by the Mayor and Council of said City, its written acceptance of all the terms, provisions and conditions of this ordinance; said acceptance and shall be entered upon the minutes of the Mayor and Council of the City of South Tucson, along with this ordinance, as a part thereof.

SECTION 13. Except as provide herein, nothing contained within this franchise shall diminish the Company's or City's legal rights or remedies under existing law, and the Company and City reserve their respective rights to pursue their legal rights and remedies in their discretion.

SECTION 14. Whenever in this ordinance the name Tucson Electric Power Company is used or understood, the name shall be take to mean and include Tucson Electric Power Company, its successors and assigns.

SECTION 16. The provisions of this ordinance are severable and if any provision, sentence, clause, section or part thereof shall be held illegal, invalid, or unconstitutional or inapplicable to any person or circumstance, such illegality, invalidity, unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance or their application to other persons and circumstances. It is hereby declared to be the legislative intent

that this ordinance would have been adopted if such illegal, invalid or unconstitutional provision, sentence, clause, section or part had not been included therein, and if the person or circumstances to which this ordinance or any part thereof is inapplicable had been specifically exempted therefrom.

PASSED AND ADOPTED by the Mayor and Council of the City of South Tucson, Arizona, this 11th day of February, 1992.

Shirley Villegas

Shirley Villegas, Mayor

ATTEST:

Marie Dolores Robles

Marie Dolores Robles
City Clerk

APPROVED AS TO FORM:

City Attorney

BULLHEAD CITY

ORDINANCE NO. 90- 328

AN ORDINANCE OF THE CITY OF BULLHEAD CITY, ARIZONA, GRANTING TO CITIZENS UTILITIES COMPANY, ITS LEGAL REPRESENTATIVES, SUCCESSORS, LESSEES AND ASSIGNS, CERTAIN POWERS, LICENSES, RIGHTS-OF-WAY, PRIVILEGES AND FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN IN BULLHEAD CITY, MOHAVE COUNTY, ARIZONA, AS NOW OR HEREAFTER CONSTITUTED, SYSTEMS FOR THE PRODUCTION AND TRANSMISSION OF ELECTRICITY FOR LIGHTING, HEATING, POWER AND OTHER LAWFUL PURPOSES, INTO, OUT OF AND THROUGH SAID MUNICIPALITY, AND FOR THE DISTRIBUTION AND SALE OF SUCH ELECTRICITY TO SAID MUNICIPALITY, ITS INHABITANTS AND OTHERS, INCLUDING CUSTOMERS INSIDE, BEYOND AND OUTSIDE THE LIMITS OF SAID MUNICIPALITY; AND TO USE THE STREETS, AVENUES, EASEMENTS, RIGHTS-OF-WAY, ALLEYS, HIGHWAYS, SIDEWALKS, BRIDGES AND OTHER STRUCTURES AND PLACES AND PUBLIC GROUNDS IN SAID MUNICIPALITY FOR A PERIOD OF TWENTY-FIVE (25) YEARS; AND PRESCRIBING IN CONNECTION THEREWITH CERTAIN RIGHTS, DUTIES, TERMS AND CONDITIONS HEREIN MENTIONED; AND PROVIDING FOR THE PAYMENT OF SAID MUNICIPALITY OF A PERCENTAGE OF CERTAIN REVENUES OF GRANTEE FROM ITS OPERATIONS THEREIN; AND DECLARING AN EMERGENCY.

BE IT ORDAINED by the Mayor and City Council of the City of Bullhead City, Arizona, as follows:

Section 1: That the City of Bullhead City, a municipal corporation in Mohave County, Arizona, hereinafter called the "City", hereby grants to and vests in Citizens Utilities Company, a corporation, duly authorized to transact within the State a public service business as an electric utility, hereinafter called the "Company", a franchise with the right to operate a system for the production, transmission, distribution and sale of electricity for lighting, heating, power and other lawful purposes, in the City, as now or hereafter constituted, and the authority, license, power and privilege to maintain, construct, build, equip, conduct or otherwise establish and operate in said City, works or systems and plants to produce, transmit, distribute, sell, convey or otherwise establish, conduct, serve, supply or furnish the inhabitants of said City and others, and to the City whenever it may desire to contract therefor, electricity for light, power, heat and any and all other lawful purposes, and the Company is hereby granted passage, right-of-way and the right to occupy and use in any lawful way during the life of this franchise each and any and all streets, avenues, easements,

rights-of-way, alleys, highways, sidewalks, bridges and other structures and places and public grounds of said City, on, above and beneath the surface of the same, as said streets, avenues, rights-of-way, alleys, highways, sidewalks, bridges and other structures and places and public grounds now exist or may be hereafter extended, for every and any such service, use, effect and lawful purpose as herein mentioned.

Section 2: The Company is hereby authorized, licensed and empowered to do any and all things necessary and proper to be done and performed in executing the powers and utilizing the privileges herein mentioned and granted by this franchise, provided the same do not unreasonably conflict with water or other pipes, sewers or other pre-existing underground installations, and that all work done in said streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges or other grounds of said City by the Company shall be done with the utmost diligence and the least inconvenience to the public or individuals, and the Company shall, within a reasonable time, restore such streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and public grounds excavated by it to their original condition as nearly as practicable, subject to the reasonable approval of the City. The Company shall remove or relocate its lines and facilities as and when required by the City to accommodate right-of-way improvements for the public benefit at the sole expense of the Company, except where entitlement to reimbursement shall be provided by contract, law or this ordinance. City will bear the entire cost of relocating any facilities, the relocation of which is necessitated by the construction of improvements by or on behalf of City in furtherance of a proprietary function. In the event of such entitlement, reimbursement shall be made strictly in accordance therewith. City will not exercise its right to require Company's facilities to be relocated in an unreasonable or arbitrary manner, or to avoid its obligations under this Section 2. Company and City may agree to cooperate on the location and relocation of facilities at Company's expense.

Section 3: Prior to commencing any scheduled work in a right-of-way, the Company shall submit plans of work to be done to the Public Works Director for approval. Said approval shall not be unreasonably withheld and shall be deemed granted if no written notice of disapproval (including all reasons for said disapproval) is delivered to Company within three business days of Company's submission. Completed or "as built" drawings will be submitted within 60 days of project completion as may be required by the Public Works Director. Drawings shall not be required for construction involving service lines only.

Section 4: Company property shall be constructed or installed in a right-of-way only at such locations and in such manner as shall be approved by the City or its agents acting in the exercise of reasonable discretion. Construction or

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installation of Company property in all other public places shall be subject to approval of a regulation by City or its agents according to law.

Section 5: All installations made by Company shall be made in a safe substantial condition and maintained in such condition at all times. All of such installation of equipment shall be of a permanent nature, durable and appropriately placed so as not to interfere in any manner with the rights of the public or individual property owners and shall not interfere with the travel and use of public places by the public nor during the construction, repair and removal shall not obstruct nor impede traffic. The City reserves the right of reasonable regulation of the erection and construction of any work by the Company and to reasonably designate where such works and construction shall be placed. The Company agrees when requested by the City to make minor changes in its equipment to conform to the reasonable necessary requirements within a reasonable time.

Company will be responsible to obtain all state and federal licenses and permits and will additionally be responsible for meeting all state, federal and local installation standards.

Section 6: The Company shall defend the City against all claims for injury to any person or property caused by the negligence of the Company in the construction or operation of its property, and in the event of a determination of liability shall indemnify the City. More particularly, the Company, its successors and assigns, does hereby agree to indemnify and hold harmless the City, from any and all liability, claim, demand or judgment arising out of any injury to any person or property, as a result of the violation or failure on the part of the Company, its successors and assigns, to observe their proper duty or because of negligence in whole or in part arising out of construction, repair, extension, maintenance or operation of its equipment of any kind or character used in connection with this franchise.

Section 7: Company agrees that at all times during the existence of this franchise it will maintain in force, at its own expense, and file with the City, a commercial general liability insurance policy, in protection of City, its boards, commissions, officers, agents, employees and the public. The policy will be with a company authorized to do business in the State of Arizona, and in a form satisfactory to the Risk Manager, such satisfaction not to be unreasonably withheld, protecting the City and all persons against liability for loss or damages for personal injury, death and property damage occasioned by the operations of Company under this franchise, with minimum liability limits of $1,000,000 for personal injury or death of any one occurrence, and $1,000,000 for damages to property resulting from any one occurrence.

The policies mentioned in the foregoing paragraph shall name the City, its officers, boards, commissions, agents and employees as additional insured and shall contain a provision

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that a written notice of cancellation or material reduction in coverage of said policy shall be delivered to the City fifteen (15) days in advance of the effective date thereof. If such insurance is provided in either case by a policy which also covers Company or any other entity or person than those above named, then such policy shall contain the standard cross-liability endorsement.

Section 8: The rates and charges to be charged by the Company for furnishing electric service hereunder and the rules and regulations to be made and enforced by the Company for the conduct of its business shall be those from time to time on file and effective with the Arizona Corporation Commission applicable to such service.

Section 9: The Company shall have the right and privilege of assigning this franchise and all rights and privileges granted herein, and whenever the word "Company" appears herein, it shall be construed as applying to its successors, lessees and assigns.

Section 10: The Company, its successors, lessees and assigns, for and in consideration of the granting of this franchise and as rental for the occupation and use or easement over, upon and beneath the streets, avenues, easements, rights-of-way, highways, alleys, sidewalks, bridges and public grounds in said Company shall pay to the City, commencing with the first full billing period after the effective date of this franchise and continuing each year during all the time this provision shall remain in force and effect, a total aggregate sum of two percent (2%) of the gross receipts (excluding from gross receipts all sales taxes, gross revenues taxes or similar charges based upon gross receipts) of the Company, its successors, lessees and assigns, during such year, for electric sold within the corporate limits of the City, subject to the limitations hereinafter stated; such gross receipts to consist of the total amount collected from users and consumers on account of electric sold and consumed within the corporate limits of the City under the Company's rates in existence at the time, excepting therefrom, however, the gross receipts for electric sold to industrial consumers under special contract, and the gross receipts for electric sold to the City for its own use. The Company shall make such payments semi-annually on or before the last day of January and July in each such year while this provision shall remain in full force and effect. For the purpose of determining such revenue, the books of the Company shall at all reasonable times be subject to inspection by duly authorized municipal officials. Said payments shall be in lieu of any and all other franchise, license, privilege, instrument, occupation, excise or revenue taxes and all other exactions or charges (except general ad valorem property taxes, special assessments for local improvements, and except municipal privilege, sales or use taxes authorized by law and collected by the Company from users and consumers of electric within the corporate limits of the City) upon the business, revenue, property, electric

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lines, installations, electric systems, conduits, storage tanks, pipes, fixtures or other appurtenances of the Company and all other property or equipment of the Company, or any part thereof, in said City during the term of this franchise; provided that anything to the contrary herein notwithstanding said payment shall continue only so long as said company is not prohibited from making the same by any lawful authority having jurisdiction in the premises, and so long as the City does not charge, levy or collect, or attempt to charge, levy or collect other franchise, license, privilege, occupation, excise or revenue taxes or other exactions or charges hereinabove mentioned, and if any lawful authority having jurisdiction in the premises hereafter prohibits said payment, or the City does levy, charge or collect or attempt to levy, charge or collect such other franchise, license, privilege, occupation, excise or revenue taxes, or other exactions or charges, the obligation to make such payments hereinabove provided for shall forthwith cease.

Section 11: This franchise shall be accepted by the Company in writing, which acceptance shall be filed with the City within sixty (60) days after the passage of this ordinance, and when so accepted, this ordinance shall be a contract duly executed by and between the City and the Company.

Section 12: If any section, paragraph, subdivision, clause, phrase or provision hereof shall be adjudged invalid or unconstitutional, the same shall not affect the validity hereof as a whole, or any part or provision other than the part so decided to be invalid or unconstitutional.

Section 13: This franchise shall continue in full force and effect for a period of twenty-five (25) years from the date of passage of this ordinance, however, the City may terminate this franchise in the event the City shall have found, after notice and hearing, that the Company has failed to comply with any material provisions of this ordinance or has failed to correct any failure after thirty (30) days written notice. Any termination by the City as described in this Section shall not be effective until confirmed by final decision of a court of competent jurisdiction.

Section 14: All plant, system, pipelines, works, and all other physical property installed by the Company in accordance with the terms of this franchise shall be and remain the property of the Company, and upon expiration of this franchise or any extension or renewal thereof, the Company is hereby granted the right to enter upon the streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and other structures and places and public grounds of said City for the purpose of removing any and all such plant, system, pipelines, works and other property of the Company, at any time within six (6) months after termination of this franchise or any such extension or renewal thereof.

Section 15: The Company's service and extension policies are

those that are from time to time approved by the Arizona Corporation Commission and shall be filed with the City Clerk.

Section 16: This ordinance shall only become effective after its approval by a majority vote of the qualified electors of the city at a regular election or at a special election duly and regularly called by the City Council of the City of Bullhead City for that purpose.

WHEREAS, it is necessary for the preservation of the peace, health and safety of the City of Bullhead City, Arizona, an emergency is declared to exist, and this ordinance shall become immediately operative and in force from and after the date of posting hereof.

PASSED AND ADOPTED by the Mayor and City Council of the City of Bullhead City, Arizona, this 3rd day of April , 1990.

APPROVED this 3rd day of April , 1990 by the affirmative vote of three-fourths of the members of the City Council of the City of Bullhead City, Arizona.

Bob Rogge

Bob Rogge, Mayor

DATE: 4/4/90

ATTEST:

Dana E Shilling

Dana Shilling, City Clerk

APPROVED AS TO FORM:

Paul Lenkowsky, City Attorney

FLG 2323 63

ATTACHMENT A

ACCEPTED WITHOUT CHANGE:

_____
PERMITTEE (OR AGENT) OF
CITIZENS UTILITIES COMPANY

FLG 2232364

KINGMAN

Leg 15 File
FRANCHISES

AED
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CITY OF KINGMAN, ARIZONA
ORDINANCE NO. 599

AN ORDINANCE GRANTING TO CITIZENS UTILITIES COMPANY, A DELAWARE CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE RIGHT, PRIVILEGE AND FRANCHISE TO CONSTRUCT, MAINTAIN AND OPERATE UPON, OVER AND ALONG, ACROSS AND UNDER THE STREETS, AVENUES, ALLEYS, HIGHWAYS, BRIDGES AND OTHER PUBLIC PLACES IN THE CITY OF KINGMAN, ARIZONA, AND FUTURE ADDITIONS THERETO, ELECTRIC LIGHT AND POWER PLANTS AND LINES, TOGETHER WITH ALL NECESSARY AND DESIRABLE APPURTENANCES, FOR THE PURPOSE OF SUPPLYING ELECTRICITY TO SAID TOWN, ITS SUCCESSORS, INHABITANTS THEREOF, AND PERSONS AND CORPORATIONS EITHER WITHIN OR BEYOND THE CORPORATE LIMITS THEREOF, FOR LIGHT, HEAT, POWER AND OTHER PURPOSES: PRESCRIBING CERTAIN RIGHTS, DUTIES, TERMS AND CONDITIONS IN RESPECT THERETO; PROVIDING FOR THE PAYMENT TO SAID CITY OF A PERCENTAGE OF CERTAIN REVENUE OF THE GRANTEE FROM ITS OPERATION THEREIN; REPEALING CONFLICTING ORDINANCES; AND DECLARING AN EMERGENCY.

THE MAYOR AND COMMON COUNCIL OF THE CITY OF KINGMAN, ARIZONA, DO ORDAIN AS FOLLOWS:

Section 1. There is hereby granted to the Citizens Utilities Company, a Delaware corporation, its successors and assigns (herein called "Grantee") the right, privilege and franchise to construct, maintain and operate upon, over, along, across and under the present and future streets, avenues, alleys, highways, bridges and other public places in the City of Kingman, Arizona (herein called "City"), electric light and power lines, together with all necessary or desirable appurtenances (including electric power plants, substations, poles, towers, wires, cables, transmission lines, underground conduits and structures, distribution wires (for its own use) for the purpose of supplying the City of Kingman, its successors, the present and future inhabitants thereof including persons and corporations either within or beyond the limits thereof, for light, heat, power and other purposes.

Section 2. All electric lines, poles, towers, conduit and other structures constructed under this grant shall be constructed and maintained in accordance with established practices with respect to such construction and shall be located so as to cause minimum interference with the proper use of the streets,

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avenues, alleys, highways, bridges and public places of the City. Grantee agrees to maintain the capacity of its electric system from time to time to meet the requirements and demands of the City of Kingman, and its inhabitants, and to maintain its property and equipment in good order and condition in due compliance with Arizona laws and rules and regulations of the Arizona Corporation Commission from time to time effective. The rates, terms and conditions of all electric service provided to the City and the inhabitants thereof, within or beyond the limits of the City, shall be governed by the rules, regulations and orders of the Arizona Corporation Commission.

Section 3. Whenever the Grantee shall cause any opening or alteration whatever to be made for any purpose in any public street, avenue, alley, highway or place, the work shall be completed within a reasonable time and the Grantee shall, upon the completion of such work, restore the property disturbed to as good condition as it was in before such opening or alteration.

Section 4. The City and its officers and agents shall in no way be liable or responsible for any acts or damage that may occur in the construction, operation or maintenance by the Grantee of its lines and appurtenances hereunder, and the acceptance of this franchise shall be deemed as an agreement on the part of the Grantee, its successors and assigns, to indemnify the City and its officers and agents and hold them harmless against any and all liability, loss, cost, damage or expense which may accrue to the City by reason of the negligence, default or misconduct of the Grantee in the construction, operation or maintenance of its lines and appurtenances hereunder.

Section 5. As a further consideration for the franchise hereby granted, Grantee will pay to the City a sum equal to two percent (2%) of the receipts of the Grantee from the sale and distribution of electric energy at retail for residential and commercial purposes within the corporate limits of the City, as shown by Grantee's billing records, such payments to be due and payable quarterly. The sale of electric energy for residential and commercial purposes within the corporate limits of the City shall not include energy sold to public authorities including the City or sales to assemblers, modifiers, or manufacturers as defined by Article II, Chapter 8 of the Kingman Code of Ordinances. For the purpose of verifying the amounts payable hereunder, the books and records of Grantee shall be subject to inspection by duly authorized officials or representatives of the City at reasonable times.

In the event that the City, in addition to the payments hereinabove provided for, shall assess, charge or levy upon Grantee or its business within the City any license, privilege, occupation, excise or revenue taxes, or other exactions (except general ad valorem property taxes and special assessments for local improvements) then the payments hereinabove provided for shall be reduced by the amount of the license, privilege, occupation, excise or revenue taxes or other exactions paid by Grantee. If, in any year, said taxes or exactions equal or exceed the payments hereinabove provided for, then no such payments shall be due or payable hereunder for such year.

Section 6. Grantee shall in writing notify the City of any application it might make to the Arizona Corporation Commission for authority to increase its rates as soon as said application is filed with the Commission.

Section 7. The right, privilege and franchise hereby granted shall continue and exist for a period of twenty-five (25) years from the effective date hereof.

Section 8. The rights, privileges and franchise hereby granted shall not be voluntarily transferred in whole or in part by the Grantee, its successors or assigns, except by operation of law, unless a resolution consenting to such assignment has first been adopted by the Mayor and Common Council of the Town; provided, however, such consent shall not be unreasonably withheld.

Section 9. This grant is not exclusive, and nothing herein contained shall be construed to prevent the City from granting other like or similar grants or privileges to any other person, firm or corporation.

Section 10. This Ordinance shall become and be in full force and effect from and after its passage, approval and publication as provided by law.

Section 11. Grantee within thirty (30) days after the due adoption of this Ordinance shall file its acceptance thereof in writing with the Clerk of the City of Kingman, Arizona; otherwise, the right, privilege and franchise hereby granted shall become null and void.

Section 12. All ordinances and parts of Ordinances in conflict with the provisions hereof are hereby repealed.

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City of Kingman, Arizona
Ordinance No. 599

Section 13. If any section, paragraph, subdivision, clause, phrase or provision of this Ordinance shall be adjudged invalid or unconstitutional, the same shall not affect the validity of this Ordinance as a whole or any part of the provisions hereof other than the part as adjudged to be invalid or unconstitutional.

Section 14. The immediate operation of this Ordinance is necessary for the preservation of the public peace, health, and safety of the City of Kingman, Mohave County, Arizona, and an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its approval by the Mayor and Common Council of the City of Kingman, and publication and posting as required by law.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE CITY OF KINGMAN, ARIZONA, THIS ~~3rd~~ 4th DAY OF ~~February~~ April, 1986.

APPROVED:

Carol S. Anderson
CAROL S. ANDERSON, Mayor

ATTEST:

Dorothy Helmer
DOROTHY HELMER, City Clerk

APPROVED AS TO FORM:

James Chavez
JAMES E. CHAVEZ, City Attorney

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SANTA CRUZ COUNTY

FRANCHISE TO:

CITIZENS UTILITIES COMPANY,

a Delaware Corporation

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, CITIZENS UTILITIES COMPANY, a corporation, has duly and regularly applied and petitioned, pursuant to A.R.S. Section 40-283, to the Board of Supervisors of Santa Cruz County, Arizona, for a Public Service Franchise to construct, maintain, install and operate an electric power and energy and gas distribution and sales system, to serve the residents of Santa Cruz County, Arizona, save and except within the confines of any incorporated city or town in Santa Cruz County, Arizona; and

WHEREAS, the said CITIZENS UTILITIES COMPANY, a corporation, has requested the use of certain highways, streets, roads and alleys; and

WHEREAS, it appears that notice of hearing on said application has been duly given as required by law; and

WHEREAS, said application came on regularly to be heard on the eighth day of June, 1990, before the Board of Supervisors of Santa Cruz County, and no petition to the Board to deny such privilege and franchise was filed or presented according to law, and the Board considered the application for the franchise,

NOW THEREFORE, it being determined by the Board of Supervisors of Santa Cruz County that the grant of this

franchise is regular, proper, authorized by law and in the best interests of Santa Cruz County and the inhabitants thereof;

IT IS HEREBY RESOLVED, that CITIZENS UTILITIES COMPANY, a corporation, be and is hereby enfranchised and empowered to use all streets, highways, roads and alleys now established, used or dedicated to the public use or which may hereafter be established, used or dedicated to the public use, lying within Santa Cruz County, Arizona, save and except within the confines of any incorporated city or town in Santa Cruz County, Arizona, for the purpose of installing, constructing, maintaining and operating an electric power and energy and gas distribution and sales system and all such appurtenances and installations as may be necessary for the purpose of engaging in the business of supplying consumers with electric power, energy and gas for domestic and commercial use.

PROVIDED, HOWEVER, that:

1. All rights hereunder are granted under the express condition that the BOARD OF SUPERVISORS of said Santa Cruz County shall have the power at any time to impose, at its sole discretion such restrictions, limitations, and regulations as to the use of said highways, roads, streets and alleys by CITIZENS UTILITIES COMPANY, a corporation, as may be deemed best by the Board of Supervisors for the public safety or welfare. The rights of Santa Cruz County in and to the use of the highways, roads, streets and alleys shall forever be

paramount and superior to the rights of the CITIZENS UTILITIES COMPANY.

2. The said CITIZENS UTILITIES COMPANY, a corporation, shall bear all expenses made or incurred for the purpose of this franchise, including damage and compensation for any alteration of the direction, surface, grade or alignment of any of the aforesaid highways, roads, streets and alleys.

3. The said CITIZENS UTILITIES COMPANY, a corporation, shall bear all expenses for the moving of any improvements belonging to CITIZENS UTILITIES COMPANY, a corporation, made necessary by the Board of Supervisors' determination to surface, grade, align, etc. the said highways, roads, streets, and public alleys, or any part thereof.

4. This franchise is granted for the term of Twenty-five (25) years from the date of the granting of the same. This franchise and the rights and privileges granted herein shall be salable, assignable and transferable by CITIZENS UTILITIES COMPANY, a corporation, but no sale, assignment or transfer, in whole or in part of any of the rights and privileges granted herein shall be effective as against Santa Cruz County until notice of the same in writing has been given the Board of Supervisors of Santa Cruz County.

5. This franchise and the privileges granted herein shall not be exclusive, and the Board of Supervisors expressly reserves the right to grant the use of roads, streets and alleys, or any thereof, to any other persons, firms or corporations.

6. This franchise shall not be effective for any purpose until the acceptance of CITIZENS UTILITIES COMPANY, a corporation, is endorsed hereon in writing. PROVIDED, that after any sale, assignment or transfer of CITIZENS UTILITIES COMPANY'S, a corporation, rights hereunder, and after approval of such by Santa Cruz County, the said CITIZENS UTILITIES COMPANY shall not be obligated under the terms hereof.

IN WITNESS WHEREOF, the BOARD OF SUPERVISORS of Santa Cruz County, Arizona, has caused these presents to be executed and signed by the Chairman of the Board and attested by the Clerk and the seal of the Board affixed hereto this 6th day of June, 1990.

BOARD OF SUPERVISORS

By _____
Robert Damon, Chairman

_____
Camilo Ahumada

_____
Ronald R. Morriss

_____
Fran DeCillis, Clerk of the Board of Supervisors

The CITIZENS UTILITIES COMPANY, a corporation, does hereby accept the within and foregoing Franchise this 6 day of June, 1990.

CITIZENS UTILITIES COMPANY

By _____
Title DIVISION MANAGER

Approved as to form:

Santa Cruz County Attorney

CUC

CONSENT, FRANCHISE AND PERMIT

KNOW ALL MEN BY THESE PRESENTS:

That the Board of Supervisors of Santa Cruz County, Arizona, has granted, and it does hereby grant, unto CITIZENS UTILITIES COMPANY, a corporation, full consent, franchise and permit to own, operate and maintain hereafter for a period of twenty-five (25) years from and after the 2nd day of August, 1965, within all of that portion of the County of Santa Cruz, State of Arizona, that the said Citizens Utilities Company is authorized to serve and exclusive of that portion thereof lying within the corporate bounds of the City of Nogales, Arizona, an electric power and energy and gas distribution and sales system and the full right, power and privilege throughout such period to sell in said County of Santa Cruz, exclusive of the locality hereinabove excepted, whether at retail or at wholesale, electric power and energy and gas, and also the full right, power and privilege to acquire, erect, repair, maintain, own and operate any and all property and equipment incidental, requisite, or of convenience in the full exercise and enjoyment of this consent, franchise and permit, including transmission pipes and lines; and said Board of Supervisors does hereby further grant to said Citizens Utilities Company such full and complete rights of way and easements throughout said County of Santa Cruz in and upon all County roads and rights of way as may be required in, or of convenience to, the full enjoyment and beneficial use of the rights, powers and privileges hereby granted and conferred, such rights of way and easements to be so established as to occasion the least possible inconvenience within reason to the public under all the circumstances; provided, however, that the said Citizens Utilities Company shall bear all expenses, including damages and compensation for any alteration of the direction, surface, grade or alignment of a County road made for the purpose of this franchise.

IN WITNESS WHEREOF, said Board of Supervisors has caused these presents to be executed in duplicate for and upon its behalf by its Chairman and Clerk thereunto duly authorized on this the 31st day of August, 1965.

BOARD OF SUPERVISORS OF SANTA CRUZ COUNTY, ARIZONA

By _____
Chairman

ATTEST:

By _____
Clerk

CAMP VERDE

FRANCHISE AGREEMENT BETWEEN CITIZENS UTILITIES COMPANY AND THE TOWN OF CAMP VERDE

RECEIVED
1/6/98
TOWN OF CAMP VERDE
LEGAL DEPARTMENT

FRANCHISE AGREEMENT dated as of March 17, _____, 1999, between The Town of Camp Verde ("Camp Verde") and Citizens Utilities Company, ("Citizens").

RECITALS

A. Citizens wishes to provide natural gas service to the Camp Verde area. Citizens holds a Certificate of Convenience and Necessity from the Arizona Corporation Commission for the Camp Verde area.

B. Camp Verde wishes to have Citizens provide natural gas services to the Camp Verde area and enters into this Agreement in order to secure those services.

C. The Arizona Constitution and the Arizona law require that this proposed franchise be submitted to the qualified electorate of Camp Verde for approval or disapproval of this Agreement.

AGREEMENT

Camp Verde and Citizens agree as follows:

1. Definitions. For the purposes of this Agreement, the following terms, phrases, words and their derivations will have the meaning given herein. When consistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Words not defined will be given their common and ordinary meaning.

A. "Agreement" means this Franchise Agreement entered into between Citizens and Camp Verde and all exhibits and attachments.

B. "Camp Verde area" means that area currently within the municipality of Camp Verde or any area that becomes incorporated in Camp Verde at some later date, where service may be provided under this Agreement.

C. "Camp Verde official" means an individual authorized by the Town of Camp Verde to take relevant action under the Agreement on behalf of the Town of Camp Verde.

D. "Camp Verde" means the Town of Camp Verde, Arizona, an Arizona municipal corporation, and its successors and assigns.

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E. "Citizens" means Citizens Utilities Company, its successors, transfers and assigns.

F. "Council" means the Town Council of Camp Verde or a subcommittee appointed by the Town Council of Camp Verde.

G. "Franchise fee" means two percent (2%) of Citizens' gross revenues derived from the sale of natural gas in the Camp Verde area.

H. "Franchise" means the rights granted under this Franchise Agreement.

I. "Gas distribution facilities" means all facilities used by Citizens for the distribution of natural gas to Camp Verde, including but not limited to pipes, pipelines, mains, laterals, service lines, manholes, pumps, meters, gauges, valves, traps, fences, vaults, regulators, regulator stations, conduits, appliances, attachments, wires, cables, pedestals, appurtenances thereto and all other property and equipment as is necessary and appurtenant to the operation of a natural gas system under this Agreement.

J. "Gross revenues" means all amounts obtained by Citizens from the sale of natural gas within the Camp Verde area. Gross revenues will equal the amount shown by Citizens' billing records. Gross revenues will not include bad debt, sales taxes, or other taxes that are collected by Citizens on behalf of, and for payment to, the local, state or federal government. Gross revenues excludes all sales taxes, gross revenue taxes, impact fees, development fees, connection fees, late fees, insufficient funds charges, forfeited deposits, gas sold to industrial consumers under special contracts or to Camp Verde for its own use, and other special taxes, charges or fees collected by Citizens from its customers or other entities or persons in connection with the provision of natural gas services to the Camp Verde area.

K. "Natural gas" means natural gas, artificial gas and manufactured gas, including liquefied petroleum, and any mixture thereof.

L. "Person" means any individual, natural person, sole proprietorship, partnership, association, or corporation or any other form of entity or organization.

M. "Public rights-of-way" means all present and future public rights of way, including, but not limited to, streets, alleys, ways, highways, bridges, public utility easements, public easements, and all other areas which are now or in the future considered public rights-of-way.

N. "Town Clerk" means the Clerk of the Town of Camp Verde.

2. Grant of Franchise. Camp Verde grants to Citizens, the right, privilege and franchise to construct, repair, maintain, and operate within the present and future public rights-of-way in Camp Verde, a natural gas distribution system, together with all necessary or desirable appurtenances for the purpose of supplying natural gas to Camp Verde, the inhabitants of the Camp Verde area, and all individuals and entities within or beyond the Camp Verde area, for all purposes.

3. Use of Public Rights-Of-Way. Citizens may erect, install, construct, repair, replace, reconstruct and retain in, on, over, under, upon, across, and along the public rights-of-way of Camp Verde. Citizens will comply with all applicable construction codes, laws, ordinances, regulations and procedures, now in effect or later enacted, and will obtain all necessary permits before commencing any construction activities.

4. Compliance with the Established Practices of Camp Verde.

a. All construction under this Agreement will be performed in accordance with the established practices of Camp Verde with respect to the public rights-of-way.

b. If Camp Verde undertakes (either directly or through a contractor) a construction project adjacent to or near the gas distribution facilities, Camp Verde will include in those construction specifications, bids and contracts, a requirement that, as part of the cost of the project, the contractor must make arrangements and pay Citizens to temporarily remove, relocate, barricade or depressurize Citizens' facilities or equipment. The above requirement will only be necessary if the location of the facilities or equipment may create an unsafe condition in view of the methods and equipment to be used by the contractor. Camp Verde agrees to indemnify and hold Citizens harmless for any and all claims, lawsuits or expenses incurred by Citizens as a result of Camp Verde's failure to comply with this subsection.

5. Construction and Relocation of Citizens' Facilities; Payment.

a. All gas distribution facilities will be located or relocated and erected to minimize the interference with traffic or other authorized uses over, under or through public rights-of-way. All construction will be subject to the issuance of a gas distribution facilities permit. Citizens will be required to obtain and pay all required fees and charges for construction permits and inspections of all non-gas related facilities, including but not limited to, office buildings and storage buildings. Permits for and inspections of gas distribution facilities will be provided at no cost under this Agreement.

b. If Camp Verde requires Citizens to relocate Citizens' facilities which are located in private easements or rights-of-way obtained by Citizens prior to Camp Verde's acquisition of the public right-of-way from which the facilities must be relocated, the entire cost of relocating Citizens' facilities (including the cost of purchasing a new private easement or right-of-way, if necessary) will be borne by Camp Verde. Camp Verde will also bear the entire cost of all subsequent relocations of the relocated facilities required by Camp Verde, until and unless Camp Verde condemns or otherwise purchases Citizens' private easement or right-of-way.

c. Citizens will remove or relocate its lines and facilities as and when required by Camp Verde; such removal or relocation will be made at the sole expense of Camp Verde.

d. When Camp Verde participates in the cost of relocating Citizens' facilities for any reason, the cost of relocation to Camp Verde will not include any upgrade or improvement of Citizens' facilities as they existed before relocation.

e. Camp Verde will not exercise its right to require Citizens' facilities to be relocated in an unreasonable or arbitrary manner. Citizens and Camp Verde may agree to cooperate on the location and relocation of other facilities in public rights-of-way.

f. Camp Verde will consult with Citizens in the planting of trees and other deep rooting plants in or near public rights-of-way where there are existing gas distribution facilities.

6. Restoration of Rights-of-Way. Whenever Citizens causes an opening or alteration to be made in any public right-of-way, the work will be completed with due diligence. Upon completion of the work, Citizens will restore the disrupted property to its original condition, as practicable. Citizens will bear the full reasonable costs of all barricades, signing, rerouting of traffic, or other actions which Camp Verde considers necessary in the interest of public safety during the opening or alteration within the public right-of-way.

7. Indemnification and Insurance. The Town of Camp Verde will not be liable for any accident or damage caused by Citizens during the construction or operation of the gas distribution facilities. Citizens hereby agrees to indemnify Camp Verde and hold it harmless against any liability, loss, costs, legal fees, damage or other expenses which may be imposed on Camp Verde due solely to the negligence of Citizens. Citizens will maintain throughout the term of this Agreement either liability insurance or general assets in the amount necessary to adequately insure or protect Citizens from any legal liability

common to the industry including Citizens' indemnity obligations under this Agreement.

8. Franchise Fee. As compensation for the benefits and privil granted under this Agreement and in consideration of permission to use Cam Verde's public rights-of-way, Citizens will pay franchise fee equal to two percent (2%) of Citizens' gross revenues derived from the sale of natural gas within the Camp Verde area. The franchise fee will be due and payable semi-annually, and will be in lieu of all fees or charges for permits or licenses issued for the construction, installation and maintenance (including street cuts and street repairs) of Citizens' gas distribution facilities hereunder or for the inspection of those facilities. Camp Verde may not impose, levy or collect any special or other fee, charge, tax or compensation (including a sales tax, gross revenue tax, impact fee, development fee, connection fee, late fee, insufficient funds charge, or deposit forfeiture) with respect to this Agreement or with respect to the provision of natural gas service.

9. Term. This Agreement will continue and exist for a period of 25 years from the date of passage of the ordinance. This franchise will be accepted by Citizens in writing and filed in the office of the Town Clerk within 60 days of the date of the certification of the election results by the Council. Once accepted, the Agreement will be a contract duly executed by and between Camp Verde and Citizens. Throughout the entire term of this Agreement, any change or alteration of this Agreement will be void unless written acceptance of the change is delivered by Citizens to the Town Clerk within 60 days of the date of any change or alteration.

10. Transfer of Ownership and Assignment. Citizens will have the right and privilege of assigning this franchise and all rights and privileges granted herein.

11. Rates and Charges. The rates and charges to be charged by Citizens for furnishing gas service and the rules and regulations to be made and enforced by Citizens to conduct its business will be those ordered by the Arizona Corporation Commission that are applicable to such service.

12. Independent Provisions. If any section, paragraph, clause, phrase or provision of this Agreement is adjudged to be invalid or unconstitutional, it will not affect the validity of this Agreement or any part of this Agreement, other than that portion adjudged invalid or unconstitutional.

13. Expiration. Camp Verde and Citizens expressly agree that the following provisions will survive the termination or expiration of this Agreement. Upon the termination or expiration of the franchise, if Citizens has not acquired and accepted an extension or renewal of the franchise, Citizens may remove its facilities and system within the Camp Verde Area or, with Camp Verde's express

written consent, or as permitted by law, Citizens may continue operating its facilities and system within the Camp Verde Area until a new agreement is reached between Citizens and Camp Verde. All plant, system, pipelines, and all physical property installed by Citizens in accordance with the terms of this Agreement remains the property of Citizens. Upon expiration of this franchise or any extension or renewal thereof, Citizens is granted the right to enter Camp Verde's public grounds for the purpose of removing all Citizens' plant, system, pipelines, and other property.

14. Entire Agreement. This Agreement represents the entire agreement of the parties with respect to its subject matter. This Agreement may not be amended without the written consent of Citizens and Camp Verde.

15. Governing Law. The provisions of this Agreement are to be governed and construed in accordance with the laws of the State of Arizona.

16. Notices. All notices required to be given to either party are to be mailed or given at the following addresses:

To Camp Verde: Town of Camp Verde
P.O. Box 710
Camp Verde AZ 86322

To Citizens: Citizens Utilities Company
Phoenix Administrative Office
2901 North Central Avenue, Suite 1660
Phoenix, Arizona 85012-2736
Attn: Deborah R. Scott, Esq.

17. Headings. The section headings of this Agreement are intended only to assist the reader in locating provisions and are not to be used to interpret the language or meaning of any section.

18. Binding Effect. This Agreement shall be binding upon the parties, their successors, transfers and assigns.

Passed and adopted this 17 day of March, 1999.

TOWN OF CAMP VERDE, ARIZONA

Carter Rogers
Mayor

D Bullard

CITIZENS UTILITIES COMPANY

By

Its: Vice President

City Manager

Attest:

City Clerk

Approved as to Form:

City of Camp Verde Attorney
669462/1-8407

STATE OF ARIZONA)
) ss.
COUNTY OF ~~MARICOPA~~) YAVAPAI

The foregoing instrument was acknowledged before me this 18 day of March, ~~1998~~ 99, by CARTER ROGERS, as Mayor of the Town of Camp Verde, Arizona, an Arizona municipal corporation, on behalf of the corporation.

Deborah A. Barber
Notary Public

My Commission Expires:

Sept. 13, 2001

OFFICIAL SEAL
DEBORAH A. BARBER
Notary Public - State of Arizona
YAVAPAI COUNTY
My Comm. Expires Sept. 13, 2001

STATE OF ARIZONA)
) ss.
COUNTY OF ~~MARICOPA~~) YAVAPAI

The foregoing instrument was acknowledged before me this 18 day of March, 1999, by DANE Bullard, as City Manager of the Town of Camp Verde, Arizona, an Arizona municipal corporation, on behalf of the corporation.

Deborah A. Barber
Notary Public

My Commission Expires:

Sept 13, 2001

OFFICIAL SEAL
DEBORAH A. BARBER
Notary Public - State of Arizona
YAVAPAI COUNTY
My Comm. Expires Sept. 13, 2001

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this _____ day of _____, 1998, by _____, as _____ of Citizens Utilities Company, on behalf of the corporation.

_____
Notary Public

My Commission Expires:

_____

CHINO VALLEY

File
Chino Valley
Franchise

ORDINANCE NO. 304

AN ORDINANCE GRANTING TO CITIZENS UTILTIES COMPANY, A DELAWARE CORPORATION, ITS LEGAL REPRESENTATIVES, SUCCESSORS, LESSEES AND ASSIGNS, CERTAIN POWERS, LICENSES, RIGHTS-OF-WAY, PRIVILEGES AND FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN IN THE TOWN OF CHINO VALLEY, STATE OF ARIZONA, AS NOW OR HEREAFTER CONSTITUTED, WORKS, SYSTEMS AND PLANTS FOR THE HANDLING, PRODUCTION, MANUFACTURING, TRANSPORTING, STORING, SALE AND DISTRIBUTION OF GAS INTO, OUT OF, AND THROUGH SAID MUNICIPALITY, AND FOR THE DISTRIBUTION AND SALE OF SUCH GAS TO SAID MUNICIPALITY, ITS INHABITANTS AND OTHERS, INCLUDING CUSTOMERS INSIDE, BEYOND, AND OUTSIDE OF THE LIMITS OF SAID MUNICIPALITY; AND TO USE THE STREETS, AVENUES, EASEMENTS, RIGHTS-OF-WAY, ALLEYS, HIGHWAYS, SIDEWALKS, BRIDGES AND OTHER STRUCTURES AND PLACES AND PUBLIC GROUNDS IN SAID MUNICIPALITY FOR A PERIOD OF TWENTY-FIVE (25) YEARS; AND PRESCRIBING IN CONNECTION THEREWITH CERTAIN RIGHTS, DUTIES, TERMS AND CONDITIONS HEREIN MENTIONED; AND PROVIDING FOR THE PAYMENT TO SAID MUNICIPALITY OF A PERCENTAGE OF CERTAIN REVENUES OF GRANTEE FROM ITS OPERATIONS THEREIN; AND DECLARING AN EMERGENCY.

BE IT ORDAINED by the governing body of the Town of Chino Valley, as follows:

Section 1. That the Town of Chino Valley, a municipal corporation in Yavapai County, Arizona, herein called the "Municipality," hereby grants to, and vests in, Citizens Utilities Company, a Delaware corporation, duly authorized to transact within this State a public service business as a gas utility, herein called the "Company," a franchise with the right to operate a gas plant, system, pipelines and works in the Municipality, as now or hereafter constituted, and the authority, license, power and privilege to maintain, construct, build, equip, conduct or otherwise establish and operate in said Municipality, works or systems and plants to manufacture, use, sell, store, distribute,

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convey or otherwise establish, conduct, serve, supply or furnish the inhabitants of said Municipality and others, and to the Municipality whenever it may desire to contract therefor, gas for light, fuel, power, heat and any and all other useful purposes, and the Company hereby is granted passage, right-of-way and its right to occupy and use in any lawful way during the life of this franchise, every and any and all streets, avenues, alleys, highways, sidewalks, bridges and other structures and places and public grounds of said Town, both above and beneath the surface of the same, as said streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and other structures and places and public grounds now exist or may be hereafter extended, for every and any such service, use, effect and lawful purpose as herein mentioned.

Section 2. The Company is hereby authorized, licensed and empowered to do any and all things necessary and proper to be done and performed in executing the powers and utilizing the privileges herein mentioned and granted by this franchise, provided the same do not unreasonably conflict with water or other pipes, sewers or other pre-exiting underground installations, and that all work done in said streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges or other grounds of said Municipality by the Company shall be done with the utmost diligence and the least inconvenience to the public or individuals, and the Company shall, within a reasonable time, restore such streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and

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public grounds excavated by it to their original condition as nearly as practicable, subject to the reasonable approval of the Municipality. The Company shall remove or relocate its lines and facilities as and when required by the Municipality; such removal or relocation shall be made at the sole expense of the Municipality. The Company shall save the Municipality, its officers and agents, harmless from any and all liabilities proximately caused by the Company's negligence in the erection, construction, installation or operation hereunder of the Company's facilities.

Section 3. The Company hereby agrees to indemnify and hold harmless the Municipality, its officers, boards, commissions, employees, agents and independent contractors, against and from any and all claims, demands, causes of action, suits or proceedings regardless of the merits of the same, damages including damages to city property, liability, costs and expenses of every type, all or any part thereof which arise by reason of any injury to any person or persons including death or property damages, resulting from the negligence of the Company, its officers, agents, employees, servants and/or independent contractors, while exercising any of the rights, privileges, powers granted herein except where the Municipality's negligence has, in some manner, contributed. The Municipality shall promptly notify the Company of any claim or cause of action which may be asserted against the Municipality relating to or covering any matter against which the Company has agreed, as set forth above, to indemnify, defend and save harmless

FLG 1108659

the Municipality. The Company reserves the right, but not the obligation, to employ such attorneys, expert witnesses and consultants as it deems necessary to defend against the claim or cause of action. The Company further reserves the right to take total or partial control of such defense. In the event that the Municipality is in control, either totally or partially of such defense, the Company shall pay all expenses incurred by the Municipality in providing the defense.

Section 4. The rates and charges to be charged by the Company for furnishing gas service hereunder and the rules and regulations to be made and enforced by the Company for the conduct of its business shall be those from time to time on file and effective with the Arizona Corporation Commission applicable to such service.

Section 5. The Company shall have the right and privilege of assigning this franchise and all rights and privileges granted herein, and whenever the word "Company" appears herein, it shall be construed as applying to its successors, lessees, and assigns.

Section 6. The Company, its successors, lessees, and assigns, for and in consideration of the granting of this franchise and as rental for the occupation and use or easement over, upon and beneath the streets, avenues, easements, rights-of-way, highways, alleys, sidewalks, bridges and public grounds in said Municipality shall pay to the Municipality, commencing with the first full billing period after the effective date of this franchise and continuing each year during all the time this provision shall

FLG 118660

remain in force and effect, a total aggregate sum of two percent (2%) of the gross receipts of the Company, its successors, lessees and assigns, during such year, for gas sold within the corporate limits of the Municipality, subject to the limitations hereinafter stated; such gross receipts to consist of the total amount collected from users and consumers on account of gas sold and consumed within the corporate limits of the Municipality under the Company's rates in existence at the time, excepting therefrom, however, the gross receipts for gas sold to industrial consumers under special contract, and the gross receipts for gas sold to the Municipality for its own use. The Company shall make such payments semi-annually on or before the last day of January and July in each such year while this provision shall remain in full force and effect. For the purpose of determining such revenue, the books of the Company shall at all times be subject to inspection by duly authorized municipal officials. Said payments shall be in lieu of any and all other franchise, license, privilege, instrument, occupation, excise or revenue taxes and all other exactions or charges (except general ad valorem property taxes, special assessments for local improvements, and except municipal privilege, sales or use taxes authorized by law and collected by the Company from users and consumers of gas within the corporate limits of the Municipality) upon the business, revenue, property, gas lines, installations, gas systems, conduits, storage tanks, pipes, fixtures or other appurtenances of the Company and all other property or equipment of the Company, or any part thereof, in said

FLG 118661

Municipality during the term of this franchise; provided that anything to the contrary herein notwithstanding said payment shall continue only so long as said Company is not prohibited from making the same by any lawful authority having jurisdiction in the premises, and so long as the municipality does not charge, levy or collect, or attempt to charge, levy or collect other franchise, license, privilege, occupation, excise or revenue taxes or other exactions or charges hereinabove mentioned, and if any lawful authority having jurisdiction in the premises hereafter prohibits said payment, or the Municipality does levy, charge or collect or attempt to levy, charge or collect such other franchise, license, privilege, occupation, excise or revenue taxes, or other exactions or charges, the obligation to make such payments hereinabove provided for shall forthwith cease.

Section 7. This franchise shall be accepted by the Company in writing, which acceptance shall be filed with the Municipality within sixty (60) days after the passage of this ordinance, and when so accepted, this ordinance shall be a contract duly executed by and between the Municipality and the Company.

Section 8. If any section, paragraph, subdivision, clause, phrase or provision hereof shall be adjudged invalid or unconstitutional, the same shall not affect the validity hereof as a whole, or any part or provision other than the part so decided to be invalid or unconstitutional.

FLG 1118652

Section 9. This franchise shall continue in full force and effect for a period of twenty-five (25) years from the date of passage of this ordinance.

Section 10. All plant, system, pipelines, works, and all other physical property installed by the Company in accordance with the terms of this franchise shall be and remain the property of the Company, and upon expiration of this franchise or any extension or renewal thereof, the Company is hereby granted the right to enter upon the streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and other structures and places and public grounds of said Municipality for the purpose of removing any and all such plant, system, pipelines, works and other property of the Company, at any time within six months after termination of this franchise or any such extension or renewal thereof.

Section 11. The immediate operation of this ordinance is necessary for the preservation of the public peace, health and safety of the Town of Chino Valley, Arizona, and an emergency is hereby declared to exist and this ordinance shall be in full force and effect from and after its adoption by the Town Council of the Town of Chino Valley and its approval by the Mayor thereof.

PASSED AND ADOPTED by the Town Council of the Town of Chino Valley, this 18th day of March, 1997.

APPROVED:

Kate Nelson

Kate Nelson, Mayor
Town of Chino Valley, Arizona

ATTEST:

Delores Sliger

Delores Sliger, Town Clerk

APPROVED AS TO FORM:

William E. Farrel

William E. Farrel
Town Attorney

APPROVED by the Mayor of the Town of Chino Valley, Arizona, this 18th day of March, 1997.

Kate Nelson

Kate Nelson, Mayor
Town of Chino Valley, Arizona

FLG 1118664

CLERK'S CERTIFICATION

TOWN OF CHINO VALLEY, ARIZONA

I, Delores Sliger, Town Clerk of the Town of Chino Valley, Arizona, do hereby certify that the foregoing is a full, true and correct copy of ORDINANCE NO. 304 (CITIZENS UTILITIES COMPANY FRANCHISE AGREEMENT) _____ as the same appears on file and of record in my office.

IN WITNESS WHEREOF, I hereunto set my hand and affix the seal of the Town of Chino Valley, Arizona this 25th day of March, 1997.

Delores Sliger

Delores Sliger, Town Clerk
Town of Chino Valley, Arizona

AFFIX TOWN SEAL

FLG 1186655

ACCEPTANCE OF FRANCHISE

STATE OF CONNECTICUT)
) ss.
Fairfield County)

Reference is made to Ordinance No. 304 of the town of Chino Valley, Arizona, adopted on the 18th day of March, 1997, by the Mayor and City Council of the Town of Chino Valley, a municipal corporation, in Yavapai County, State of Arizona, granting to CITIZENS UTILITIES COMPANY, a Delaware corporation, a Franchise for the service of gas in the town and the construction, maintenance and operation of necessary facilities therefor for a period of twenty-five (25) years.

Pursuant to Section 7 of such Franchise, CITIZENS UTILITIES COMPANY, a Delaware corporation. Grantee therein, hereby accepts such Franchise with the intention that this Acceptance shall be filed with the town of Chino Valley, Arizona.

DONE at Stamford, Connecticut, this 15 day of May 1997.

CITIZENS UTILITIES COMPANY
Delaware Corporation

By: J. Michael Love VP.
J. Michael Love

Title: Vice President Citizens Public Services

STATE OF ARIZONA)
) ss.
County of Yavapai)

I, Delores Sliger, Clerk of the town of Chino Valley, State of Arizona, hereby certify that the above and foregoing Acceptance of Franchise by the CITIZENS UTILITIES COMPANY, a Delaware corporation, (contained in Ordinance No. 304) and the Franchise granted by such Ordinance was received and duly filed in the records of my office as Clerk of the Town of Chino Valley, Arizona, on the 18th day of March, 1997.

Delores Sliger
Clerk of the Town of Chino Valley, Arizona

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CLARKDALE

ORDINANCE # 250

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF CLARKDALE, GRANTING TO AND VESTING IN CITIZENS UTILITIES, ITS SUCCESSORS, LESSEES AND ASSIGNS, A FRANCHISE WITH THE RIGHT TO OPERATE A PROPANE OR NATURAL GAS SYSTEM, PIPELINES AND WORKS IN THE TOWN OF CLARKDALE, AS NOW OR HEREAFTER CONSTITUTED; AND THE AUTHORITY, LICENSE, POWER AND PRIVILEGE TO MAINTAIN, CONSTRUCT, BUILD, EQUIP, CONDUCT OR OTHERWISE ESTABLISH AND OPERATE WITHIN THE TOWN LIMITS, WORKS OR SYSTEMS AND PLANTS TO MANUFACTURE, USE, SELL, STORE, DISTRIBUTE, CONVEY OR OTHERWISE ESTABLISH, CONDUCT, SERVE, SUPPLY OR FURNISH GAS FOR ANY AND ALL USEFUL PURPOSES; AND GRANTING THE COMPANY UPON, OVER, ALONG, ACROSS AND UNDER PASSAGE, RIGHT-OF-WAY AND THE RIGHT TO OCCUPY AND USE IN LAWFUL WAY DURING THE LIFE OF THIS FRANCHISE EVERY AND ANY AND ALL STREET AVENUES, RIGHTS-OF-WAY, EASEMENTS, ALLEYS, HIGHWAYS, SIDEWALKS, BRIDGES AND PUBLIC GROUNDS, FOR EVERY AND ANY SUCH SERVICE, USE, EFFECT AND LAWFUL PURPOSE AS HEREIN MENTIONED FOR A PERIOD OF 25 YEARS; AND PROVIDING FOR THE PAYMENT OF CERTAIN REVENUES TO THE TOWN OF CLARKDALE FROM ITS OPERATIONS THEREIN; REPEALING CONFLICTING ORDINANCES.

THEREFORE BE IT ORDAINED by the Mayor and the common Council of the Town of Clarkdale, Arizona as follows:

FRANCHISE AGREEMENT

THIS AGREEMENT is entered into as of the 10th day of June, 2003, by and between Citizens Utilities Company, a Delaware corporation (hereinafter the "Company"), and the Town of Clarkdale, an Arizona municipal corporation (hereinafter referred to as the "Town").

RECITALS

A. The Company desires to obtain a franchise from the Town to operate a public utility and has presented same in the form contained herein.

B. The Town has considered and deems the granting of the franchise to be beneficial to the Town in that the franchise is deemed to be in the best interest of the public health, welfare and safety of the Town and its citizens.

C. The Town has complied with the publication requirements set forth in A.R.S. §9-502 (C).

D. On May 20, 2003, the Town submitted the question to the qualified electors

of the Town as to whether or not the franchise shall be granted.

E. The Town has determined that a majority of the qualified electors has voted in favor of granting said franchise.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual promises and agreement set forth herein, the parties hereto state, confirm and agree as follows:

AGREEMENT

1. The Town hereby grants to and vests in the Company, a franchise with the right to operate a propane or natural gas system, pipelines and works in the Town, as now or hereafter constituted, and the authority, license, power and privilege to maintain, construct, build, equip, conduct or otherwise establish and operate with the Town limits, works or systems and plants to manufacture, use, sell, store, distribute, convey or otherwise establish, conduct, serve, supply or furnish the inhabitants of the Town and others, and to the Town whenever it may desire to contract therefore, gas for light, fuel, power, and heat, and any and all other useful purposes, and the Company hereby is granted upon, over, along, across and under passage, right-of-way and the right to occupy and use in any lawful way during the life of this franchise every and any and all street, avenues, rights-of-way, easements, alleys, highways, sidewalks, bridges and public grounds, of said Town, which now exist or may be hereafter extended, for every and any such service, use, effect and lawful purpose as herein mentioned.

2. The Company is hereby authorized, licensed and empowered to do any and all things necessary and proper to be done and performed in executing the powers and utilizing the privileges herein mentioned and granted by this franchise, provided the same do not unreasonably conflict with water or other pipes, sewers or other pre-existing underground installations, and that all work done in said street, avenues, rights-or-way, easements, alleys, highways, sidewalks, bridges and public grounds, of said Town, by the Company shall be done with the utmost diligence and the least inconvenience to the public or individuals, and the Company shall, within a reasonable time, restore such streets, avenues, rights-of-way, easements, alleys, highways, sidewalks, bridges and public grounds excavated by it to their original condition as nearly as practicable, subject to the reasonable approval of the Town. When operating in the Town's right-of-way, the Company shall only make roadway pavement cuts when no other reasonable alternative exists or in the event of an emergency threatening public health and safety. The Company shall provide notice to the Town twenty-four (24) hours in advance of any work within the Town's right-of-way except in the event of an emergency threatening public health and safety. The Company shall remove or relocate its lines and facilities as and when required by the Town; such removal or relocation shall be made a the sole expense of the Town. The Company shall save the Town, its officers and agents, harmless from any and all liabilities proximately caused by the Company's negligence in the erection, construction, installation or operation hereunder of the Company's facilities.

3. The rates and charges to be charged by the Company for furnishing gas service hereunder and the rules and regulations to be made and enforced by the Company for the conduct of its business shall be those from time to time on file and effective with the Arizona Corporation Commission applicable to such service.

4. The Company shall have the right and privilege of assigning this franchise and all rights and privileges granted herein and whenever the word "Company" appears herein, it shall be construed as applying to its successors, lessees and assigns.

5. The Company, its successors, lessees and assigns, for and in consideration of the granting of this franchise and as rental for the occupation and use or easement over, upon and beneath the streets, avenues, rights-of-way, easements, alleys, highways, sidewalks, bridges and public grounds in said Town shall pay to the Town, commencing with the first full billing period after the effective date of this franchise and continuing during all the time this provision shall remain in force and effect, a total aggregate sum of two percent (2%) of the gross receipts of the Company, its successors, lessees and assigns for propane or natural gas sold within the corporate limits of the Town, subject to the limitations hereinafter stated; such gross receipts to consist of the total amount collected from users and consumers on account of propane and natural gas sold and consumed within the corporate limits of the Town under the Company's rates in existence at the time, excepting therefrom, however, the gross receipts for propane or natural gas sold to the Town for its own use. Notwithstanding the provisions of this Section, should the Company enter into any Gas franchise with any political subdivision of this State which provides for percentage of the Company's gross receipts higher than two percent (2%), the Company shall increase the gross receipts payment under this Agreement to equal the higher rate. The Company shall make such payments semi-annually on or before the last day of January and July in each such year while this provision shall remain in full force and effect. For the purpose of determining such revenue, the books of the Company shall at all times be subject to inspection by duly authorized municipal officials. Said payments shall be in lieu of any and all other franchise, license, privilege, instrument, occupation, excise or revenue taxes and all other exactions or charges, (except general ad valorem property taxes, special assessments for local improvements; and except municipal privilege, sales or use taxes in an amount from time to time authorized by law and collected by the Company from users and consumers of gas within the corporate limits of the Town) upon the business, revenue, property, gas lines, installations, gas systems, conduits, storage tanks, pipes, fixtures or other appurtenances of the Company and all other property or equipment of the Company, or any part thereof, in said Town during the terms of this franchise; provided that anything to the contrary herein notwithstanding said payment shall continue only so long as said Company is not prohibited from making the same by any lawful authority having jurisdiction in the premises and so long as the Town does not charge, levy or collect, or attempt to charge, levy or collect other franchise, license, privilege, occupation, excise or revenue taxes or other exactions or charges hereinabove mentioned and if any lawful authority having jurisdiction in the premises hereafter prohibits said payment, or the Town does levy, charge or collect or attempt to levy, charge or collect such other franchise, license, occupation, excise or revenue taxes, or other exactions or charges, the obligation to make such payments hereinabove provided for shall forthwith

cease. In addition to the aforementioned restrictions on additional taxes, exactions, or charges, permits for and inspections of gas distribution facilities will be provided at no cost under this Agreement.

6. This franchise shall be accepted by the Company by execution of this Agreement within thirty (30) days after approval and execution of this Agreement, and when so accepted by the Town following approval by the electorate, this Agreement shall be a contract duly executed by and between the Town and the Company.

7. If any section, paragraph, subdivision, clause, phrase or provision hereof shall be adjudged invalid or unconstitutional, the same shall not affect the validity hereof as a whole, or any part or provision other than the part so decided to be invalid or unconstitutional.

8. This franchise shall continue in full force and effect for a period of twenty-five (25) years from the date this Agreement is approved and executed by the governing body of the Town as set forth in section 6 above.

9. All systems, pipelines, works, and all other physical property installed by the Company in accordance with the terms set forth in this Agreement shall be and remain the property of the Company, and upon expiration of the franchise or any extension or renewal thereof, the Company is hereby granted the right to enter upon the streets, avenues, rights-of-way, easements, alleys, highways, sidewalks, bridges and public grounds in said Town for the purpose of removing any and all such systems, pipelines, works and other property of the Company, at any time within six months after termination of this franchise or any such extension or renewal thereof.

10. The Company shall designate an employee to respond to complaints from consumers within the Town and from officials of the Town.

11. The franchise granted pursuant to this Agreement shall be in full force and effect from and after thirty (30) days after its adoption by the Town Council of the Town of Clarkdale, and its approval by, the Mayor thereof.

IN WITNESS WHEREOF, this Agreement has been executed as of the effective date and year first above written.

TOWN OF CLARKDALE

Michael Bluff, Mayor

ATTEST:

Joyce Driscoll, Town Clerk

APPROVED AS TO FORM:

Robert S. Pecharich, Town Attorney

ACCEPTED AND APPROVED

Citizens Utilities Company
By: Gary A. Smith
Its Vice President and General Manager
Arizona Gas Division

DATED: June 26, 2003

COCONINO

FRANCHISE AND LICENSE

FOR

FOR PIPELINES AND RELATED FACILITIES

WHEREAS, CITIZENS UTILITIES COMPANY, a corporation duly authorized to transact within this State a public service business as a gas utility (herein called "Company"), has made application to the Board of Supervisors of Coconino County, Arizona, for a franchise, license and right of way to construct, maintain and operate in the public roads, highways and streets and other public places of such County (other than State highways and public ways within the confines of any incorporated city or town) pipelines and appurtenant facilities for the transportation, distribution and sale of natural gas to the public; and

WHEREAS, said application has been considered and found to be reasonable and proper:

NOW, THEREFORE, IT IS HEREBY ORDERED BY THE BOARD OF SUPERVISORS OF COCONINO COUNTY, ARIZONA:

Section I. That the County of Coconino, State of Arizona (herein called "County"), subject to the provisions hereof, hereby grants to and vests in Citizens Utilities Company, a corporation (herein called "Company") a franchise and license with the right to operate gas plants, systems, pipelines and works in the County, as now or hereafter constituted, and the authority, license, power and privilege to maintain, construct, build and equip, conduct or otherwise establish and operate in said County works or systems and plants to manufacture, use, sell, store, distribute, convey or

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otherwise establish, conduct, serve, supply or furnish inhabitants of the County and others, and to the County whenever it may desire to contract therefor, natural gas for light, fuel, power, heat and any and all other useful purposes, and the Company is hereby granted passage, right of way and the right to occupy and use in any lawful way during the life of the franchise and license every and any and all roads, highways, streets, avenues, alleys, bridges and other structures and places and public grounds of said County, both above and beneath the surface of the same, as said roads, highways, streets, avenues, alleys, bridges and other structures and places and public grounds now exist or may be hereafter extended, for every and any such service, use, effect and lawful purpose as herein mentioned; provided, this grant shall not apply to any state highway or to any roads, highways, streets, avenues, alleys, bridges or other structures or public grounds within the confines of any incorporated city or town.

Section II. The Company is hereby authorized and empowered to do any and all things necessary and proper to be done and performed in executing the powers and utilizing the privileges hereinmentioned and granted by this franchise and license provided the same do not conflict with water or other pipes, sewers or other underground installations existing, and that all work done in said roads, highways, streets, alleys, bridges or other structures or public grounds of said County by the Company shall be done with the utmost diligence and the least inconvenience to the public or individuals, and the Company shall within a reasonable time, restore all public places excavated by it to their original condition as nearly as possible, and said work shall be done

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subject to the approval and supervision of the County. The Company shall save the County, its Board of Supervisors, officers and agents, harmless from any and all liability arising or incurred because of the erection, construction, installation or operation hereunder of the Company's facilities caused by the Company's negligence. The rights of any persons claiming to be injured or damaged in any manner by the Company or by the exercise of any right or provision hereunder shall not be affected hereby.

Section III. The rates and charges to be charged by the Company for furnishing natural gas service hereunder and the rules and regulations to be made and enforced by the Company for the conduct of its business shall be those from time to time on file and effective with the Arizona Corporation Commission applicable to such service.

Section IV. The Company shall have the right and privilege of assigning this franchise and all rights and privileges granted herein and whenever the word "Company" appears herein, it shall be construed as applying to its successors and assigns. This section shall not be deemed a warranty of assignability by the County.

Section V. Citizens Utilities Company, its successors, lessees and assigns, for and in consideration of the granting of this license and franchise, and as rental for the occupation and use of easement over, upon and beneath the roads, highways, streets, avenues, alleys, bridges and public grounds in said County shall pay to the County each year during all the time this provision shall remain in force and effect a total aggregate sum of

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two per cent (2%) of the gross receipts of Citizens Utilities Company, its successors, lessees and assigns, during such year, for gas sold within the County, subject to the limitations hereinafter stated; such gross receipts to consist of the total amount collected from users and consumers on account of gas sold and consumed within the County under the Company's rates in existence at the time of payment, excepting therefrom, however, (1) the gross receipts for gas sold to industrial consumers under special contract, and (2) the gross receipts for gas sold to the County for its own use, and (3) the gross receipts for gas sold to consumers within the limits of any incorporated city or town as such limits may exist from time to time. The Company shall make such payments semiannually on or before the last day of January and July in each such year while this provision shall remain in force and effect. For the purpose of determining such revenue, the books of the Company shall at all times be subject to inspection by duly authorized County officials. Said payments shall be in lieu of any and all other County franchise, license, privilege, instrument, occupation, excise of revenue taxes and all other exactions (except general ad valorem property taxes and special assessments for local improvements, and except municipal privilege, sales or use taxes authorized by law and collected by the Company from users and consumers of gas within the County) upon the business, revenue, property, gas lines, installations, gas systems, conduits, storage tanks, pipes, fixtures or other appurtenances of the Company and all other property or equipment of the Company, or any part thereof, in said County during the term of this license and

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franchise; provided that anything to the contrary herein notwithstanding said payment shall continue only so long as said Company is not prohibited from making the same by any lawful authority having jurisdiction in the premises, and so long as the County does not charge, levy or collect or attempt to charge, levy or collect other franchise, license, privilege, occupation, excise or revenue taxes, or other exactions or charges hereinabove mentioned, and if any lawful authority having jurisdiction in the premises hereafter prohibits such payment, or the County does levy, charge or collect or attempt to levy, charge or collect such other franchise, license, privilege, occupation, excise or revenue taxes, or other exactions or charges, the obligation to make such payments hereinabove provided for shall forthwith pro tanto cease to the extent of such other exaction.

Section VI. This franchise and license shall be accepted by the Company in writing, which acceptance shall be filed with the County within sixty (60) days after the passage of this grant, and when so accepted this grant shall be a contract duly executed by and between the County and the Company.

Section VII. If any section, paragraph, subdivision, clause, phrase or provision hereof shall be adjudged invalid or unconstitutional, the same shall not affect the validity hereof as a whole, or any part or provision other than the part so decided to be invalid or unconstitutional.

Section VIII. The Board of Supervisors may, at any time hereafter, impose according to law such restrictions and limitations, additional to those incorporated herein, as to the use

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by the Company of such roads, highways, streets, avenues, alleys, bridges and other structures and public places as the Board deems best for the public safety and welfare and/or convenience.

Section IX. The Company shall bear all expenses, including damages and compensation for any alteration of the direction, surface, grade, or alignment of any County road, highway, street, avenue, alley, bridge or other structure or public place, made for the purpose of this franchise and license.

Section X. This franchise and license shall cease to confer upon the Company any rights or privileges within the limits of any city or town when the latter shall have incorporated and there shall be in effect its municipal franchise in favor of the Company for gas purposes.

Section XI. This franchise and license shall continue in full force and effect for a period of twenty-five (25) years from its date of passage.

Section XII. After the passage of this grant and upon its acceptance by the Company all rights and privileges heretofore granted by the County by that certain franchise and license to the Company passed and effective the 14th day of December, 1970 shall be superseded by this grant and shall then be of no further force or effect.

PASSED AND EFFECTIVE this 18th day of December, 1995.

BOARD OF SUPERVISORS
Coconino County, Arizona

Thomas E Clark
Chairman

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Paul Babbitt-Member

Richard Deaver-Member

Louise Yellowman-Member

ATTEST:

Steve Peru, Clerk

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COTTONWOOD

ORDINANCE NUMBER 125

AN ORDINANCE OF THE TOWN OF COTTONWOOD, ARIZONA, GRANTING TO SOUTHERN UNION COMPANY, A CORPORATION, ACTING BY AND THROUGH SOUTHERN UNION GAS COMPANY, A DIVISION THEREOF, ITS LEGAL REPRESENTATIVES, SUCCESSORS, LESSEES AND ASSIGNS, CERTAIN POWERS, LICENSES, RIGHTS-OF-WAY, PRIVILEGES AND FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN IN THE TOWN OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, AS NOW OR HEREAFTER CONSTITUTED, WORKS, SYSTEMS AND PLANTS FOR THE HANDLING, PRODUCTION, MANUFACTURING, TRANSPORTING, STORING, SALE AND DISTRIBUTION OF GAS INTO, OUT OF AND THROUGH SAID MUNICIPALITY, AND FOR THE DISTRIBUTION AND SALE OF SUCH GAS TO SAID MUNICIPALITY, ITS INHABITANTS AND OTHERS, INCLUDING CUSTOMERS INSIDE, BEYOND AND OUTSIDE OF THE LIMITS OF SAID MUNICIPALITY; AND TO USE THE STREETS, AVENUES, EASEMENTS, RIGHTS-OF-WAY, ALLEYS, HIGHWAYS, SIDEWALKS, BRIDGES AND OTHER STRUCTURES AND PLACES AND PUBLIC GROUNDS IN SAID MUNICIPALITY FOR A PERIOD OF TWENTY-FIVE (25) YEARS; AND PRESCRIBING IN CONNECTION THEREWITH CERTAIN RIGHTS, DUTIES, TERMS AND CONDITIONS HEREIN MENTIONED; AND PROVIDING FOR THE PAYMENT TO SAID MUNICIPALITY OF A PERCENTAGE OF CERTAIN REVENUES OF GRANTEE FROM ITS OPERATIONS THEREIN; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF COTTONWOOD, YAVA COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1: THAT, the Town of Cottonwood, a municipal corporation in Yavapai County, Arizona, herein called the "Municipality", hereby grants to and vests in Southern Union Company, a corporation, acting by and through Southern Union Gas Company, a division thereof, duly authorized to transact within this State a public service business as a gas utility, herein called the "Company", a franchise with the right to operate a gas plant, system, pipelines and works in the Municipality, as now or hereafter constituted, and the authority, license, power and privilege to maintain construct, build, equip, conduct or otherwise establish and operate in said Municipality, works or systems and plants to manufacture, use, sell, store, distribute, convey or otherwise establish, conduct, serve, supply or furnish the inhabitants of said Municipality and others, and to the Municipality whenever it may desire to contract therefor, gas for light, fuel, power, heat and any and all other useful purpose and the Company hereby is granted passage, right-of-way, alleys, highways, sidewalks, bridges and other structures and places and public grounds of said Municipality, both above and beneath the surface of the same, as said streets, avenues, easements, right of-way, alleys, highways, sidewalks, bridges and other structures and places and public grounds now exist or may be hereafter extended, for every and any such service use, effect and lawful purpose as herein mentioned.

SECTION 2: THAT, the Company is hereby authorized, licensed and empowered to any and all things necessary and proper to be done and performed in executing the powers and utilizing the privileges herein mentioned and granted by this franchise, provided the same do not unreasonably conflict with water or other pipes, sewers or other pre-existing underground installations, and that all work done in said streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges or other grounds of said Municipality by the Company shall be done with the utmost diligence and the least inconvenience to the public or individuals, and the Company shall, with a reasonable time, restore, such streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and public grounds excavated by it to their original condition as nearly as practicable, subject to the reasonable approval of the Municipality. The Company shall remove or relocate its lines and facilities as and when required by the Municipality; said removal or relocation shall be made at the sole expense of the Company, except where entitlement to reimbursement shall be provided contract or law. In the event of such entitlement, reimbursement shall be made strictly in accordance therewith. The Company shall save the Municipality, its offi

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and agents, harmless from any and all liabilities proximately caused by the Compan negligence in the erection, construction, installation or operation hereunder of tl Company's facilities.

SECTION 3: THAT, the rates and charges to be charged by the Company for furnishing gas service hereunder and the rules and regulations to be made and enforced by the Company for the conduct of its business shall be those from time to time on file and effective with the Arizona Corporation Commission applicable to such service.

SECTION 4: THAT, the Company shall have the right and privilege of assigning this franchise and all rights and privileges granted herein, and whenever the word "Company" appears herein, it shall be construed as applying to its successors, lessee and assigns.

SECTION 5: THAT, the Company, its successors, lessees and assigns, for and in sideration of the granting of this franchise and as rental for the occupation and use easement over, upon and beneath the streets, avenues, easements, rights-of-way, high alleys, sidewalks, bridges and public grounds in said Municipality shall pay to the Municipality, commencing with the first full billing period after the effective date this franchise and continuing each year during all the time this provision shall rema in force and effect, a total aggregate sum of two percent (2%) of the gross receipts the Company, its successors, lessees and assigns, during such year, for gas sold with the corporate limits of the Municipality, subject to the limitations hereinafter stat such gross receipts to consist of the total amount collected from users and consumers on account of gas sold and consumed within the corporate limits of the Municipality under the Company's rates in existence at the time, excepting therefrom however, the gross receipts for gas sold to industrial consumers under special contract, and the gross receipts for gas sold to the Municipality for its own use. The Company shall make such payments semi-annually on or before the last day of January and July in each such year while this provision shall remain in full force and effect. For the purpose of determining such revenue, the books of the Company shall at all times be subject to inspection by duly authorized municipal officials. Said payments shall be in lieu of any and all other franchise, license, privilege, instrument, occupation, excise or revenue taxes and all other exactions or charges (except general ad valorem property taxes, special assessments for local improvements, and except municipal privilege, sales or use taxes authorized by law and collected by the Company from us and consumers of gas within the corporate limits of the Municipality) upon the busin revenue, property, gas lines, installations, gas systems, conduits, storage tanks, p fixtures or other appurtenances of the Company and all other property or equipment o the Company, or any part thereof, in said Municipality during the term of this franc provided that anything to the contrary herein notwithstanding said payment shall con only so long as said Company is not prohibited from making the same by any lawful authority having jurisdiction in the premises, and so long as the municipality does charge, levy or collect, or attempt to charge, levy or collect other franchise, lice privilege, occupation, excise or revenue taxes or other exactions or charges hereina mentioned, and if any lawful authority having jurisdiction in the premises hereafter prohibits said payment, or the Municipality does levy, charge or collect or attempt levy, charge or collect such other franchise, license, privilege, occupation, excise or revenue taxes, or other exactions or charges, the obligation to make such payment hereinabove provided for shall forwith cease.

SECTION 6: THAT, this franchise shall be accepted by the Company in writing, which acceptance shall be filed with the Municipality within sixty (60) days after the passage of this ordinance, and when so accepted, this ordinance shall be a contract duly executed by and between the Municipality and the Company.

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SECTION 7: THAT, if any section, paragraph, subdivision, clause, phrase or provision hereof shall be adjudged invalid or unconstitutional, the same shall not affect the validity hereof as a whole, or any part or provision other than the part so decided to be invalid or unconstitutional.

SECTION 8: THAT, this franchise shall continue in full force and effect for a period of twenty-five (25) years from the date of passage of this ordinance.

SECTION 9: THAT, all plant, system, pipelines, works, and all other physical property installed by the Company in accordance with the terms of this franchise shall be and remain the property of the Company, and upon expiration of this franchis or any extension or renewal thereof, the Company is hereby granted the right to enter upon the streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and other structures and places and public grounds of said Municipality for the purpose of removing any and all such plant, system, pipelines, works and other property of the Company, at any time within six months after termination of this franchise or any such extension or renewal thereof.

SECTION 10: THAT, the immediate operation of this ordinance is necessary for the preservation of the public peace, health and safety of the Town of Cottonwood, Yavapai County, Arizona, and an emergency is hereby declared to exist and this ordinance shall be in full force and effect from and after its adoption by the Common Council of the Town of Cottonwood and its approval by the Mayor thereof.

PASSED AND ADOPTED BY THE COMMON COUNCIL AND APPROVED BY THE MAYOR OF THE TOWN OF COTTONWOOD, ARIZONA, THIS 29THDAY OF AUGUST, 1983.

Donald E. Hahn

Donald E. Hahn, Mayor

ATTEST:

Steven L. Thompson

Steven L. Thompson, Town Manager/Clerk

APPROVED AS TO FORM:

L. Christopher Nefstead

L. Christopher Nefstead, Town Attorney

Published: Verde Independent: September 2, 9, 16 and 23, 1983

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FLAGSTAFF

ORDINANCE NO. 1879

AN ORDINANCE GRANTING TO CITIZENS UTILITIES COMPANY, A DELAWARE CORPORATION, ITS LEGAL REPRESENTATIVES, SUCCESSORS, LESSEES AND ASSIGNS, CERTAIN POWERS, LICENSES, RIGHTS-OF-WAY, PRIVILEGES AND FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN IN THE CITY OF FLAGSTAFF, STATE OF ARIZONA, AS NOW OR HEREAFTER CONSTITUTED, WORKS, SYSTEMS AND PLANTS FOR THE HANDLING, PRODUCTION, MANUFACTURING, TRANSPORTING, STORING, SALE AND DISTRIBUTION OF GAS INTO, OUT OF, AND THROUGH SAID MUNICIPALITY, AND FOR THE DISTRIBUTION AND SALE OF SUCH GAS TO SAID MUNICIPALITY, ITS INHABITANTS AND OTHERS, INCLUDING CUSTOMERS INSIDE, BEYOND, AND OUTSIDE OF THE LIMITS OF SAID MUNICIPALITY; AND TO USE THE STREETS, AVENUES, EASEMENTS, RIGHTS-OF-WAY, ALLEYS, HIGHWAYS, SIDEWALKS, BRIDGES AND OTHER STRUCTURES AND PLACES AND PUBLIC GROUNDS IN SAID MUNICIPALITY FOR A PERIOD OF TWENTY-FIVE (25) YEARS; AND PRESCRIBING IN CONNECTION THEREWITH CERTAIN RIGHTS, DUTIES, TERMS AND CONDITIONS HEREIN MENTIONED; AND PROVIDING FOR THE PAYMENT TO SAID MUNICIPALITY OF A PERCENTAGE OF CERTAIN REVENUES OF GRANTEE FROM ITS OPERATIONS THEREIN; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1: That the City of Flagstaff, a municipal corporation in Coconino County, Arizona, herein called the "Municipality," hereby grants to, and vests in, Citizens Utilities Company, a Delaware corporation, duly authorized to transact within this State a public service business as a gas utility, herein called the "Company," a franchise with the right to operate a gas plant, system, pipelines and works in the Municipality, as now or hereafter constituted, and the authority, license, power and privilege to maintain, construct, build, equip, conduct or otherwise establish and operate in said Municipality, works or systems and plants to manufacture, use, sell, store, distribute, convey or otherwise establish, conduct, serve, supply or furnish the inhabitants of said Municipality and others, and to the Municipality whenever it may desire to contract therefor, gas for light, fuel, power, heat and any and all other useful purposes, and the Company hereby is granted passage, right-of-way and its right to occupy and use in any lawful way during the life of this franchise, every and any and all streets, avenues, alleys, highways, sidewalks, bridges and other

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structures of said Municipality, both above and beneath the surface of the same, as said streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and other structures now exist or may be hereafter extended, for every and any such service, use, effect and lawful purpose as herein mentioned. The Municipality shall not be liable to the Company should the Company construct facilities pursuant to this franchise in any area over which the Municipality has erroneously exercised jurisdiction, except that the Municipality shall reimburse the Company for all fees paid to the Municipality attributable to the sale of gas within the said area.

SECTION 2: The Company is hereby authorized, licensed and empowered to do any and all things necessary and proper to be done and performed in executing the powers and utilizing the privileges herein mentioned and granted by this franchise, provided the same do not unreasonably conflict with water or other pipes, sewers or other pre-exiting underground installations, and that all work done in said streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, and bridges of said Municipality by the Company shall be done with the utmost diligence and the least inconvenience to the public or individuals, and the Company shall, within a reasonable time, restore such streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, and bridges excavated by it to their original condition as nearly as practicable, subject to the reasonable approval of the Municipality. The Company will make every effort to coordinate all work with the Municipality. The Company shall remove or relocate its lines and facilities as and when required by the Municipality; such removal or relocation shall be made as follows:

A. The entire cost of relocation shall be borne by the Municipality if the Company is required by the Municipality to relocate facilities which are located in private easements or rights-of-way obtained by the Company prior to the dedication of the public street, alley or easement from which the facilities must be relocated. These prior rights of the Company would also be unaffected by any subsequent relocation.

B. Except as covered in Paragraph A above and Paragraph G below, the Company shall bear the entire cost of relocating facilities located on public rights-of-way, the relocation of which is necessary for the Municipality's carrying out a function in the interest of the public health, safety or welfare. The Company's right to maintain its lines and facilities is subject to the paramount right of the Municipality to use its streets for all governmental purposes. Governmental purposes include, but are not limited to, the following functions of the Municipality:

1. Any and all improvements to Municipality streets, alleys and avenues;

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2. Establishing and maintaining sanitary sewers, storm drains, and related facilities;

3. Establishing and maintaining municipal parks, parkings, parkways, pedestrian malls, or grass, shrubs, trees and other vegetation for the purposes of landscaping any street or public property. The Municipality will consult with the Company on the placement of landscaping in the public rights-of-way where there are existing Company facilities;

4. Providing fire protection, which will be limited to construction of fire protection facilities and City installed water lines for fire protection purposes;

5. Collection and disposal of garbage, which will be limited to the construction of collection and disposal facilities and will not apply to placement of dumpsters.

6. Construction, maintenance and repair of all governmental buildings and facilities.

C. The installation of pipe and other facilities to serve domestic water shall be considered both governmental and proprietary and, therefore, the actual cost of relocation shall be shared by the Company paying fifty percent (50%) and the Municipality paying fifty percent (50%).

D. The Company shall bear the entire cost of relocation of existing facilities, irrespective of the function served, where the Municipality's facilities, or other facilities occupying a right-of-way under authority of a Municipality permit or license, are already located in the public right-of-way and the conflict between the Company's potential facilities and existing facilities can only be resolved expeditiously, as determined by the Director of Public Works, by the movement of the existing Municipality's or permittee's facilities.

E. If the Municipality participates in the cost of relocation of the Company's facilities for any reason, the cost of relocation to the Municipality shall not include any betterment to the Company's facilities as they existed prior to relocation.

F. The Municipality will not exercise its right to require utility facilities to be relocated in an unreasonable or arbitrary manner. The Company and the Municipality may agree to cooperate on the location and relocation of other facilities in the public right-of-way. The Company shall save the Municipality, its officers and agents, harmless from any and all liabilities proximately caused by the Company's negligence in the erection, construction, installation or operation hereunder of the Company's facilities. The Company shall obtain all necessary permits (without cost to the Company

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pursuant to Section 6 hereof) for work in the public rights-of-way. All work in the public rights-of-way will be in compliance with applicable Municipal Codes, standards and regulations as they exist at that time. The Company will obtain, and pay for, all required building permits and buy-in fees for non-gas distribution facilities such as offices, garages, repair shops and like facilities. The Municipality will provide its normal inspection services for these construction projects. The Municipality will not, nor will it be required by the Company to, inspect, monitor or approve construction of any gas distribution facility.

G. In the event that the Company relocates any of its facilities at the request of the Municipality for a "governmental purpose," as that phrase is defined in Section 2 B hereof, and the Municipality fails to either (1) exercise the function which constitutes such "governmental purpose" or (2) complete the improvement which constitutes such "governmental purpose" within three (3) years of completion of the relocation of the Company's facilities to accommodate such "governmental purpose," the Municipality shall reimburse the Company the entire and actual cost of such relocation within ninety (90) calendar days of such billing.

SECTION 3: The Municipality shall in no way be liable to or responsible for any accident or damage that may occur in the construction, operation or maintenance by the Company of its lines and appurtenances hereunder, and the acceptance of this grant shall be deemed an agreement on the part of the Company to indemnify said Municipality and hold it harmless from and against any and all claims, costs losses or expenses which may accrue to said Municipality as a result of the Company's activities as enumerated in Section 1.

The Company shall maintain throughout the term of this franchise, liability insurance, a program of self-retention or general assets to adequately insure and/or protect the legal liability of the Company with respect to the installation, operation and maintenance of the gas distribution facility, together with all the necessary and desirable appurtenances authorized herein to occupy the public right-of-way. Such insurance, self-retention or general asset program will provide protection for bodily injury and property damage, including contractual liability and legal liability for damages arising from explosion, collapse and underground incidents.

The Company shall file with the Municipality documentation of such liability insurance, self-retention or general asset program within sixty (60) days following the effective date of this franchise, and thereafter upon request of Municipality.

SECTION 4: The rates and charges to be charged by the Company for furnishing gas service hereunder and the rules and regulations to be

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made and enforced by the Company for the conduct of its business shall be those from time to time on file and effective with the Arizona Corporation Commission applicable to such service.

SECTION 5: The Company shall have the right and privilege of assigning this franchise and all rights and privileges granted herein, and whenever the word "Company" appears herein, it shall be construed as applying to its successors, lessees, and assigns.

SECTION 6: The Company, its successors, lessees, and assigns, for and in consideration of the granting of this franchise and as rental for the occupation and use or easement over, upon and beneath the streets, avenues, easements, rights-of-way, highways, alleys, sidewalks, and bridges in said Municipality, shall pay to the Municipality, commencing with the first full billing period after the effective date of this franchise and continuing each year during all the time this provision shall remain in force and effect, a total aggregate sum of two percent (2%) of the gross receipts of the Company, its successors, lessees and assigns, during such year, for gas sold within the corporate limits of the Municipality, subject to the limitations hereinafter stated; such gross receipts to consist of the total amount collected from users and consumers on account of gas sold and consumed within the corporate limits of the Municipality under the Company's rates in existence at the time, excepting therefrom, however, the gross receipts for gas sold to industrial consumers under special contract, and the gross receipts for gas sold to the Municipality for its own use. Notwithstanding the provisions of this Section, should the Company enter into any franchise with any entity of this State which provides for a higher percentage of Company gross receipts payment than two percent (2%) the Municipality shall automatically receive the same higher percentage rate payment. The Company shall make such payments semi-annually on or before the last day of January and July in each such year while this provision shall remain in full force and effect. If the Company fails to deposit said fees with the Municipality's finance department by the twentieth (20th) day of the month immediately succeeding the date the fee became due and payable, the Company shall be assessed (i) a ten percent (10%) late fee, and (ii) interest at the rate of twelve percent (12%) per annum on any unpaid balance (exclusive of late fees), said interest being calculated from the first day the payment became due. For the purpose of determining such revenue, the books of the Company shall at all times be subject to inspection by duly authorized municipal officials. Said payments shall be in lieu of any and all other franchise, license, privilege, instrument, occupation, excise or revenue taxes and all other exactions or charges (except general ad valorem property taxes, special assessments for local improvements, and except municipal privilege, sales or use taxes authorized by law and collected by the Company from users and consumers of gas within the corporate limits of the Municipality) upon the business, revenue, property, gas lines, installations, gas systems, conduits, storage tanks, pipes, fixtures or other appurtenances

SECTION 11: The immediate operation of this Ordinance is necessary for the preservation of the public peace, health and safety of the City of Flagstaff, Arizona, and an emergency is hereby declared to exist and this Ordinance shall be in full force and effect from and after its adoption by the City Council of the City of Flagstaff and its approval by the Mayor thereof.

PASSED AND ADOPTED by the Council and approved by the Mayor of the City of Flagstaff, this 3rd day of October, 1995.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

CERTIFICATION

I, LINDA BUTLER, City Clerk of the City of Flagstaff, Arizona, do hereby certify that the attached is a full, true, and correct copy of Ordinance No. 1879, adopted by the Flagstaff City Council at their Meeting held October 3, 1995.

IN WITNESS WHEREOF, I have hereunto set my hand and impressed the official Seal of the City of Flagstaff, this 25th day of October, 1995.

CITY CLERK

(SEAL)

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HOLBROOK

ORDINANCE NO. 93-4

AN ORDINANCE OF THE CITY OF HOLBROOK, ARIZONA, GRANTING TO CITIZENS UTILITIES COMPANY, A DELAWARE CORPORATION, ITS LEGAL REPRESENTATIVES, SUCCESSORS, LESSEES AND ASSIGNS, CERTAIN POWERS, LICENSES, RIGHTS-OF-WAY, PRIVILEGES AND FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN IN THE CITY OF HOLBROOK, STATE OF ARIZONA, AS NOW OR HEREAFTER CONSTITUTED, WORKS, SYSTEMS AND PLANTS FOR THE HANDLING, PRODUCTION, MANUFACTURING, TRANSPORTING, STORING, SALE AND DISTRIBUTION OF GAS INTO, OUT OF, AND THROUGH SAID MUNICIPALITY, AND FOR THE DISTRIBUTION AND SALE OF SUCH GAS TO SAID MUNICIPALITY, ITS INHABITANTS AND OTHERS, INCLUDING CUSTOMERS INSIDE, BEYOND, AND OUTSIDE OF THE LIMITS OF SAID MUNICIPALITY; AND TO USE THE STREETS, AVENUES, EASEMENTS, RIGHTS-OF-WAY, ALLEYS, HIGHWAYS, SIDEWALKS, BRIDGES AND OTHER STRUCTURES AND PLACES AND PUBLIC GROUNDS IN SAID MUNICIPALITY FOR A PERIOD OF TWENTY-FIVE (25) YEARS; AND PRESCRIBING IN CONNECTION THEREWITH CERTAIN RIGHTS, DUTIES, TERMS AND CONDITIONS HEREIN MENTIONED; AND PROVIDING FOR THE PAYMENT TO SAID MUNICIPALITY OF A PERCENTAGE OF CERTAIN REVENUES OF GRANTEE FROM ITS OPERATIONS THEREIN; AND DECLARING AN EMERGENCY.

WHEREAS by Resolution No. 244 and Ordinance No. 141, dated November 25, 1968, the City of Holbrook granted a franchise to Southern Union Gas Company for distribution of gas within the corporate boundaries of the City of Holbrook; and

WHEREAS Southern Union Gas Company has transferred its facilities to Citizens Utilities Company, a Delaware corporation, which has requested that the City issue a similar franchise for an additional term.

NOW THEREFORE, BE IT ORDAINED by the Mayor and Common Council of the City of Holbrook, Arizona, as follows:

Section 1. The City of Holbrook, a municipal corporation in Navajo County, Arizona, herein called the "Municipality," hereby grants to, and vests in, Citizens Utilities Company, a Delaware corporation, duly authorized to transact within this State a public service business as a gas utility, herein called the "Company," a

POOR QUALITY ORIGINAL

franchise with the right to operate a gas plant, system, pipelines and works in the Municipality, as now or hereafter constituted, and the authority, license, power and privilege to maintain, construct, build, equip, conduct or otherwise establish and operate in said Municipality, works or systems and plants to use, sell, distribute, convey or otherwise establish, conduct, serve, supply or furnish the inhabitants of said Municipality and others, and to the Municipality whenever it may desire to contract therefor, gas for light, fuel, power, heat and any and all other useful purposes, and the Company hereby is granted passage, right-of-way and right to occupy and use in any lawful and reasonable way during the life of this franchise, every and any and all streets, avenues, alleys, highways, sidewalks, bridges and other structures and places and public grounds of said Municipality, both above and beneath the surface of the same, as said streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and other structures and places and public grounds now exist or may be hereafter extended, for every and any such service, use, effect and lawful purpose as herein mentioned. In all its activities authorized by this franchise, the Company will comply with all federal, state, county and municipal laws, ordinances and regulations. All plants, systems, pipelines, works, structures and equipment erected by Company shall be so located as to cause minimum interference with the proper use by the general public and by any entity using the same with authority from the Municipality of streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges, or

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other structures or places or public grounds, and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of the said streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges, or other structures or places or public grounds.

Section 2. The Company is hereby authorized, licensed and empowered to do any and all things necessary and proper to be done and performed in executing the powers and utilizing the privileges herein mentioned and granted by this franchise, provided the same do not unreasonably conflict with water and other pipes, sewers or other existing underground installations, and that all work done in said streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges or other grounds or property of said Municipality by the Company shall be done with the utmost diligence and the least inconvenience to the public or individuals, and the Company shall, at its own expense and in a reasonable manner and time approved by the Municipality, restore such streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and other public grounds or property excavated or otherwise affected by it to their original condition as nearly as practicable. In the event that at any time during the period of this franchise the Municipality shall elect to alter, or to change the grade of any street, avenue, easement, right-of-way, alley, highway, sidewalk, bridge, or other structure, place or public grounds, the Company shall, upon reasonable notice by the Municipality, remove, relay and relocate its pipes, structures and other fixtures and

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improvements at the expense of the Municipality, provided, however, that if said removal or relocation is reasonably required to bring the Company into compliance with the terms of this franchise, the Company shall bear all such expenses. The Company shall save the Municipality, its officers and agents, harmless from any and all liabilities proximately caused by the Company's negligence in the erection, construction, installation or operation hereunder of the Company's facilities.

Section 3. The Company's plant, systems, pipelines, works and other structures, equipment, improvements and appurtenances shall be installed in accordance with good engineering practices, and shall be located, erected, constructed, reconstructed, removed, repaired, maintained and operated so as not to endanger or interfere with the lives of persons or to interfere with the improvements the Municipality may deem proper to make, or to unnecessarily hinder or obstruct pedestrian or vehicular traffic to public ways, places and structures. Erection, installation, construction, replacement, removal, repair, maintenance and operation of the system shall be in accordance with the provisions of all requirements of the Municipality which may now be in effect or may be enacted in the future. All installations shall be of a permanent nature, durable, and maintained in a safe, suitable and substantial condition, in good order and repair.

Section 4. The Company hereby agrees to indemnify and hold harmless the Municipality, its officers, boards, commissions, employees, agents and independent contractors, against and from any

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and all claims, demands, causes of action, suits or proceedings regardless of the merits of the same, damages including damages to city property, lability, costs and expenses of every type, all or any part thereof which arise by reason of any injury to any person or persons including death or property damages, resulting from the negligence of the Company, its officers, agents, employees, servants and/or independent contractors, while exercising any of the rights, privileges, or powers granted herein, except for that portion of any liability, obligation or damage which is caused by the negligence of the Municipality. The Company shall carry public liability insurance in a reasonable sum to cover its activities under this franchise. The Municipality shall promptly notify the Company of any claim or cause of action which may be asserted against the Municipality relating to or covering any matter against which the Company has agreed, as set forth above, to indemnify, defend and save harmless the Municipality. Each party reserves the right, but not the obligation, to employ such attorneys, expert witnesses and consultants as it deems necessary to defend against the claim or cause of action against such party. Each party further reserves the right to take total or partial control of the claim against such party. In the event that the Municipality is in control of its defense, either totally or partially, the Company shall pay all required expenses incurred by the Municipality in providing its defense.

Section 5. The Company shall have the right and privilege of assigning this franchise and all rights and privileges granted

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herein, and whenever the word "Company" appears herein, it shall be construed as applying to its successors, lessees, and assigns.

Section 6. The rates and charges to be charged by the Company for furnishing gas service hereunder and the rules and regulations to be made and enforced by the Company for the conduct of its business shall be those from time to time on file and effective with the Arizona Corporation Commission or other governmental agency which has control over such service.

Section 7. The Company, its successors, lessees, and assigns, for and in consideration of the granting of this franchise and as rental for the occupation and use or easement over, upon and beneath the streets, avenues, easements, rights-of-way, highways, alleys, sidewalks, bridges and public grounds in said Municipality shall pay to the Municipality, commencing with the first full billing period after the effective date of this franchise and continuing each year during all the time this provision shall remain in force and effect, a total aggregate sum of two percent (2%) of the gross receipts of the Company, its successors, lessees and assigns, during such year, for gas sold within the corporate limits of the Municipality, subject to the limitations hereinafter stated; such gross receipts shall consist of the total amount collected from users and consumers on account of gas sold within the corporate limits of the Municipality under the Company's rates in existence at the time, excepting therefrom, however, the gross receipts for gas sold to industrial consumers under special contract, and the gross receipts for gas sold to the Municipality

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for its own use. The Company shall make such payments semi-annually on or before the last day of January and July in each such year while this provision shall remain in full force and effect. For the purpose of determining such revenue, the books of the Company shall at all times be subject to inspection by duly authorized municipal officials. Said payments shall be in lieu of any and all other franchise, license, privilege, instrument, occupation, excise or revenue taxes and all other exactions or charges of the Municipality (except general ad valorem property taxes, special assessments for local improvements, and except municipal privilege, sales or use taxes authorized by law and collected by the Company from users and consumers of gas within the corporate limits of the Municipality) upon the business, revenue, property, gas lines, installations, gas systems, conduits, storage tanks, pipes, fixtures or other appurtenances of the Company and all other property or equipment of the Company, or any part thereof, in said Municipality during the term of this Franchise; provided that, anything to the contrary herein notwithstanding, said payment shall continue only so long as said Company is not prohibited from making the same by any lawful authority having jurisdiction in the premises, and so long as the Municipality does not charge, levy or collect, or attempt to charge, levy or collect other franchise, license, privilege, occupation, excise or revenue taxes or other exactions or charges hereinafter mentioned, and if any lawful authority having jurisdiction in the premises hereafter prohibits said payment, or the Municipality does levy, charge, or

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collect, or attempt to levy, charge, or collect such other franchise, license, privilege, occupation, excise or revenue taxes, of other exactions or charges, the obligation to make such payments hereinabove provided for shall forthwith cease.

Section 8. This franchise shall be accepted by the Company in writing, which acceptance shall be filed with the Municipality within sixty (60) days after the passage of this ordinance, and when so accepted, this ordinance shall be a contract duly executed by and between the Municipality and the Company.

Section 9. If any section, paragraph, subdivision, clause, phrase or provision hereof shall be adjudged invalid or unconstitutional, the same shall not affect the validity hereof as a whole, or any part or provision other than the part so decided to be invalid or unconstitutional.

Section 10. This franchise shall continue in full force and effect for a period of twenty-five (25) years from the date of passage of this ordinance.

Section 11. All plant, system, pipelines, works, and all other physical property installed by the Company in accordance with the terms of this franchise shall be and remain the property of the Company, and upon expiration of this franchise or any extension or renewal thereof, the Company is hereby granted the right to enter upon the streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and other structures and places and public grounds of said Municipality for the purpose of removing any and all such plant, system, pipelines, works and other property of

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the Company, at any time within six months after termination of this franchise or any extension or renewal thereof. All work done in the removal of said property shall be done with the utmost diligence and the least inconvenience to the public or individuals, and the Company shall, at its own expense and in a manner and time approved by the Municipality, restore all streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and public grounds which may be excavated or otherwise affected by the Company in the removal of said property, to the condition as exists at the time of commencement of said restoration, as nearly as possible.

Section 12. As the immediate operation of this ordinance is necessary for the preservation of the public peace, health and safety of the City of Holbrook, Arizona, an emergency is hereby declared to exist, and this ordinance shall be in full force and effect from and after its adoption.

PASSED AND ADOPTED by the Mayor and Common Council of the City of Holbrook, Arizona, this 3rd day of August, 1993.

Richard Hester, Mayor

ATTEST:

William A. Kelly, Clerk

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JEROME

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ORDINANCE NO. 200

AN ORDINANCE GRANTING TO SOUTHERN UNION COMPANY, A CORPORATION, ACTING BY AND THROUGH SOUTHERN UNION GAS COMPANY, A DIVISION THEREOF, ITS LEGAL REPRESENTATIVES, SUCCESSORS, LESSEES AND ASSIGNS, CERTAIN POWERS, LICENSES, RIGHTS-OF-WAY, PRIVILEGES AND FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN IN THE TOWN OF JEROME, YAVAPAI COUNTY, ARIZONA, AS NOW OR HEREAFTER CONSTITUTED, WORKS, SYSTEMS AND PLANTS FOR THE HANDLING, PRODUCTION, MANUFACTURING, TRANSPORTING, STORING, SALE AND DISTRIBUTION OF GAS INTO, OUT OF AND THROUGH SAID MUNICIPALITY, AND FOR THE DISTRIBUTION AND SALE OF SUCH GAS TO SAID MUNICIPALITY, ITS INHABITANTS AND OTHERS, INCLUDING CUSTOMERS INSIDE, BEYOND AND OUTSIDE OF THE LIMITS OF SAID MUNICIPALITY; AND TO USE THE STREETS, AVENUES, EASEMENTS, RIGHTS-OF-WAY, ALLEYS, HIGHWAYS, SIDEWALKS, BRIDGES AND OTHER STRUCTURES AND PLACES AND PUBLIC GROUNDS IN SAID MUNICIPALITY FOR A PERIOD OF TWENTY-FIVE (25) YEARS; AND PRESCRIBING IN CONNECTION THEREWITH CERTAIN RIGHTS, DUTIES, TERMS AND CONDITIONS HEREIN MENTIONED; AND PROVIDING FOR THE PAYMENT TO SAID MUNICIPALITY OF A PERCENTAGE OF CERTAIN REVENUES OF GRANTEE FROM ITS OPERATIONS THEREIN; AND DECLARING AN EMERGENCY.

BE IT ORDAINED by the governing body of the Town of Jerome, as follows:

Section 1. That the Town of Jerome, a municipal corporation in Yavapai County, Arizona, herein called the "Municipality", hereby grants to and vests in Southern Union Company, a corporation, acting by and through Southern Union Gas Company, a division thereof, duly authorized to transact within this State a public service business as a gas utility, herein called the "Company", a franchise with the right to operate a gas plant, system, pipelines and works in the

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Municipality, as now or hereafter constituted, and the authority, license, power and privilege to maintain, construct, build, equip, conduct or otherwise establish and operate in said Municipality, works or systems and plants to manufacture, use, sell, store, distribute, convey or otherwise establish, conduct, serve, supply or furnish the inhabitants of said Municipality and others, and to the Municipality whenever it may desire to contract therefor, gas for light, fuel, power, heat and any and all other useful purposes, and the Company hereby is granted passage, right-of-way, alleys, highways, sidewalks, bridges and other structures and places and public grounds of said Municipality, both above and beneath the surface of the same, as said streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and other structures and places and public grounds now exist or may be hereafter extended, for every and any such service, use, effect and lawful purpose as herein mentioned.

Section 2. The Company is hereby authorized, licensed and empowered to do any and all things necessary and proper to be done and performed in executing the powers and utilizing the privileges herein mentioned and granted by this franchise, provided the same do not unreasonably conflict with water or other pipes, sewers or other pre-existing underground installations, and that all work done in said streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges or other grounds of said Municipality by the Company shall be done with the utmost diligence and the least inconvenience to the public or individuals, and the Company shall, within a reasonable time, restore, such streets, avenues, easements,

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rights-of-way, alleys, highways, sidewalks, bridges and public grounds excavated by it to their original condition as nearly as practicable, subject to the reasonable approval of the Municipality. The Company shall remove or relocate its lines and facilities as and when required by the Municipality; said removal or relocation shall be made at the sole expense of the Company, except where entitlement to reimbursement shall be provided by contract or law. In the event of such entitlement, reimbursement shall be made strictly in accordance therewith. The Company shall save the Municipality, its officers and agents, harmless from any and all liabilities proximately caused by the Company's negligence in the erection, construction, installation or operation hereunder of the Company's facilities.

Section 3. The rates and charges to be charged by the Company for furnishing gas service hereunder and the rules and regulations to be made and enforced by the Company for the conduct of its business shall be those from time to time on file and effective with the Arizona Corporation Commission applicable to such service.

Section 4. The Company shall have the right and privilege of assigning this franchise and all rights and privileges granted herein, and whenever the word "Company" appears herein, it shall be construed as applying to its successors, lessees and assigns.

Section 5. The Company, its successors, lessees and assigns, for and in consideration of the granting of this franchise and as rental for the occupation and use or easement over, upon and beneath the streets, avenues, easements, rights-of-way, highways, alleys, sidewalks, bridges and public grounds in said Municipality shall pay

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to the Municipality, commencing with the first full billing period after the effective date of this franchise and continuing each year during all the time this provision shall remain in force and effect, a total aggregate sum of two percent (2%) of the gross receipts of the Company, its successors, lessees and assigns, during such year, for gas sold within the corporate limits of the Municipality, subject to the limitations hereinafter stated; such gross receipts to consist of the total amount collected from users and consumers on account of gas sold and consumed within the corporate limits of the Municipality under the Company's rates in existence at the time, excepting therefrom however, the gross receipts for gas sold to industrial consumers under special contract, and the gross receipts for gas sold to the Municipality for its own use. The Company shall make such payments semi-annually on or before the last day of January and July in each such year while this provision shall remain in full force and effect. For the purpose of determining such revenue, the books of the Company shall at all times be subject to inspection by duly authorized municipal officials. Said payments shall be in lieu of any and all other franchise, license, privilege, instrument, occupation, excise or revenue taxes and all other exactions or charges (except general ad valorem property taxes, special assessments for local improvements, and except municipal privilege, sales or use taxes authorized by law and collected by the Company from users and consumers of gas within the corporate limits of the Municipality) upon the business, revenue, property, gas lines, installations, gas systems, conduits, storage tanks, pipes, fixtures or other appurtenances of the Company and all

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other property or equipment of the Company, or any part thereof, in said Municipality during the term of this franchise; provided that anything to the contrary herein notwithstanding said payment shall continue only so long as said Company is not prohibited from making the same by any lawful authority having jurisdiction in the premises, and so long as the municipality does not charge, levy or collect, or attempt to charge, levy or collect other franchise, license, privilege, occupation, excise or revenue taxes or other exactions or charges hereinabove mentioned, and if any lawful authority having jurisdiction in the premises hereafter prohibits said payment, or the Municipality does levy, charge or collect or attempt to levy, charge or collect such other franchise, license, privilege, occupation, excise or revenue taxes, or other exactions or charges, the obligation to make such payments hereinabove provided for shall forthwith cease.

Section 6. This franchise shall be accepted by the Company in writing, which acceptance shall be filed with the Municipality within sixty (60) days after the passage of this ordinance, and when so accepted, this ordinance shall be a contract duly executed by and between the Municipality and the Company.

Section 7. If any section, paragraph, subdivision, clause, phrase or provision hereof shall be adjudged invalid or unconstitutional, the same shall not affect the validity hereof as a whole, or any part or provision other than the part so decided to be invalid or unconstitutional.

Section 8. This franchise shall continue in full force and effect for a period of twenty-five (25) years from the date of passage

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of this ordinance.

Section 9. All plant, system, pipelines, works, and all other physical property installed by the Company in accordance with the terms of this franchise shall be and remain the property of the Company, and upon expiration of this franchise or any extension or renewal thereof, the Company is hereby granted the right to enter upon the streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and other structures and places and public grounds of said Municipality for the purpose of removing any and all such plant, system, pipelines, works and other property of the Company, at any time within six months after termination of this franchise or any such extension or renewal thereof.

Section 10. The immediate operation of this ordinance is necessary for the preservation of the public peace, health and safety of the Town of Jerome, Yavapai County, Arizona, and an emergency is hereby declared to exist and this ordinance shall be in full force and effect from and after its adoption by the Common Council of the Town of Jerome and its approval by the Mayor thereof.

PASSED AND ADOPTED by the Common Council of the Town of Jerome, this 10th day of September, 1985.

APPROVED:

Louis Martinez

Mayor
Town of Jerome, Arizona

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ATTEST:

Town Clerk

APPROVED by the Mayor of the Town of Jerome, Arizona, this 10th day of September 1985.

Mayor
Town of Jerome, Arizona

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KINGMAN

FRANCHISE AGREEMENT BETWEEN CITIZENS UTILITIES COMPANY AND THE CITY OF KINGMAN

FRANCHISE AGREEMENT, effective as of March 1, 1999, between The City of Kingman ("'Kingman") and Citizens Utilities Company, (""Citizens").

RECITALS

A. Citizens wishes to provide natural gas service to the Kingman area. Citizens holds a Certificate of Convenience and Necessity from the Arizona Corporation Commission for the Kingman area.

B. Kingman wishes to have Citizens provide natural gas services to the Kingman area and enters into this Agreement in order to secure those services.

C. Whereas, the Arizona Constitution and the Arizona law require that this proposed franchise be submitted to the qualified electorate of Kingman for approval or disapproval of this Agreement, its effectiveness contingent upon such approval.

AGREEMENT

Kingman and Citizens agree as follows:

1. Definitions. For the purposes of this Agreement, the following terms, phrases, words and their derivations will have the meaning given herein. When consistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Words not defined will be given their common and ordinary meaning.

A. "Agreement" means this Franchise Agreement entered into between Citizens and Kingman and all exhibits and attachments.

B. "Kingman area" means that area currently within the municipality of Kingman or any area that becomes incorporated in Kingman at some later date, where service may be provided under this Agreement.

B. "Kingman official" means an individual authorized by the City of Kingman to take relevant action under the Agreement on behalf of the City of Kingman.

D. "Kingman" means the City of Kingman, Arizona, an Arizona municipal corporation, and its successors and assigns.

E. "Citizens" means Citizens Utilities Company, its successors, transfers and assigns.

F. "Council" means the Mayor and Common Council of Kingman.

G. "Franchise fee" means two percent (2%) of Citizens' gross revenues derived from the sale of natural gas in the Kingman area.

H. "Franchise" means the rights granted under this Franchise

I. "Gas distribution facilities" means all facilities used by Citizens for the distribution of natural gas to Kingman, including but not limited to pipes, pipelines, mains, laterals, service lines, manholes, pumps, meters, gauges, valves, traps, fences, vaults, regulators, regulator stations, conduits, appliances, attachments, wires, cables, pedestals, appurtenances thereto and all other property and equipment as is necessary and appurtenant to the operation of a natural gas system under this Agreement.

J. "Gross revenues" means all amounts obtained by Citizens from the sale of natural gas within the Kingman area. Gross revenues will equal the amount shown by Citizens' billing records. Gross revenues will not include bad debt, sales taxes, or other taxes that are collected by Citizens on behalf of, and for payment to, the local, state or federal government. Gross revenues excludes all sales taxes, gross revenue taxes, impact fees, development fees, connection fees, late fees, insufficient funds charges, forfeited deposits, gas sold to industrial consumers under special contracts or to Kingman for its own use, and other special taxes, charges or fees collected by Citizens from its customers or other entities or persons in connection with the provision of natural gas services to the Kingman area.

K. "Natural gas" means natural gas, artificial gas and manufactured gas, including liquefied petroleum, and any mixture thereof.

L. "Person" means any individual, natural person, sole proprietorship, partnership, association, or corporation or any other form of entity or organization.

M. *"Public rights-of-way" means all present and future public rights of way, including, but not limited to, streets, alleys, ways, highways, bridges, public utility easements, public easements, and all other areas which are now or in the

future considered public rights-of-way.

N. "City Clerk" means the Clerk of the City of Kingman.

2. Grant of Franchise.

A. Kingman grants to Citizens, the right, privilege and franchise to construct, repair, maintain, and operate within the present and future public rights-of-way in Kingman, a natural gas distribution system, together with all necessary or desirable appurtenances for the purpose of supplying natural gas to Kingman, the inhabitants of the Kingman area, and all individuals and entities within or beyond the Kingman area, for all purposes.

B. All rights hereunder are granted under the express condition that, pursuant to its police powers, the Common Council of the City of Kingman shall have the power at any time to impose such restrictions and limitations and to make such regulations on such public rights-of-way as may be deemed best for the public safety, welfare and convenience.

3. Use of Public Rights-Of-Way. Citizens may erect, install, construct, repair, replace, reconstruct and retain in, on, over, under, upon, across, and along the public rights-of-way of Kingman. Citizens will comply with all applicable construction codes, laws, ordinances, regulations and procedures, now in effect or later enacted, and will obtain all necessary permits before commencing any construction activities.

4. Compliance with the Established Practices of Kingman. All construction under this Agreement will be performed in accordance with the established practices of Kingman with respect to the public rights-of-way.

5. Ownership, Construction, Repair, Removal and Relocation of Citizens' Facilities; Obligation for Expenses.

a. All gas distribution facilities shall be and remain the property of Citizens and Citizens shall and will promptly perform all necessary repair work and shall not permit or allow any condition to exist which would be a hazard or source of danger to the traveling public. Further, said distribution facilities shall be removed promptly if and as required by Kingman upon termination or expiration of this Franchise Agreement.

b. All gas distribution facilities will be located or relocated and erected to

Kingman's standards and subject to Kingman's reasonable approval. All construction will be subject to the issuance of a gas distribution facilities permit. Citizens will be required to obtain and pay all required fees and charges for construction permits and inspections of all non-gas related facilities, including but not limited to, office buildings and storage buildings.

c. Except as provided in subsection d, directly below, all property of Citizens located within public right-of-way is subject to temporary or permanent alteration, placement, removal or relocation when and in such manner and location as Kingman may designate for the purpose of right-of-way expansion, maintenance and improvements deemed by Kingman to be best for the public safety, welfare and convenience. Such alteration, placement, removal or relocation shall be done at the sole expense of Citizens.

d. When and where Kingman may require Citizens to remove or relocate facilities first established by Citizens on private land, by easement or otherwise, Kingman shall reimburse Citizens for said removal or relocation, except that Kingman shall not be responsible for the cost of any materials or new equipment or other physical facilities which is, becomes or remains the property of Citizens.

e. When Kingman participates in the cost of relocating Citizens' facilities for any reason, the cost of relocation to Kingman will not include any upgrade or improvement of Citizens' facilities as they existed before relocation.

6. Restoration of Rights-of-Way. Whenever Citizens causes an opening or alteration to be made in any public right-of-way, the work will be completed with due diligence and in accordance with applicable Kingman regulations and standards. Upon completion of the work, Citizens will restore the disrupted property to its original condition, as practicable, subject to the reasonable approval of Kingman. Citizens will bear the full reasonable costs of all barricades, signing, rerouting of traffic, or other actions which Kingman considers necessary in the interest of public safety during the opening or alteration within the public right-of-way.

7. Indemnification and Insurance. Neither party will be liable for any accident or damage caused by the other.

a. Kingman will not be liable for any accident or damage caused by Citizens during the construction or operation of the gas distribution facilities. Citizens hereby agrees to indemnify Kingman and hold it harmless against any liability, loss, costs, legal fees, damage or other expenses which may be imposed on Kingman due

solely to the negligence of Citizens. Citizens will maintain throughout the term of this Agreement either liability insurance or general assets in the amount necessary to adequately insure or protect Citizens from any legal liability common to the industry including Citizens' indemnity obligations under this Agreement.

b. Kingman agrees to indemnify Citizens and hold it harmless against any liability, loss, costs, legal fees, damage or other expenses which may be imposed on Citizens due solely to the negligence of Kingman.

8. Franchise Fee. As compensation for the benefits and privileges granted under this Agreement and in consideration of permission to use Kingman's public rights-of-way, Citizens will pay a franchise fee equal to two percent (2%) of Citizens' gross revenues derived from the sale of natural gas within the Kingman area. The franchise fee will be due and payable semiannually, and will be in lieu of all fees or charges for permits or licenses issued for the construction, installation and maintenance (including street cuts and street repairs) of Citizens' gas distribution facilities hereunder or for the inspection of those facilities.

9. Term. Subject to Kingman's right to terminate this Agreement for material breach or where it may be rendered invalid or inoperable by operation of law, this Agreement will continue and exist for a period of 25 years from the date of passage of the ordinance. This franchise will be accepted by Citizens in writing and filed in the office of the City Clerk at any time but not later than the 60th day of the date of the certification of the election results by the Council. Once accepted, subject to the election results, the Agreement will be a contract duly executed by and between Kingman and Citizens. Throughout the entire term of this Agreement, any change or alteration of this Agreement will be void unless agreed to in writing by Kingman and Citizens.

10. . Transfer of Ownership and Assignment. Citizens will have the right and privilege of assigning this franchise and all rights and privileges granted herein upon acceptance of assignee of all obligations of same. Promptly upon assignment, Citizens shall notify Kingman in writing.

11. Rates and Charges. The rates and charges to be charged by Citizens for furnishing gas service and the rules and regulations to be made and enforced by Citizens to conduct its business will be those ordered by the Arizona Corporation Commission that are applicable to such service.

12. Independent Provisions. If any section, paragraph, clause, phrase or provision of this Agreement is adjudged to be invalid or unconstitutional, it will not affect

the validity of this Agreement or any part of this Agreement, other than that portion adjudged invalid or unconstitutional.

13. Expiration. Kingman and Citizens expressly agree that the following provisions will survive the termination or expiration of this Agreement. Upon the termination or expiration of the franchise, if Citizens has not acquired and accepted an extension or renewal of the franchise, Citizens may remove its facilities and system within the Kingman Area or, with Kingman's express written consent, or as permitted by law, Citizens may continue operating its facilities and system within the Kingman Area until a new agreement is reached between Citizens and Kingman. All plant, system, pipelines, and all physical property installed by Citizens in accordance with the terms of this Agreement remains the property of Citizens. Upon expiration of this franchise or any extension or renewal thereof, Citizens is granted the right to enter Kingman's public grounds for the purpose of removing all Citizens' plant, system, pipelines, and other property.

14. Entire Agreement. This Agreement represents the entire agreement of the parties with respect to its subject matter. This Agreement may not be amended without the written consent of Citizens and Kingman.

15. Governing Law. The provisions of this Agreement are to be governed and construed in accordance with the laws of the State of Arizona.

16. Notices. All notices required to be given to either party are to be mailed or given at the following addresses:

To Kingman: City of Kingman
310 North Fourth Street
Kingman, AZ 86401
Attn: Charlene Ware, City Clerk

To Citizens: Citizens Utilities Company
Phoenix Administrative Office
2901 North Central Avenue, Suite 1660
Phoenix, Arizona 85012-2736
Attn: Deborah R. Scott, Esq.

17. Headings. The section headings of this Agreement are intended only to assist the reader in locating provisions and are not to be used to interpret the language or meaning of any section.

18. Binding Effect. This Agreement shall be binding upon the parties, their successors, transfers and assigns.

CITY OF KINGMAN

BY _____
Lester Byram, Mayor

BY _____
Louis G. Sorensen, City Manager

Attest: _____
Charlene Ware, City Clerk

Approved as to form: _____
Charlotte A. Wells, City Attorney

CITIZENS UTILITIES COMPANY

By _____

Its PRESIDENT

STATE OF ~~ARIZONA~~ Connecticut)
) ss.
County of ~~Maricopa~~ Fairfield)

The foregoing instrument was acknowledged before me this 29th day of March, 1999, by J. Michael Love, as President of CITIZENS UTILITIES COMPANY, on behalf of the corporation.

_____
Notary Public

My Commission Expires:
10/31/01

LAKE HAVASU CITY

ORDINANCE NO. 80-22

AN ORDINANCE GRANTING TO SOUTHERN UNION COMPANY, A CORPORATION ACTING BY AND THROUGH SOUTHERN UNION GAS COMPANY, A DIVISION THEREOF, ITS LEGAL REPRESENTATIVES, SUCCESSORS, LESSEES AND ASSIGNS, CERTAIN POWERS, LICENSES, RIGHTS-OF-WAY, PRIVILEGES AND FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN IN LAKE HAVASU CITY, MOHAVE COUNTY, ARIZONA, AS NOW OR HEREAFTER CONSTITUTED, WORKS, SYSTEMS AND PLANTS FOR THE HANDLING, PRODUCTION, MANUFACTURING, TRANSPORTING, STORING, SALE AND DISTRIBUTION OF GAS INTO, OUT OF AND THROUGH SAID MUNICIPALITY, AND FOR THE DISTRIBUTION AND SALE OF SUCH GAS TO SAID MUNICIPALITY, ITS INHABITANTS AND OTHERS, INCLUDING CUSTOMERS INSIDE, BEYOND AND OUTSIDE THE LIMITS OF SAID MUNICIPALITY; AND TO USE THE STREETS, AVENUES, EASEMENTS, RIGHTS-OF-WAY, ALLEYS, HIGHWAYS, SIDEWALKS, BRIDGES AND OTHER STRUCTURES AND PLACES AND PUBLIC GROUNDS IN SAID MUNICIPALITY FOR A PERIOD OF TWENTY-FIVE (25) YEARS; AND PRESCRIBING IN CONNECTION THEREWITH CERTAIN RIGHTS, DUTIES, TERMS AND CONDITIONS HEREIN MENTIONED; AND PROVIDING FOR THE PAYMENT TO SAID MUNICIPALITY OF A PERCENTAGE OF CERTAIN REVENUES OF GRANTEE FROM ITS OPERATIONS THEREIN; AND DECLARING AN EMERGENCY.

BE IT ORDAINED by the governing body of Lake Havasu City as follows:

Section 1. That Lake Havasu City, a municipal corporation in Mohave County, Arizona, herein called the "Municipality", hereby grants to and vests in Southern Union Company, a corporation, acting by and through Southern Union Gas Company, a division thereof, duly authorized to transact within this State a public service business as a gas utility, herein called the "Company", a franchise with the right to operate a gas plant, system, pipelines and works in the Municipality, as now or hereafter constituted, and the authority, license, power and privilege to maintain, construct, build, equip, conduct or otherwise establish and operate in said Municipality, works or systems and plants to manufacture, use, sell, store, distribute, convey or otherwise establish, conduct, serve, supply or furnish the inhabitants of said Municipality and others, and to the Municipality whenever it may desire to contract therefor, gas for light, fuel, power, heat and any and all other useful purposes, and the Company hereby is granted passage, right-of-way and the right to occupy and use in any lawful way during the life of this franchise and every and any and all streets, avenues, easements, rights-of-way, alleys, highways, sidewalks,

bridges and other structures and places and public grounds of said Municipality, both above and beneath the surface of the same, as said streets, avenues, rights-of-way, alleys, highways, sidewalks, bridges and other structures and places and public grounds now exist or may be hereafter extended, for every and any such service, use, effect and lawful purpose as herein mentioned.

Section 2. The Company is hereby authorized, licensed and empowered to do any and all things necessary and proper to be done and performed in executing the powers and utilizing the privileges herein mentioned and granted by this franchise, provided the same do not unreasonably conflict with water or other pipes, sewers or other pre-existing underground installations, and that all work done in said streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges or other grounds of said Municipality by the Company shall be done with the utmost diligence and the least inconvenience to the public or individuals, and the Company shall, within a reasonable time, restore such streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and public grounds excavated by it to their original condition as nearly as practicable, subject to the reasonable approval of the Municipality. The Company shall remove or relocate its lines and facilities as and when required by the Municipality; said removal or relocation shall be made at the sole expense of the Company, except where entitlement to reimbursement shall be provided by contract or law. In the event of such entitlement, reimbursement shall be made strictly in accordance therewith. The Company shall save the Municipality, its officers and agents, harmless from any and all liabilities proximately caused by the Company's negligence in the erection, construction, installation or operation hereunder of the Company's facilities.

Section 3. The rates and charges to be charged by the Company for furnishing gas service hereunder and the rules and regulations to be made and enforced by the Company for the conduct of its business shall be those from time to time on file and effective with the Arizona Corporation Commission applicable to such service.

Section 4. The Company shall have the right and privilege of assigning this franchise and all rights and privileges granted herein, and whenever the word "Company" appears herein, it shall be construed as applying to its successors, lessees and assigns.

Section 5. The Company, its successors, lessees and assigns, for and in consideration of the granting of this franchise and as rental for the occupation and use or easement over, upon and beneath the streets, avenues, easements, rights-Of-way, highways, alleys, sidewalks, bridges and public grounds in said Municipality shall pay to the Municipality, commencing with the first full billing period after the effective date of this franchise and continuing each year during all the time this provision shall remain in force and effect, a total aggregate sum of two percent (2%) of the gross receipts of the Company, its successors, lessees and assigns, during such year, for gas sold within the corporate limits of the Municipality, subject to the limitations hereinafter stated; such gross receipts to consist of the total amount collected from users and consumers on account of gas sold and consumed within the corporate limits of the Municipality under the Company's rates in existence at the time, excepting therefrom, however, the gross receipts for gas sold to industrial consumers under special contract, and the gross receipts for gas sold to the Municipality for its own use. The Company shall make such payments semi-annually on or before the last day of January and July in each such year while this provision shall remain in full force and effect. For the purpose of determining such revenue, the books of the Company shall at all times be subject to inspection by duly authorized municipal officials. Said payments shall be in lieu of any and all other franchise, license, privilege, instrument, occupation, excise or revenue taxes and all other exactions or charges (except general ad valorem property taxes, special assessments for local improvements, and except municipal privilege, sales or use taxes authorized by law and collected by the Company from users and consumers of gas within the corporate limits of the Municipality) upon the business, revenue, property, gas lines, installations, gas systems, conduits, storage tanks, pipes, fixtures or other appurtenances of the Company and all other property or equipment of the Company, or any part thereof, in said Municipality during the term of this franchise; provided that anything to the contrary herein notwithstanding said payment shall continue only so long as said company is not prohibited from making the same by any lawful authority having jurisdiction in the premises, and so long as the Municipality does not charge, levy or collect, or attempt to charge, levy or collect other franchise, license, privilege, occupation, excise or revenue taxes or other exactions or charges hereinabove mentioned, and if any lawful authority having jurisdiction in the premises hereafter prohibits said payment, or the Municipality does levy, charge or collect or attempt to levy, charge or collect

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such other franchise, license, privilege, occupation, excise or revenue taxes, or other exactions or charges, the obligation to make such payments hereinabove provided for shall forthwith cease.

Section 6. This franchise shall be accepted by the Company in writing, which acceptance shall be filed with the Municipality within sixty (60) days after the passage of this ordinance, and when so accepted, this ordinance shall be a contract duly executed by and between the Municipality and the Company.

Section 7. If any section, paragraph, subdivision, clause, phrase or provision hereof shall be adjudged invalid or unconstitutional, the same shall not affect the validity hereof as a whole, or any part or provision other than the part so decided to be invalid or unconstitutional.

Section 8. This franchise shall continue in full force and effect for a period of twenty-five (25) years from the date of passage of this ordinance.

Section 9. All plant, system, pipelines, works, and all other physical property installed by the Company in accordance with the terms of this franchise shall be and remain the property of the Company, and upon expiration of this franchise or any extension or renewal thereof, the Company is hereby granted the right to enter upon the streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and other structures and places and public grounds of said Municipality for the purpose of removing any and all such plant, system, pipelines, works and other property of the Company, at any time within six months after termination of this franchise or any such extension or renewal thereof.

Section 10. The immediate operation of this ordinance is necessary for the preservation of the public peace, health and safety of Lake Havasu City, Mohave County, Arizona, and an emergency is hereby declared to exist and this ordinance shall be in full force and effect from and after its adoption by the Common Council of Lake Havasu City and its approval by the Mayor thereof.

PASSED AND ADOPTED by the Common Council of Lake Havasu City, this 9th day of April , 1980.

APPROVED by the Mayor of Lake Havasu City, Arizona, this 9th day of April , 1980.

APPROVED:

Gene Pinto

Gene Pinto, Mayor
Lake Havasu City, Arizona

ATTEST:

Ann R. Sayne

Ann R. Sayne, City Clerk

(SEAL)

FLG 118626

4.

NAVAJO COUNTY

FRANCHISE AND LICENSE

FOR

PIPELINES AND RELATED FACILITIES

WHEREAS, CITIZENS UTILITIES COMPANY, a corporation duly authorized to transact business within this State as public service corporation and a gas utility (herein called "Company"), has made application to the Board of Supervisors of Navajo County, Arizona, for a franchise and license to construct, operate and maintain pipelines and appurtenant facilities for the transportation, distribution and sale of natural gas to the public in Navajo County; and

WHEREAS, said application has been considered and found to be reasonable and proper:

NOW, THEREFORE, IT IS HEREBY ORDERED BY THE BOARD OF SUPERVISORS OF NAVAJO COUNTY, ARIZONA:

Section I. That the County of Navajo, State of Arizona (herein called "County"), subject to the provisions hereof, hereby grants Citizens Utilities Company, a corporation (herein called "Company") a franchise and license to construct, operate and maintain pipelines and appurtenant facilities for the transportation, distribution and sale of natural gas in Navajo County within the county rights-of-way of any road, highway or easement or any easements or rights-of-way designated for access or public use by plat or survey of record,

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provided that any such authorization or construction pursuant to such authorization does not impose on the county the duty of maintaining the road or highway unless the county accepts the road or highway into the county maintenance system by appropriate resolution. This grant shall not apply to any state highway or to any road, highway or easement within the confines of any incorporated city or town.

Section II. The Company is hereby authorized and empowered to do any and all things necessary and proper to be done and performed in executing the powers and utilizing the privileges herein mentioned and granted by this franchise and license provided the same do not conflict with existing rights-of-way and easement uses, and that all work done in or on County rights-of-way and easements by the Company shall be done in accordance with county restrictions and limitations with the utmost diligence and the least inconvenience to the public or individuals. In case of disturbance of pavement, sidewalk, driveway or other surfacing, planting or ground cover resulting from Company's action pursuant to this franchise, Company shall, in a manner satisfactory to the Board of Supervisors and the department having appropriate jurisdiction, replace and restore the pavement, sidewalk, driveway or other surfacing, planting of ground cover of any street, alley or other public way or place so disturbed in as good condition as it was prior to said disturbance. The Company shall save the County, its Board of Supervisors, officers and agents, harmless from any and all liability arising or incurred because of the erection, construction, installation or operation hereunder of the Company's facilities caused by the Company's negligence. The rights of any persons claiming to be injured or damaged in any manner by the Company or by the exercise of any right or provisions hereunder shall not be affected

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hereby.

Section III. The rates and charges to be charged by the Company for furnishing natural gas service hereunder and the rules and regulations to be made and enforced by the Company for the conduct of its business shall be those from time to time on file and effective with the Arizona Corporation Commission applicable to such service.

Section IV. The Company shall have the right and privilege of assigning this franchise and all rights and privileges granted herein and whenever the word "Company" appears herein, it shall be construed as applying to its successors and assigns. Prior to an assignment of this franchise the Company shall advise the County of the proposed assignment, and will provide any additional information requested by the County to make an informed decision regarding its position on the proposed assignment. This section shall not be deemed a warranty of assignability by the County.

Section V. Citizens Utilities Company, its successors, lessees and assigns, for and in consideration of the granting of this license and franchise, and as rental for the occupation and use of rights-of-way easements in said County shall pay to the County each year during all the time this provision shall remain in force and effect a total aggregate sum of two percent (2%) of the gross receipts of Citizens Utilities Company, its successors, lessees and assigns, during such year, for gas sold within the County, subject to the limitations hereinafter stated; such gross receipts to consist of the total amount collected from users and consumers on account of gas sold and consumed within the County under the Company's rates in existence at the time of payment, excepting therefrom, however, (1) the gross receipts for gas sold to the county for its own use, (2) the gross receipts for gas sold to

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consumers within the limits of any incorporated city or town as such limits may exist from time to time, and (3) the gross receipts for gas sold (excluding transportation costs) to industrial consumers under special contract. The County may, upon application by an industrial consumer under special contract, waive all or part of the franchise fee on gas transport costs paid to Company for special contract gas delivery. The Company shall make such payments semiannually on or before the last day of January and July in each such year while this provision shall remain in force and effect. For the purpose of determining such revenue, the books of the Company shall at all times be subject to inspection by duly authorized County officials.

Said payments shall be in lieu of any and all other currently authorized County franchise, license, privilege, occupation, and other such assessments (except general ad valorem property taxes, special assessments for local improvements, and rights-of-way use permit fees, and except municipal privilege, sales or use taxes authorized by law and collected by the Company from users and consumers of gas within the County) upon the business, revenue, property, gas lines, gas systems, conduits, storage tanks, pipes, fixtures or other appurtenances of the Company and all other property or equipment of the Company, or any part thereof, in said County during the term of this license and franchise; provided that anything to the contrary herein notwithstanding said payment shall continue only so long as said Company is not prohibited from making the same by any lawful authority having jurisdiction in the premises.

Section VI. This franchise and license shall be accepted by the Company in writing, which acceptance shall be filed with the County within sixty (60) days after the passage of

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this grant, and when so accepted this grant shall be a contract duly executed by and between the County and the Company.

Section VII. If any section, paragraph, subdivision, clause, phrase or provision hereof shall be adjudged invalid or unconstitutional, the same shall not affect the validity hereof as a whole, or any part or provision other than the part so decided to be invalid or unconstitutional.

Section VIII. The Board of Supervisors may, at any time, hereafter, impose according to law such restrictions and limitations, additional to those incorporated herein, as to the use by the Company of public rights-of-way or easements as the Board deems best for the public safety, welfare or convenience.

Section IX. The Company shall bear all expenses, including damages and compensation for any alteration of the direction, surface, grade or alignment of any County road or highway made for the purpose of this franchise and license.

Section X. This franchise and license shall cease to confer upon the Company any rights or privileges within the limits of any city or town when the latter shall have incorporated and there shall be in effect its municipal franchise in favor of the Company for gas purposes.

Section XI. This franchise and license shall continue in full force and effect for a period of twenty-five (25) years from its date of passage.

Section XII. After the passage of this grant and upon its acceptance by the Company all rights and privileges heretofore granted by the County by that certain franchise and license to the Company passes and effective the 22nd day of December, 1969 shall be

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superseded by this grant and shall then be of no further force of effect.

PASSED AND EFFECTIVE this 12th day of June, 1995.

BOARD OF SUPERVISORS
Navajo County, Arizona

Peter D. Shumway, Chairman

ATTEST

Judy Jones
Clerk of the Board of Supervisors

FLG 1108612

PINETOP LAKESIDE

ORDINANCE NO. 95-104

AN ORDINANCE GRANTING TO CITIZENS UTILITIES COMPANY, A DELAWARE CORPORATION, ITS LEGAL REPRESENTATIVES, SUCCESSORS, LESSEES AND ASSIGNS, CERTAIN POWERS, LICENSES, RIGHTS-OF-WAY, PRIVILEGES AND FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN IN THE TOWN OF PINETOP-LAKESIDE, STATE OF ARIZONA, AS NOW OR HEREAFTER CONSTITUTED, WORKS, SYSTEMS AND PLANTS FOR THE HANDLING, PRODUCTION, MANUFACTURING, TRANSPORTING, STORING, SALE AND DISTRIBUTION OF GAS INTO OUT OF AND THROUGH SAID MUNICIPALITY, AND FOR THE DISTRIBUTION AND SALE OF SUCH GAS TO SAID MUNICIPALITY, ITS INHABITANTS AND OTHERS, INCLUDING CUSTOMERS INSIDE, BEYOND AND OUTSIDE OF THE LIMITS OF SAID MUNICIPALITY; AND TO USE THE STREETS, AVENUES, EASEMENTS, RIGHTS-OF-WAY, ALLEYS, HIGHWAYS, SIDEWALKS, BRIDGES AND OTHER STRUCTURES AND PLACES AND PUBLIC GROUNDS IN SAID MUNICIPALITY FOR A PERIOD OF TWENTY-FIVE (25) YEARS; AND PRESCRIBING IN CONNECTION THEREWITH CERTAIN RIGHTS, DUTIES, TERMS AND CONDITIONS HEREIN MENTIONED; AND PROVIDING FOR THE PAYMENT TO SAID MUNICIPALITY OF A PERCENTAGE OF CERTAIN REVENUES OF GRANTEE FROM ITS OPERATIONS THEREIN; AND DECLARING AN EMERGENCY.

BE IT ORDAINED by the governing body of the Town of Pinetop-Lakeside, as follows:

Section 1. That the Town of Pinetop-Lakeside, a municipal corporation in Navajo County, Arizona, herein called the "Municipality", hereby grants to and vests in Citizens Utilities Company, a Delaware corporation, duly authorized to transact within this State a public service business as a gas utility, herein called the "Company",

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a non-exclusive franchise with the right to operate a gas plant, system, pipelines and works in the Municipality, as now or hereafter constituted, and the authority, license, power and privilege to maintain, construct, build, equip, conduct or otherwise establish and operate in said Municipality, works or systems and plants to manufacture, use, sell, store, distribute, convey or otherwise establish, conduct, serve, supply or furnish the inhabitants of said Municipality and others, and to the Municipality whenever it may desire to contract therefor, gas for light, fuel, power, heat and any and all other useful purposes, and the Company hereby is granted passage, right-of-way and the right to occupy and use in any lawful way during the life of this franchise every and any and all streets, avenues, alleys, highways, sidewalks, bridges and other structures and places and public grounds of said Town, both above and beneath the surface of the same, as said streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and other structures and places and public grounds now exist or may be hereafter extended, for every and any such service, use, effect and lawful purpose as herein mentioned. The Municipality reserves the right to approve where such facility shall be placed. In that regard, the Company shall comply with all Municipality Ordinances and Rules and Regulations concerning the use of streets, avenues, alleys, highways, sidewalks, bridges, public ground and other structures and places within the Municipality. Applications by the Company to the Municipality for placement of pipes, lines, valves, meters and other structures necessary to provide natural gas service

FLG 1118683

within the Municipality will be handled in an expeditious manner and the right to occupy and use such public land will not be unreasonably denied by Municipality.

Section 2. The Company is hereby authorized, licensed and empowered to do any and all things necessary and proper to be done and performed in executing the powers and utilizing the privileges herein mentioned and granted by this franchise, provided the same do not unreasonably conflict with water or other pipes, sewers or other pre-existing underground installations, and that all work done in said streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges or other grounds of said Municipality by the Company shall be done with the utmost diligence and the least inconvenience to the public or individuals, and the Company shall, within a reasonable time, restore, such streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and public grounds excavated by it to their original condition as nearly as practicable, subject to the reasonable approval of the Municipality. The Company shall remove or relocate its lines and facilities as and when required by the Municipality; such removal or relocation shall be made at the sole expense of the Company except where entitlement to reimbursement shall be required by law or contract or by the existence of prior rights. The Company shall save the Municipality, its officers and agents, harmless from any and all liabilities proximately caused by the Company's negligence in the erection, construction, installation or operation hereunder of the Company's facilities. The Company shall keep accurate

FLG 118584

records of the location of all Company facilities in the public and private rights-of-way within and surrounding the Municipality (within one (1) mile).

Section 3. The Company hereby agrees to indemnify and hold harmless the Municipality, its officers, boards, commissions, employees, agents and independent contractors, against and from any and all claims, demands, causes of action, suits or proceedings regardless of the merits of the same, damages including damages to Municipality property, liability, costs and expenses of every type, all or any part thereof which arise by reason of any injury to any person or persons including death or property damage, resulting from the negligence of the Company, its officers, agents, employees, servants and/or independent contractors, while exercising any of the rights, privileges, powers granted herein except where the Municipality's negligence has in some manner contributed. The Municipality shall promptly notify the Company of any claim or cause of action which may be asserted against the Municipality relating to or covering any matter against which the Company has agreed, as set forth above, to indemnify, defend and save harmless the Municipality. The Company reserves the right, but not the obligation, to employ such attorneys, expert witnesses and consultants as it deems necessary to defend against the claim or cause of action. The Company further reserves the right to take control or partial control of such defense. In the event that the Municipality is in control, either totally or partially of such defense, the

FLG 11865

Company shall pay all expenses incurred by the Municipality or the Municipality's insurers in providing the defense.

Section 4. The rates and charges to be charged by the Company for furnishing gas service hereunder and the rules and regulations to be made and enforced by the Company for the conduct of its business shall be those from time to time on file and effective with the Arizona Corporation Commission applicable to such service.

Section 5. The Company shall have the right and privilege of assigning this franchise and all rights and privileges granted herein, and whenever the word "Company" appears herein, it shall be construed as applying to its successors, lessees and assigns. The assignee shall comply with all of the provisions of this Ordinance and the other franchise documents.

Section 6. The Company, its successors, lessees and assigns, for and in consideration of the granting of this franchise and as rental for the occupation and use or easement over, upon and beneath the streets, avenues, easements, rights-of-way, highways, alleys, sidewalks, bridges and public grounds in said Municipality shall pay to the Municipality, commencing with the first full billing period after the effective date of this franchise and continuing each year during all the time this provision shall remain in force and effect, a total aggregate sum of two percent (2%) of the gross receipts of the Company, its successors, lessees and assigns, during such year, for gas sold within the corporate limits of the Municipality, subject to the limitations hereinafter stated;

such gross receipts to consist of the total amount collected from users and consumers on account of gas sold and consumed within the corporate limits of the Municipality under the Company's rates in existence at the time, excepting therefrom, however, the gross receipts for gas sold to the Municipality for its own use. The Company shall make such payments semi-annually on or before the last day of January and July in each such year while this provision shall remain in full force and effect. For the purpose of determining such revenue, the books of the Company shall at all times be subject to inspection by duly authorized municipal officials. Said payments shall be in lieu of any and all other franchise, license, privilege, instrument, occupation, excise or revenue taxes and all other exactions or charges (except general ad valorem property taxes, special assessments for local improvements, and except municipal privilege, sales or use taxes authorized by law and collected by the Company from users and consumers of gas within the corporate limits of the Municipality) upon the business, revenue, property, gas lines, installations, gas systems, conduits, storage tanks, pipes, fixtures or other appurtenances of the Company and all other property or equipment of the Company, or any part thereof, in said Municipality during the terms of this franchise; provided that anything to the contrary herein notwithstanding said payment shall continue only so long as said Company is not prohibited from making the same by any lawful authority having jurisdiction in the premises, and so long as the municipality does not charge, levy or collect, or attempt to charge, levy or collect other franchise,

FLG 1118587

license, privilege, occupation, excise or revenue taxes or other exactions or charges hereinabove mentioned, and if any lawful authority having jurisdiction in the premises hereafter prohibits said payment, or the Municipality does levy, charge or collect or attempt to levy, charge or collect such other franchise, license, privilege, occupation, excise or revenue taxes, or other exactions or charges, the obligation to make such payments hereinabove provided for shall forthwith cease.

Section 7. This franchise shall be accepted by the Company in writing, which acceptance shall be filed with the Municipality within sixty (60) days after the passage of this ordinance, and when so accepted, this ordinance shall be a contract duly executed by and between the Municipality and the Company.

Section 8. If any section, paragraph, subdivision, clause, phrase or provision hereof shall be adjudged invalid or unconstitutional, the same shall not affect the validity hereof as a whole, or any part or provision other than the part so decided to be invalid or unconstitutional.

Section 9. This non-exclusive franchise shall continue in full force and effect for a period of twenty-five (25) years from the date of passage of this ordinance.

Section 10. All plant, system, pipelines, works, and all other physical property installed by the Company in accordance with the terms of this franchise shall be and remain the property of the Company, and upon expiration of this franchise or any extension or renewal thereof, the Company is hereby granted the right to enter upon the

FLG 118688

streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and other structures and places and public grounds of said Municipality for the purpose of removing any and all such plant, system, pipelines, works and other property of the Company, at any time within six months after termination of this franchise or any such extension or renewal thereof. In removing its plant, system, pipelines, works and other property, the Company shall comply with all state and local ordinances and shall return the property to the same or better condition in which the property was found immediately prior to the removal. In the event that the Company does not remove its plant, system, pipelines, works or other property within six (6) months after termination of this franchise or any extension or renewal thereof, such plant, system, pipelines, works and other property of the Company shall become the property of the Municipality unless such removal is prohibited by matters over which the Company has no control.

Section 11. The immediate operation of this ordinance is necessary for the preservation of the public peace, health and safety of the Town of Pinetop-Lakeside, Arizona, and an emergency is hereby declared to exist and this ordinance shall be in full force and effect from and after its adoption by the Town Council of the Town of Pinetop-Lakeside and its approval by the Mayor thereof.

FLG 1108655

PASSED AND ADOPTED by the Town Council of the Town of Pinetop-Lakeside, this 20th day of March, 1995.

Larry Vicario

Larry Vicario, Mayor

ATTEST:

Leslee M Wessel

Leslee M. Wessel, Town Clerk

APPROVED:

Jack Barker

Jack Barker, Town Attorney

I hereby certify that the foregoing ordinance is a true and correct copy of Ordinance No. 95-104, adopted by the Mayor and Town Council of the Town of Pinetop-Lakeside, Arizona, on the 20th day of March, 1995, at a meeting duly called and held and at which a quorum was present.

DATED this 22nd day of March, 1995

Leslee M Wessel

Leslee M. Wessel, Town Clerk

FLG 118690

PRESCOTT

AGD
0090

File
Prescott
Franchise

ORDINANCE NO. 3572

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, GRANTING TO CITIZENS UTILITIES COMPANY, A DELAWARE CORPORATION, ITS LEGAL REPRESENTATIVES, SUCCESSORS, LESSEES AND ASSIGNS, CERTAIN POWERS, LICENSES, RIGHTS-OF-WAY, PRIVILEGES AND FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN IN THE CITY OF PRESCOTT, STATE OF ARIZONA, AS NOW OR HEREAFTER CONSTITUTED, WORKS, SYSTEMS AND PLANTS FOR THE HANDLING, PRODUCTION, MANUFACTURING, TRANSPORTING, STORING, SALE AND DISTRIBUTION OF GAS INTO, OUT OF, AND THROUGH SAID MUNICIPALITY, AND FOR THE DISTRIBUTION AND SALE OF SUCH GAS TO SAID MUNICIPALITY, ITS INHABITANTS AND OTHERS, INCLUDING CUSTOMERS INSIDE, BEYOND, AND OUTSIDE OF THE LIMITS OF SAID MUNICIPALITY; AND TO USE THE STREETS, AVENUES, EASEMENTS, RIGHTS-OF-WAY, ALLEYS, HIGHWAYS, SIDEWALKS, BRIDGES AND OTHER STRUCTURES AND PLACES AND PUBLIC GROUNDS IN SAID MUNICIPALITY FOR A PERIOD OF TWENTY-FIVE (25) YEARS; AND PRESCRIBING IN CONNECTION THEREWITH CERTAIN RIGHTS, DUTIES, TERMS AND CONDITIONS HEREIN MENTIONED; AND PROVIDING FOR THE PAYMENT TO SAID MUNICIPALITY OF A PERCENTAGE OF CERTAIN REVENUES OF GRANTEE FROM ITS OPERATIONS THEREIN; AND DECLARING AN EMERGENCY.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Prescott as follows:

SECTION I. That the City of Prescott, a municipal corporation in Yavapai County, Arizona, herein called the "Municipality," hereby grants to, and vests in, Citizens Utilities Company, a Delaware corporation, duly authorized to transact within this State a public service business as a gas utility, herein called the "Company," a franchise with the right to operate a gas plant, system, pipelines and works in the Municipality, as now or hereafter constituted, and the authority, license, power and privilege to maintain, construct, build, equip, conduct or otherwise establish and operate in said Municipality, works or systems and plants to manufacture, use, sell, store, distribute, convey or otherwise establish, conduct, serve, supply or furnish the inhabitants of said Municipality and others, and to the Municipality whenever it may desire to contract therefor, gas for light, fuel, power, heat and any and all other useful purposes, and the Company hereby is granted passage, right-of-way and its right to occupy and use in any lawful way during the life of this franchise, every and any and all streets, avenues, alleys, highways, sidewalks, bridges and other structures and places

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FLG

118702

and public grounds of said City, both above and beneath the surface of the same, as said streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and other structures and places and public grounds now exist or may be hereafter extended, for every and any such service, use, effect and lawful purpose as herein mentioned.

SECTION 2. The Company is hereby authorized, licensed and empowered to do any and all things necessary and proper to be done and performed in executing the powers and utilizing the privileges herein mentioned and granted by this franchise, provided the same do not unreasonably conflict with water or other pipes, sewers or other pre-exiting underground installations, and that all work done in said streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges or other grounds of said Municipality by the Company shall be done with the utmost diligence and the least inconvenience to the public or individuals, and the Company shall, within a reasonable time, restore such streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and public grounds excavated by it to their original condition as nearly as practicable, subject to the reasonable approval of the Municipality. The Company shall be required to apply for and obtain any required permits or licenses for work done within the municipally-owned streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges or other grounds of said Municipality, but the Company shall not be required to pay any permit fees to the Municipality for any such work.

The Company shall remove or relocate its lines and facilities as and when required by the Municipality; such removal or relocation shall be made at the expense of the Company if the removal or relocation is necessary for the Municipality to carry out a function which is in the interest of the public health, safety, or welfare, herein defined as "governmental purpose." The Municipality will not exercise its right to require utility facilities to be relocated in an unreasonable or arbitrary manner.

In the event that the Company relocates any of its facilities at the request of the Municipality for a "governmental purpose," as that phrase is defined in Section 2 hereof, and the Municipality fails to either (1) exercise the function which constitutes such "governmental purpose," or (2) commence the improvement which constitutes such "governmental purpose," the Municipality shall reimburse the Company the entire and actual cost of such relocation within ninety (90) calendar days of such billing.

FLG 11807003

Ordinance No. 3572 - continued:

The Company shall review and provide comments upon any and all project drawings submitted by the Municipality within thirty (30) days of said submittal. In the event of the failure of the Company to provide said review and comments within said time, the Company shall indemnify and hold harmless the Municipality from any and all costs incurred and liabilities incurred as a result of said failure to review and comment. All work in the public rights-of-way will be in compliance with applicable Municipal codes, standards, and regulations as they may exist at that time.

The Company shall save the Municipality, its officers and agents, harmless from any and all liabilities proximately caused by the Company's negligence in the erection, construction, installation or operation hereunder of the Company's facilities.

SECTION 3. The Company hereby agrees to indemnify and hold harmless the Municipality, its officers, boards, commissions, employees, agents and independent contractors, against and from any and all claims, demands, causes of action, suits or proceedings regardless of the merits of the same, damages including damages to city property, liability, costs and expenses of every type, all or any part thereof which arise by reason of any injury to any person or persons including death or property damages, resulting from the negligence of the Company, its officers, agents, employees, servants and/or independent contractors, while exercising any of the rights, privileges, powers granted herein except where the Municipality's negligence has, in some manner, contributed. The Municipality shall promptly notify the Company of any claim or cause of action which may be asserted against the Municipality relating to or covering any matter against which the Company has agreed, as set forth above, to indemnify, defend and save harmless the Municipality. The Company reserves the right, but not the obligation, to employ such attorneys, expert witnesses and consultants as it deems necessary to defend against the claim or cause of action. The Company further reserves the right to take total or partial control of such defense. In the event that the Municipality is in control, either totally or partially of such defense, the Company shall pay all expenses incurred by the Municipality in providing the defense.

SECTION 4. The rates and charges to be charged by the Company for furnishing gas service hereunder and the rules and regulations to be made and enforced by the Company for the conduct of its business shall be those from time to time on file and effective with the Arizona Corporation Commission applicable to such service.

SECTION 5. The Company shall have the right and privilege of assigning this franchise and all rights and privileges granted herein, and whenever the word "Company" appears herein, it shall be construed as applying to its successors, lessees, and assigns.

Ordinance No. 3572 - continued:

SECTION 6. The Company, its successors, lessees, and assigns, for and in consideration of the granting of this franchise and as rental for the occupation and use or easement over, upon and beneath the streets, avenues, easements, rights-of-way, highways, alleys, sidewalks, bridges and public grounds in said Municipality shall pay to the Municipality, commencing with the first full billing period after the effective date of this franchise and continuing each year during all the time this provision shall remain in force and effect, a total aggregate sum of two percent (2%) of the gross receipts of the Company, its successors, lessees and assigns, during such year, for gas sold within the corporate limits of the Municipality, subject to the limitations hereinafter stated; such gross receipts to consist of the total amount collected from users and consumers on account of gas sold and consumed within the corporate limits of the Municipality under the Company's rates in existence at the time, excepting therefrom, however, the gross receipts for gas sold to industrial consumers under special contract, and the gross receipts for gas sold to the Municipality for its own use. Notwithstanding the provisions of this Section, should the Company enter into any gas franchise with any entity of this State which provides for a higher percentage of Company gross receipts payment than two percent (2%), the City Council, at its sole option, shall have the option to increase the Company's franchise fee to a rate not to exceed the higher percentage rate. The Company shall make such payments semi-annually on or before the last day of January and July in each such year while this provision shall remain in full force and effect. For the purpose of determining such revenue, the books of the Company shall at all times be subject to inspection by duly authorized municipal officials. Said payments shall be in lieu of any and all other franchise, license, privilege, instrument, occupation, excise or revenue taxes and all other exactions (except general ad valorem property taxes, special assessments for local improvements, impact and development fees, municipal privilege, sales or use taxes authorized by law and collected by the Company from users and consumers of gas within the corporate limits of the Municipality, and any other charges, taxes or fees levied upon businesses generally through the Municipality) upon the business, revenue, property, gas lines, installations, gas systems conduits, storage tanks, pipes, fixtures or other appurtenances of the Company and all other property or equipment of the Company, or any part thereof, in said Municipality, during the term of this franchise. In the event the Municipality does levy a charge or attempt to collect charges, taxes or fees in violation of the foregoing, the obligation to make the payments hereinabove provided for shall cease, pending a final determination by a court of competent jurisdiction of the legitimacy of the same.

SECTION 7. This franchise shall be accepted by the Company in writing, which acceptance shall be filed with the Municipality within sixty (60) days after the passage of this ordinance, and when so accepted, this ordinance shall be a contract duly executed by and between the Municipality and the Company.

FLG 1118705

Ordinance No. 3572 - continued:

SECTION 8. If any section, paragraph, subdivision, clause, phrase or provision hereof shall be adjudged invalid or unconstitutional, the same shall not affect the validity hereof as a whole, or any part or provision other than the part so decided to be invalid or unconstitutional.

SECTION 9. This franchise shall continue in full force and effect for a period of twenty-five (25) years from the date of passage of this ordinance.

SECTION 10. All plant, system, pipelines, works, and all other physical property installed by the Company in accordance with the terms of this franchise shall be and remain the property of the Company, and upon expiration of this franchise or any extension or renewal thereof, the Company is hereby granted the right to enter upon the streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and other structures and places and public grounds of said Municipality for the purpose of removing any and all such plant, system, pipelines, works and other property of the Company, at any time within six months after termination of this franchise or any such extension or renewal thereof.

SECTION 11. The immediate operation of this ordinance is necessary for the preservation of the public peace, health and safety of the City of Prescott, Arizona, and an emergency is hereby declared to exist and this ordinance shall be in full force and effect from and after its adoption by the City Council of the City of Prescott and its approval by the Mayor thereof.

PASSED AND ADOPTED by the City Council of the City of Prescott, this 27th day of MAY, 1997.

PAUL DALY, Mayor

ATTEST:

MARIE L. WATSON, City Clerk

APPROVED AS TO FORM:

JOHN R. MOFFITT, City Attorney

FLG 118706

CLERK'S CERTIFICATION

CITY OF PRESCOTT, ARIZONA

I, MARIE L. WATSON, CITY CLERK OF THE CITY OF PRESCOTT, ARIZONA, DO HEREBY CERTIFY THAT THE FOREGOING IS A FULL, TRUE AND CORRECT COPY OF **ORDINANCE NO. 3572 GRANTING CITIZENS UTILITIES COMPANY A FRANCHISE AS ADOPTED BY THE PRESCOTT CITY COUNCIL ON THE 27Th DAY OF MAY, 1997,** AND AS THE SAME APPEARS ON FILE AND OF RECORD IN MY OFFICE.

IN WITNESS WHEREOF, I HEREUNTO SET MY HAND AND AFFIX THE SEAL OF THE CITY OF PRESCOTT, ARIZONA, THIS 2nd DAY OF JUNE, 1997.

Marie L. Watson

MARIE L. WATSON, CITY CLERK
CITY OF PRESCOTT, ARIZONA

AFFIX CITY SEAL

FLG 1108707

ACCEPTANCE OF FRANCHISE

STATE OF CONNECTICUT)
) ss.
Fairfield County)

Reference is made to Ordinance No. 3572 of the City of Prescott, Arizona, adopted on the 27th day of May, 1997, by the Mayor and City Council of the City of of Prescott, a municipal corporation, in Yavapai County, State of Arizona, granting to CITIZENS UTILITIES COMPANY, a Delaware corporation, a Franchise for the service of gas in the town and the construction, maintenance and operation of necessary facilities therefor for a period of twenty-five (25) years.

Pursuant to Section 7 of such Franchise, CITIZENS UTILITIES COMPANY, a Delaware corporation. Grantee therein, hereby accepts such Franchise with the intention that this Acceptance shall be filed with the City of Prescott, Arizona.

DONE at Stamford, Connecticut, this 2nd day of JUNE 1997.

CITIZENS UTILITIES COMPANY
Delaware Corporation

By: J. Michael Love
J. Michael Love

Title: Vice President Citizens Public Services

STATE OF ARIZONA)
) ss.
County of Yavapai)

I, Marie Watson, Clerk of the City of Prescott. State of Arizona, hereby certify that the above and foregoing Acceptance of Franchise by the CITIZENS UTILITIES COMPANY, a Delaware corporation, (contained in Ordinance No. 3572) and the Franchise granted by such Ordinance was received and duly filed in the records of my office as Clerk of the City of Prescott, Arizona, on the 27 day of MAY, 1997.

Marie L. Watson
Clerk of the City of Prescott, Arizona

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FLG 118708

PRESCOTT VALLEY

ORDINANCE NO. 3 ej

AN ORDINANCE GRANTING TO SOUTHERN UNION COMPANY, A CORPORATION, ACTING BY AND THROUGH SOUTHERN UNION GAS COMPANY, A DIVISION THEREOF, ITS LEGAL REPRESENTATIVES, SUCCESSORS, LESSEES AND ASSIGNS, CERTAIN POWERS, LICENSES, RIGHTS-OF-WAY, PRIVILEGES AND FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN IN THE TOWN OF PRESCOTT VALLEY, YAVAPAI COUNTY, ARIZONA, AS NOW OR HEREAFTER CONSTITUTED, WORKS, SYSTEMS AND PLANTS FOR THE HANDLING, PRODUCTION, MANUFACTURING, TRANSPORTING, STORING, SALE AND DISTRIBUTION OF GAS INTO, OUT OF AND THROUGH SAID MUNICIPALITY, AND FOR THE DISTRIBUTION AND SALE OF SUCH GAS TO SAID MUNICIPALITY, ITS INHABITANTS AND OTHERS, INCLUDING CUSTOMERS INSIDE, BEYOND AND OUTSIDE OF THE LIMITS OF SAID MUNICIPALITY; AND TO USE THE STREETS, AVENUES, EASEMENTS, RIGHTS-OF-WAY, ALLEYS, HIGHWAYS, SIDEWALKS, BRIDGES AND OTHER STRUCTURES AND PLACES AND PUBLIC GROUNDS IN SAID MUNICIPALITY FOR A PERIOD OF TWENTY-FIVE (25) YEARS; AND PRESCRIBING IN CONNECTION THEREWITH CERTAIN RIGHTS, DUTIES, TERMS AND CONDITIONS HEREIN MENTIONED; AND PROVIDING FOR THE PAYMENT TO SAID MUNICIPALITY OF A PERCENTAGE OF CERTAIN REVENUES OF GRANTEE FROM ITS OPERATIONS THEREIN; AND DECLARING AN EMERGENCY.

BE IT ORDAINED by the governing body of the Town of Prescott Valley, as follows:

Section 1. That the Town of Prescott Valley, a municipal corporation in Yavapai County, Arizona, herein called the "Municipality", hereby grants to and vests in Southern Union Company, a corporation, acting by and through Southern Union Gas Company, a division thereof, duly authorized to transact within this State a public service business as a gas utility, herein called the "Company", a franchise with the right to operate a gas plant, system, pipelines and works in the Municipality, as now or hereafter constituted, and the authority, license, power and privilege to maintain, construct, build, equip, conduct or otherwise establish and operate in said Municipality, works or systems and plants to manufacture, use, sell, store, distribute, convey or otherwise establish, conduct, serve, supply or furnish the inhabitants of said Municipality and others, and to the Municipality whenever it may desire to contract therefor, gas for light,

fuel, power, heat and any and all other useful purposes. and the Company hereby is granted passage, right-of-way and the right to occupy and use in any lawful way during the life of this franchise every and any and all streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and other structures and places and public grounds of said Municipality, both above and beneath the surface of the same, as said streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and other structures and places and public grounds now exist or may be hereafter extended, for every and any such service, use, effect and lawful purpose as herein mentioned.

Section 2. The Company is hereby authorized, licensed and empowered to do any and all things necessary and proper to be done and performed in executing the powers and utilizing the privileges herein mentioned and granted by this franchise, provided the same do not unreasonably conflict with water or other pipes, sewer or other pre-existing underground installations, and that all work done in said streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges or other grounds of said Municipality by the Company shall be done with the utmost diligence and the least inconvenience to the public or individuals, and the Company shall, within a reasonable time, restore, such streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and public grounds excavated by it to their original condition as nearly as practicable, subject to the reasonable approval of the Municipality. The Company shall remove or relocate its lines and facilities as and when required by the Municipality; said removal or relocation shall be made at the sole expense of the Company, except where entitlement to reimbursement shall be provided by contract or law. In the event of such entitlement, reimbursement shall be made strictly in accordance therewith. The Company shall save the Municipality, its officers and agents, harmless from any and all liabilities proximately

caused by the Company's negligence in the erection, construction, installation or operation hereunder of the Company's facilities.

Section 3. The rates and charges to be charged by the Company for furnishing gas service hereunder and the rules and regulations to be made and enforced by the Company for the conduct of its business shall be those from time to time on file and effective with the Arizona Corporation Commission applicable to such service.

Section 4. The Company shall have the right and privilege of assigning this franchise and all rights and privileges granted herein, and whenever the word "Company" appears herein, it shall be construed as applying to its successors, lessees and assigns.

Section 5. The Company, its successors, lessees and assigns, for and in consideration of the granting of this franchise and as rental for the occupation and use or easement over, upon and beneath the streets, avenues, easements, rights-of-way, highways, alleys, sidewalks, bridges and public grounds in said Municipality shall pay to the Municipality, commencing with the first full billing period after the effective date of this franchise and continuing each year during all the time this provision shall remain in force and effect, a total aggregate sum of two percent (2%) of the gross receipts of the Company, its successors, lessees and assigns, during such year, for gas sold within the corporate limits of the Municipality, subject to the limitations hereinafter stated; such gross receipts to consist of the total amount collected from users and consumers on account of gas sold and consumed within the corporate limits of the Municipality under the Company's rates in existence at the time, excepting therefrom, however, the gross receipts for gas sold to industrial consumers under special contract, and the gross receipts for gas sold to the Municipality for its own use. The Company shall make such payments semi-annually on or before the last day of

January and July in each such year while this provision shall remain in force and effect. For the purpose of determining such revenue, the books of the Company shall at all times be subject to inspection by duly authorized municipal officials. Said payments shall be in lieu of any and all other franchise, license, privilege, instrument, occupation, excise or revenue taxes and all other exactions or charges (except general ad valorem property taxes, special assessments for local improvements, and except municipal privilege, sales or use taxes authorized by law and collected by the Company from users and consumers of gas within the corporate limits of the Municipality) upon the business, revenue, property, gas lines, installations, gas systems, conduits, storage tanks, pipes, fixtures or other appurtenances of the Company and all other property or equipment of the Company, or any part thereof, in said Municipality during the term of this franchise; provided that anything to the contrary herein notwithstanding said payment shall continue only so long as said Company is not prohibited from making the same by any lawful authority having jurisdiction in the premises, and so long as the Municipality does not charge, levy or collect, or attempt to charge, levy or collect other franchise, license, privilege, occupation, excise or revenue taxes or other exactions or charges hereinabove mentioned, and if any lawful authority having jurisdiction in the premises hereafter prohibits said payment, or the Municipality does levy, charge or collect or attempt to levy, charge or collect such other franchise, license, privilege, occupation, exactions or charges, the obligation to make such payments hereinabove provided for shall forthwith cease.

Section 6. This franchise shall be accepted by the Company in writing, which acceptance shall be filed with the Municipality within sixty (60) days after the passage of this ordinance, and when so accepted, this ordinance shall be a contract duly executed by and between the Municipality and the Company.

Section 7. If any section, paragraph, subdivision, clause, phrase or provision hereof shall be adjudged invalid or unconstitutional, the same shall not affect the validity hereof as a whole, or any part or provision other than the part so decided to be invalid or unconstitutional.

Section 8. This franchise shall continue in full force and effect for a period of twenty-five (25) years from the date of passage of this ordinance.

Section 9. All plant, system, pipelines, works, and all other physical property installed by the Company in accordance with the terms of this franchise shall be and remain the property of the Company, and upon expiration of this franchise or any extension or renewal thereof, the Company is hereby granted the right to enter upon the streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and other structures and places and public grounds of said Municipality for the purpose of removing any and all such plant, system, pipelines, works and other property of the Company, at any time within six months after termination of this franchise or any such extension or renewal thereof.

Section 10. The immediate operation of this ordinance is necessary for the preservation of the public peace, health and safety of the Town of Prescott Valley, Yavapai County, Arizona, and an emergency is hereby declared to exist and this ordinance shall be in full force and effect from and after its adoption by the Council of the Town of Prescott Valley and its approval by the Mayor thereof.

PASSED AND ADOPTED by the Council of the Town of Prescott Valley this 25th day of September, 1980.

Richard L. Addis, Mayor
Town of Prescott Valley, Arizona

ATTEST:

Town Clerk

(SEAL)

APPROVED by the Mayor of the Town of Prescott, Arizona, this 25TH day of September, 1980.

Richard L. Addis, Mayor
Town of Prescott Valley, Arizona

SANTA CRUZ COUNTY

FRANCHISE TO:

CITIZENS UTILITIES COMPANY,

a Delaware Corporation

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, CITIZENS UTILITIES COMPANY, a corporation, has duly and regularly applied and petitioned, pursuant to A.R.S. Section 40-283, to the Board of Supervisors of Santa Cruz County, Arizona, for a Public Service Franchise to construct, maintain, install and operate an electric power and energy and gas distribution and sales system, to serve the residents of Santa Cruz County, Arizona, save and except within the confines of any incorporated city or town in Santa Cruz County, Arizona; and

WHEREAS, the said CITIZENS UTILITIES COMPANY, a corporation, has requested the use of certain highways, streets, roads and alleys; and

WHEREAS, it appears that notice of hearing on said application has been duly given as required by law; and

WHEREAS, said application came on regularly to be heard on the 6th day of June, 1990, before the Board of Supervisors of Santa Cruz County, and no petition to the Board to deny such privilege and franchise was filed or presented according to law, and the Board considered the application for the franchise,

NOW THEREFORE, it being determined by the Board of Supervisors of Santa Cruz County that the grant of this

franchise is regular, proper, authorized by law and in the best interests of Santa Cruz County and the inhabitants thereof;

IT IS HEREBY RESOLVED, that CITIZENS UTILITIES COMPANY, a corporation, be and is hereby enfranchised and empowered to use all streets, highways, roads and alleys now established, used or dedicated to the public use or which may hereafter be established, used or dedicated to the public use, lying within Santa Cruz County, Arizona, save and except within the confines of any incorporated city or town in Santa Cruz County, Arizona, for the purpose of installing, constructing, maintaining and operating an electric power and energy and gas distribution and sales system and all such appurtenances and installations as may be necessary for the purpose of engaging in the business of supplying consumers with electric power, energy and gas for domestic and commercial use.

PROVIDED, HOWEVER, that:

1. All rights hereunder are granted under the express condition that the BOARD OF SUPERVISORS of said Santa Cruz County shall have the power at any time to impose, at its sole discretion such restrictions, limitations, and regulations as to the use of said highways, roads, streets and alleys by CITIZENS UTILITIES COMPANY, a corporation, as may be deemed best by the Board of Supervisors for the public safety or welfare. The rights of Santa Cruz County in and to the use of the highways, roads, streets and alleys shall forever be

paramount and superior to the rights of the CITIZENS UTILITIES COMPANY.

2. The said CITIZENS UTILITIES COMPANY, a corporation, shall bear all expenses made or incurred for the purpose of this franchise, including damage and compensation for any alteration of the direction, surface, grade or alignment of any of the aforesaid highways, roads, streets and alleys.

3. The said CITIZENS UTILITIES COMPANY, a corporation, shall bear all expenses for the moving of any improvements belonging to CITIZENS UTILITIES COMPANY, a corporation, made necessary by the Board of Supervisors' determination to surface, grade, align, etc. the said highways, roads, streets, and public alleys, or any part thereof.

4. This franchise is granted for the term of Twenty-five (25) years from the date of the granting of the same. This franchise and the rights and privileges granted herein shall be salable, assignable and transferable by CITIZENS UTILITIES COMPANY, a corporation, but no sale, assignment or transfer, in whole or in part of any of the rights and privileges granted herein shall be effective as against Santa Cruz County until notice of the same in writing has been given the Board of Supervisors of Santa Cruz County.

5. This franchise and the privileges granted herein shall not be exclusive, and the Board of Supervisors expressly reserves the right to grant the use of roads, streets and alleys, or any thereof, to any other persons, firms or corporations.

6. This franchise shall not be effective for any purpose until the acceptance of CITIZENS UTILITIES COMPANY, a corporation, is endorsed hereon in writing. PROVIDED, that after any sale, assignment or transfer of CITIZENS UTILITIES COMPANY'S, a corporation, rights hereunder, and after approval of such by Santa Cruz County, the said CITIZENS UTILITIES COMPANY shall not be obligated under the terms hereof.

IN WITNESS WHEREOF, the BOARD OF SUPERVISORS of Santa Cruz County, Arizona, has caused these presents to be executed and signed by the Chairman of the Board and attested by the Clerk and the seal of the Board affixed hereto this 6th day of June, 1990.

BOARD OF SUPERVISORS

By _____
Robert Damon, Chairman

_____
Camilo Ahumada

_____
Ronald R. Morriss

_____
Fran DeCillis, Clerk of the Board of Supervisors

The CITIZENS UTILITIES COMPANY, a corporation, does hereby accept the within and foregoing Franchise this 6 day of June, 1990.

CITIZENS UTILITIES COMPANY

By _____
Title DIVISION MANAGER

Approved as to form:

Santa Cruz County Attorney

CUC

CONSENT, FRANCHISE AND PERMIT

KNOW ALL MEN BY THESE PRESENTS:

That the Board of Supervisors of Santa Cruz County, Arizona, has granted, and it does hereby grant, unto CITIZENS UTILITIES COMPANY, a corporation, full consent, franchise and permit to own, operate and maintain hereafter for a period of twenty-five (25) years from and after the 2nd day of August, 1965, within all of that portion of the County of Santa Cruz, State of Arizona, that the said Citizens Utilities Company is authorized to serve and exclusive of that portion thereof lying within the corporate bounds of the City of Nogales, Arizona, an electric power and energy and gas distribution and sales system and the full right, power and privilege throughout such period to sell in said County of Santa Cruz, exclusive of the locality hereinabove excepted, whether at retail or at wholesale, electric power and energy and gas, and also the full right, power and privilege to acquire, erect, repair, maintain, own and operate any and all property and equipment incidental, requisite, or of convenience in the full exercise and enjoyment of this consent, franchise and permit, including transmission pipes and lines; and said Board of Supervisors does hereby further grant to said Citizens Utilities Company such full and complete rights of way and easements throughout said County of Santa Cruz in and upon all County roads and rights of way as may be required in, or of convenience to, the full enjoyment and beneficial use of the rights, powers and privileges hereby granted and conferred, such rights of way and easements to be so established as to occasion the least possible inconvenience within reason to the public under all the circumstances; provided, however, that the said Citizens Utilities Company shall bear all expenses, including damages and compensation for any alteration of the direction, surface, grade or alignment of a County road made for the purpose of this franchise.

IN WITNESS WHEREOF, said Board of Supervisors has caused these presents to be executed in duplicate for and upon its behalf by its Chairman and Clerk thereunto duly authorized on this the 31st day of August, 1965.

BOARD OF SUPERVISORS OF SANTA CRUZ COUNTY, ARIZONA

By _____
Chairman

ATTEST:

By _____
Clerk

SEDONA

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CITY OF SEDONA

FRANCHISE AGREEMENT

SOUTHERN UNION GAS

ORDINANCE NO. 91-16

AN ORDINANCE GRANTING TO SOUTHERN UNION COMPANY, A CORPORATION, ACTING BY AND THROUGH SOUTHERN UNION GAS COMPANY, A DIVISION THEREOF, ITS LEGAL REPRESENTATIVES, SUCCESSORS, LESSEES AND ASSIGNS, CERTAIN POWERS, LICENSES, RIGHTS-OF-WAY, PRIVILEGES AND FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN IN THE CITY OF SEDONA, STATE OF ARIZONA, AS NOW OR HEREAFTER CONSTITUTED, WORKS AND SYSTEMS FOR THE HANDLING, PRODUCTION, MANUFACTURING, TRANSPORTING, STORING, SALE AND DISTRIBUTION OF PROPANE OR NATURAL GAS INTO, OUT OF, AND THROUGH SAID MUNICIPALITY, AND FOR THE DISTRIBUTION AND SALE OF SUCH GAS TO SAID MUNICIPALITY, ITS INHABITANTS AND OTHERS INCLUDING CUSTOMERS INSIDE, BEYOND AND OUTSIDE THE LIMITS OF SAID MUNICIPALITY; AND TO USE THE MUNICIPALITY OWNED OR CONTROLLED STREETS, AVENUES, EASEMENTS, RIGHTS-OF-WAYS, ALLEYS, HIGHWAYS, SIDEWALKS, BRIDGES AND OTHER MUNICIPALITY OWNED OR CONTROLLED STRUCTURES AND PLACES AND PUBLIC GROUNDS IN SAID MUNICIPALITY FOR A PERIOD OF TWENTY-FIVE (25) YEARS; AND PRESCRIBING IN CONNECTION THEREWITH CERTAIN RIGHTS, DUTIES, TERMS AND CONDITIONS HEREIN MENTIONED; AND PROVIDING FOR THE PAYMENT TO SAID MUNICIPALITY OF A PERCENTAGE OF CERTAIN REVENUES OF GRANTEE FROM ITS OPERATIONS THEREIN; REGULAR ORDINANCE PROCESS

BE IT ORDAINED by the City Council body of the City of Sedona, Arizona, as follows:

SECTION 1. That the City of Sedona, a municipal corporation in Yavapai and Coconino Counties, Arizona, herein called the "Municipality", hereby grants to and vests in Southern Union Company, a corporation, acting by and through Southern Union Gas Company, a division thereof, duly authorized to transact within this State a public service business as a gas utility, herein called the "Company", a franchise with the right to operate a propane or natural gas system, pipelines and works in the

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Municipality, as now or hereafter constituted, and the authority, license, power and privilege to maintain, construct, build, equip, conduct or otherwise establish and operate in said Municipality, works or systems to manufacture, use, sell, store, distribute, convey or otherwise establish, conduct, serve, supply or furnish the inhabitants of said Municipality and others, and to the Municipality whenever it may desire to contract therefore, gas for light, fuel, power, and heat, and any and all other useful purposes, and the Company hereby is granted passage, right-of-way and the right to occupy and use in any lawful way during the life of this franchise every and any and all Municipality owned or controlled streets, avenues, alleys, highways, sidewalks, bridges and other Municipality owned or controlled structures and places and public grounds, of said City, both above and beneath the surface of the same, as said streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and other structures and places and public grounds except grounds established by the City for nondevelopment purposes or as otherwise designated by the City which now exist or may be hereafter extended, for every and any such service, use, effect and lawful purpose as herein mentioned.

SECTION 2. The Company is hereby authorized, licensed and empowered to do any and all things necessary and proper to be done and performed in executing the powers and utilizing the

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privileges herein mentioned and granted by this franchise, provided the same do not unreasonably conflict with water or other pipes, sewers or other pre-existing underground installations, and that all work done in said streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges or other grounds of said Municipality by the Company shall be done with the utmost diligence and the least inconvenience to the public or individuals, and the Company, shall, within a reasonable time, restore such streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and public grounds excavated by it to their original condition as nearly as practicable, subject to the reasonable approval of the Municipality. The Company shall remove or relocate its lines and facilities as and when required by the Municipality; such removal or relocation shall be made at the sole expense of the Municipality. The Company shall save the Municipality, its officers and agents, harmless from any and all liabilities proximately caused by the Company's negligence in the erection, construction, installation or operation hereunder of the Company's facilities.

SECTION 3. The Company hereby agrees to indemnify and hold harmless the Municipality, its officers, boards, commissions, employees, agents and independent contractors, against and from any and all claims, demands, causes of action, suits or proceedings regardless of the merits of the same, damages including

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damages to City property, liability, costs and expenses of every type, all or any part thereof which arises by reason of any injury to any person or persons including death or property damage, resulting from the negligence of the Company, its officers, agents, employees, servants and/or independent contractors, while exercising any of the rights, privileges, powers granted herein except where the Municipality's negligence has in some manner contributed. The Municipality shall promptly notify the Company of any claim or cause of action which may be asserted against the Municipality relating to or covering any matter against which the Company has agreed, as set forth above, to indemnify, defend and save harmless the Municipality. The Company reserves the right, but not the obligation, to employ such attorneys, expert witnesses and consultants as it deems necessary to defend against the claim or cause of action. The Company further reserves the right to take total or partial control of such defense. In the event that the Municipality is in control, either totally or partially of such defense, the Company shall pay all expenses incurred by the Municipality in providing the defense.

SECTION 4. The rates and charges to be charged by the Company for furnishing gas service hereunder and the rules and regulations to be made and enforced by the Company for the conduct of its business shall be those from time to time on file and effective with the Arizona Corporation Commission applicable to

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such service.

SECTION 5. The Company shall have the right and privilege of assigning this franchise and all rights and privileges granted herein and whenever the word "Company" appears herein, it shall be construed as applying to its successors, lessees and assigns.

SECTION 6. The Company, its successors, lessees and assigns, for and in consideration of the granting of this franchise and as rental for the occupation and use or easement over, upon and beneath the Municipality owned or controlled streets, avenues, easements, rights-of-way, highways, alleys, sidewalks, bridges and public grounds in said Municipality shall pay to the Municipality, commencing with the first full billing period after the effective date of this franchise and continuing during all the time this provision shall remain in force and effect, a total aggregate sum of two percent (2%) of the gross receipts of the Company, its successors, lessees and assigns for propane or natural gas sold within the corporate limits of the Municipality, subject to the limitations hereinafter stated; such gross receipts to consist of the total amount collected from users and consumers on account of propane and natural gas sold and consumed within the corporate limits of the Municipality under the Company's rates in existence at the time, excepting therefrom, however, the gross receipts for propane or natural gas sold to the Municipality for its own use. The Company shall make such

payments semiannually on or before the last day of January and July in each such year while this provision shall remain in full force and effect. For the purpose of determining such revenue, the books of the Company shall at all times be subject to inspection by duly authorized municipal officials. Said payments shall be in lieu of any and all other franchise, license, privilege, instrument, occupation, excise or revenue taxes and all other exactions or charges, (except general ad valorem property taxes, special assessments for local improvements; and except municipal privilege, sales or use taxes in an amount from time to time authorized by law and collected by the Company from users and consumers of gas within the corporate limits of the Municipality) upon the business, revenue, property, gas lines, installations, gas systems, conduits, storage tanks, pipes, fixtures or other appurtenances of the Company and all other property or equipment of the Company, or any part thereof, in said Municipality during the terms of this franchise; provided that anything to the contrary herein notwithstanding said payment shall continue only so long as said Company is not prohibited from making the same by any lawful authority having jurisdiction in the premises and so long as the municipality does not charge, levy or collect, or attempt to charge, levy or collect other franchise, license, privilege, occupation, excise or revenue taxes or other exactions or charges hereabove mentioned and if any lawful authority having

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jurisdiction in the premises hereafter prohibits said payment, or the Municipality does levy, charge or collect or attempt to levy, charge or collect such other franchise, license, occupation, excise or revenue taxes, or other exactions or charges, the obligation to make such payments hereinabove provided for shall forthwith cease.

SECTION 7. This franchise shall be accepted by the company in writing, which acceptance shall be filed with the Municipality within sixty (60) days after the passage of this ordinance, and when so accepted by the Municipality following approval by the electors, this ordinance shall be a contract duly executed by and between the Municipality and the Company.

SECTION 8. If any section, paragraph, subdivision, clause, phrase or provision hereof shall be adjudged invalid or unconstitutional, the same shall not affect the validity hereof as a whole, or any part or provision other than the part so decided to be invalid or unconstitutional.

SECTION 9. This franchise shall continue in full force and effect for a period of twenty-five (25) years from the date of passage of this ordinance, following approval by the electors.

SECTION 10. All systems, pipelines, works, and all other physical property installed by the Company in accordance with the terms of this franchise shall be and remain the property of the Company, and upon expiration of this franchise or any extension

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or renewal thereof, the Company is hereby granted the right to enter upon the Municipality owned or controlled streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and other structures and places and public grounds in said Municipality for the purpose of removing any and all such systems, pipelines, works and other property of the Company, at any time within six months after termination of this franchise or any such extension or renewal thereof.

SECTION 11. To the extent practical, the Company will locate residential gas meters on the customer's property. Except where it would be impractical to do so, the customer shall have the option of having the meter set on or adjacent to the residence so long as the location is no less than 20 feet from the outer edge of the collector street. The Company shall make the final determination of the meter location and shall install all piping upstream of the meter. The customer shall pay all costs for materials and installation of all piping downstream of the property line.

SECTION 12. This ordinance shall be in full force and effect from and after thirty (30) days after its adoption by the City Council of the City of Sedona and its approval by the Mayor thereof.

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PASSED AND ADOPTED by the Mayor and City Council of the City of Sedona, Arizona, this 12 day of November, 1991.

Jane Cornelius
Mayor
City of Sedona, Arizona

APPROVED AS TO FORM:

Melinda Farrahan
City Attorney

ATTEST:

Marie Brown
City Clerk

FLG 2175777

SHOWLOW

AGENDA # 7A2 DATE 12/16/8
APPROVED ☐ DENIED ☐
CONTINUED TO 1/6/82

ORDINANCE NO. 255

AGENDA # 6A DATE 1/6/8
APPROVED ☒ DENIED ☐
CONTINUED TO

AN ORDINANCE GRANTING TO SOUTHERN UNION COMPANY, A CORPORATION, ACTING BY AND THROUGH SOUTHERN UNION GAS COMPANY, A DIVISION THEREOF, ITS LEGAL REPRESENTATIVES, SUCCESSORS, LESSEES AND ASSIGNS, CERTAIN POWERS, LICENSES, RIGHTS-OF-WAY, PRIVILEGES AND FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN IN THE CITY OF SHOW LOW, NAVAJO COUNTY, ARIZONA, AS NOW OR HEREAFTER CONSTITUTED, WORKS, SYSTEMS AND PLANTS FOR THE HANDLING, PRODUCTION, MANUFACTURING, TRANSPORTING, STORING, SALE AND DISTRIBUTION OF GAS INTO, OUT OF AND THROUGH SAID MUNICIPALITY, AND FOR THE DISTRIBUTION AND SALE OF SUCH GAS TO SAID MUNICIPALITY, ITS INHABITANTS AND OTHERS, INCLUDING CUSTOMERS INSIDE, BEYOND AND OUTSIDE OF THE LIMITS OF SAID MUNICIPALITY; AND TO USE THE STREETS, AVENUES, EASEMENTS, RIGHTS-OF-WAY, ALLEYS, HIGHWAYS, SIDEWALKS, BRIDGES AND OTHER STRUCTURES AND PLACES AND PUBLIC GROUNDS IN SAID MUNICIPALITY FOR A PERIOD OF TWENTY-FIVE (25) YEARS; AND PRESCRIBING IN CONNECTION THEREWITH CERTAIN RIGHTS, DUTIES, TERMS AND CONDITIONS HEREIN MENTIONED; AND PROVIDING FOR THE PAYMENT TO SAID MUNICIPALITY OF A PERCENTAGE OF CERTAIN REVENUES OF GRANTEE FROM ITS OPERATIONS THEREIN.

BE IT ORDAINED by the governing body of the City of Show Low, as follows:

Section 1. That the City of Show Low, a municipal corporation in Navajo County, Arizona, herein called the "Municipality", hereby grants to and vests in Southern Union Company, a corporation, acting by and through Southern Union Gas Company, a division thereof, duly authorized to transact within this State a public service business as a gas utility, herein called the "Company", a franchise with the right to operate a gas plant, system, pipelines and works in the

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Municipality, as now or hereafter constituted, and the authority, license, power and privilege to maintain, construct, build, equip, conduct or otherwise establish and operate in said Municipality, works or systems and plants to manufacture, use, sell, store, distribute, convey or otherwise establish, conduct, serve, supply or furnish the inhabitants of said Municipality and others, and to the Municipality whenever it may desire to contract therefor, gas for light, fuel, power, heat and any and all other useful purposes, and the Company hereby is granted passage, right-of-way, alleys, highways, sidewalks, bridges and other structures and places and public grounds of said Municipality, both above and beneath the surface of the same, as said streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and other structures and places and public grounds now exist or may be hereafter extended, for every and any such service, use, effect and lawful purpose as herein mentioned.

Section 2. The Company is hereby authorized, licensed and empowered to do any and all things necessary and proper to be done and performed in executing the powers and utilizing the privileges herein mentioned and granted by this franchise, provided the same do not unreasonably conflict with water or other pipes, sewers or other pre-existing underground installations, and that all work done in said streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges or other grounds of said Municipality by the Company shall be done with the utmost diligence and the least inconvenience to the public or individuals, and the Company shall, within a reasonable time, restore, such streets, avenues, easements,

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rights-of-way, alleys, highways, sidewalks, bridges and public grounds excavated by it to their original condition as nearly as practicable, subject to the reasonable approval of the Municipality. The Company shall remove or relocate its lines and facilities as and when required by the Municipality; said removal or relocation shall be made at the sole expense of the Company, except where entitlement to reimbursement shall be provided by contract or law. In the event of such entitlement, reimbursement shall be made strictly in accordance therewith. The Company shall keep accurate records of the location of all facilities in the public rights-of-way and furnish said records to the Municipality upon request.

Section 3. The Company hereby agrees to indemnify and hold harmless the Municipality, its officers, boards, commissions, employees, agents and independent contractors, against and from any and all claims, demands, causes of action, suits or proceedings regardless of the merits of the same, damages including damages to city property, liability, costs and expenses of every type, all or any part thereof which arise by reason of any injury to any person or persons including death, or property damage, resulting from the negligence of the Company, its officers, agents, employees, servants and/or independent contractors, while exercising any of the rights, privileges, powers granted herein except where the Municipality's negligence has in some manner contributed. The Municipality shall promptly notify the Company of any claim or cause of action which may be asserted against the Municipality relating to or covering any matter against which the Company has agreed, as set forth above, to indemnify, defend and save harmless the

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Municipality. The Company reserves the right, but not the obligation to employ such attorneys, expert witnesses and consultants as it deems necessary to defend against the claim or cause of action. The Company further reserves the right to take total or partial control of such defense. In the event that the Municipality is in control, either totally or partially of such defense, the Company shall pay all expenses incurred by the Municipality in providing the defense.

Section 4. The rates and charges to be charged by the Company for furnishing gas service hereunder and the rules and regulations to be made and enforced by the Company for the conduct of its business shall be those from time to time on file and effective with the Arizona Corporation Commission applicable to such service.

Section 5. The Company shall have the right and privilege of assigning this franchise and all rights and privileges granted herein, and whenever the word "Company" appears herein, it shall be construed as applying to its successors, lessees and assigns.

Section 6. The Company, its successors, lessees and assigns, for and in consideration of the granting of this franchise and as rental for the occupation and use or easement over, upon and beneath the streets, avenues, easements, rights-of-way, highways, alleys, sidewalks, bridges and public grounds in said Municipality shall pay to the Municipality, commencing with the first full billing period after the effective date of this franchise and continuing each year during all the time this provision shall remain in force and effect, a total aggregate sum of two percent (2%) of the gross receipts of the Company, its successors, lessees and assigns, during such year, for

gas sold within the corporate limits of the Municipality, subject to the limitations hereinafter stated; such gross receipts to consist of the total amount collected from users and consumers on account of gas sold and consumed within the corporate limits of the Municipality under the Company's rates in existence at the time, excepting therefrom however, the gross receipts for gas sold to industrial consumers under special contract, and the gross receipts for gas sold to the Municipality for its own use. The Company shall make such payments semi-annually on or before the last day of January and July in each such year while this provision shall remain in full force and effect. For the purpose of determining such revenue, the books of the Company shall at all times be subject to inspection by duly authorized municipal officials. Said payments shall be in lieu of any and all other franchise, license, privilege, instrument, occupation, excise or revenue taxes and all other exactions or charges (except general ad valorem property taxes, special assessments for local improvements, and except municipal privilege, sales or use taxes authorized by law and collected by the Company from users and consumers of gas within the corporate limits of the Municipality) upon the business, revenue, property, gas lines, installations, gas systems, conduits, storage tanks, pipes, fixtures or other appurtenances of the Company and all other property or equipment of the Company, or any part thereof, in said Municipality during the term of this franchise; provided that anything to the contrary herein notwithstanding said payment shall continue only so long as said Company is not prohibited from making the same by any lawful authority having jurisdiction in the premises,

and so long as the municipality does not charge, levy or collect, or attempt to charge, levy or collect other franchise, license, privilege, occupation, excise or revenue taxes or other exactions or charges hereinabove mentioned, and if any lawful authority having jurisdiction in the premises hereafter prohibits said payment, or the Municipality does levy, charge or collect or attempt to levy, charge or collect such other franchise, license, privilege, occupation, excise or revenue taxes, or other exactions or charges, the obligation to make such payments hereinabove provided for shall forthwith cease.

Section 7. This franchise shall be accepted by the Company in writing, which acceptance shall be filed with the Municipality within sixty (60) days after the passage of this ordinance, and when so accepted, this ordinance shall be a contract duly executed by and between the Municipality and the Company.

Section 8. If any section, paragraph, subdivision, clause, phrase or provision hereof shall be adjudged invalid or unconstitutional, the same shall not affect the validity hereof as a whole, or any part or provision other than the part so decided to be invalid or unconstitutional.

Section 9. This franchise shall continue in full force and effect for a period of twenty-five (25) years from the date of passage of this ordinance. Pursuant to Article 13, Section 6 of the Arizona Constitution, the franchise herein granted is not exclusive and nothing herein contained shall be construed to prevent the Municipality from granting other like or similar grants or privileges to any other person, firm or corporation.

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Section 10. All plant, system, pipelines, works, and all other physical property installed by the Company in accordance with the terms of this franchise shall be and remain the property of the Company, and upon expiration of this franchise or any extension or renewal thereof, the Company is hereby granted the right to enter upon the streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and other structures and places and public grounds of said Municipality for the purpose of removing any and all such plant, system, pipelines, works and other property of the Company, at any time within six months after termination of this franchise or any such extension or renewal thereof.

PASSED AND ADOPTED by the Common Council of the City of Show Low, Arizona this 6 day of JANUARY, 1987.

Randy Tenney

Randy Tenney, Mayor

ATTEST:

Robert L. Chandler

Robert L. Chandler, City Manager/Clerk

APPROVED AS TO FORM:

Dennis I. Davis

Dennis I. Davis, City Attorney

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SNOWFLAKE

ORDINANCE NO. 61

AN ORDINANCE GRANTING TO SOUTHERN UNION COMPANY, A CORPORATION, ACTING BY AND THROUGH SOUTHERN UNION GAS COMPANY, A DIVISION THEREOF, ITS LEGAL REPRESENTATIVES, SUCCESSORS, LESSEES AND ASSIGNS, CERTAIN POWERS, LICENSES, RIGHTS-OF-WAY, PRIVILEGES AND FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN IN THE TOWN OF SNOWFLAKE, NAVAJO COUNTY, ARIZONA, AS NOW OR HEREAFTER CONSTITUTED, WORKS, SYSTEMS AND PLANTS FOR THE HANDLING, PRODUCTION, MANUFACTURING, TRANSPORTING, STORING, SALE AND DISTRIBUTION OF GAS INTO, OUT OF AND THROUGH SAID MUNICIPALITY, AND FOR THE DISTRIBUTION AND SALE OF SUCH GAS TO SAID MUNICIPALITY, ITS INHABITANTS AND OTHERS, INCLUDING CUSTOMERS INSIDE, BEYOND AND OUTSIDE OF THE LIMITS OF SAID MUNICIPALITY; AND TO USE THE STREETS, AVENUES, EASEMENTS, RIGHTS-OF-WAY, ALLEYS, HIGHWAYS, SIDEWALKS, BRIDGES AND OTHER STRUCTURES AND PLACES AND PUBLIC GROUNDS IN SAID MUNICIPALITY FOR A PERIOD OF TWENTY-FIVE (25) YEARS; AND PRESCRIBING IN CONNECTION THEREWITH CERTAIN RIGHTS, DUTIES, TERMS AND CONDITIONS HEREIN MENTIONED; AND PROVIDING FOR THE PAYMENT TO SAID MUNICIPALITY OF A PERCENTAGE OF CERTAIN REVENUES OF GRANTEE FROM ITS OPERATIONS THEREIN; AND DECLARING AN EMERGENCY.

BE IT ORDAINED by the governing body of the Town of Snowflake, as follows:

Section 1. That the Town of Snowflake, a municipal corporation in Navajo County, Arizona, herein called the "Municipality", hereby grants to and vests in Southern Union Company, a corporation, acting by and through Southern Union Gas Company, a division thereof, duly authorized to transact within this State a public service business as a gas utility, herein called the "Company", a franchise with the right to operate a gas plant, system, pipelines and works in the

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Municipality, as now or hereafter constituted, and the authority, license, power and privilege to maintain, construct, build, equip, conduct or otherwise establish and operate in said Municipality, works or systems and plants to manufacture, use, sell, store, distribute, convey or otherwise establish, conduct, serve, supply or furnish the inhabitants of said Municipality and others, and to the Municipality whenever it may desire to contract therefor, gas for light, fuel, power, heat and any and all other useful purposes, and the Company hereby is granted passage, right-of-way, alleys, highways, sidewalks, bridges and other structures and places and public grounds of said Municipality, both above and beneath the surface of the same, as said streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and other structures and places and public grounds now exist or may be hereafter extended, for every and any such service, use, effect and lawful purpose as herein mentioned.

Section 2. The Company is hereby authorized, licensed and empowered to do any and all things necessary and proper to be done and performed in executing the powers and utilizing the privileges herein mentioned and granted by this franchise, provided the same do not unreasonably conflict with water or other pipes, sewers or other pre-existing underground installations, and that all work done in said streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges or other grounds of said Municipality by the Company shall be done with the utmost diligence and the least inconvenience to the public or individuals, and the Company shall, within a reasonable time, restore, such streets, avenues, easements,

FLG 2176411

rights-of-way, alleys, highways, sidewalks, bridges and public grounds excavated by it to their original condition as nearly as practicable, subject to the reasonable approval of the Municipality. The Company shall remove or relocate its lines and facilities as and when required by the Municipality; said removal or relocation shall be made at the sole expense of the Company, except where entitlement to reimbursement shall be provided by contract or law. In the event of such entitlement, reimbursement shall be made strictly in accordance therewith. The Company shall save the Municipality, its officers and agents, harmless from any and all liabilities proximately caused by the Company's negligence in the erection, construction, installation or operation hereunder of the Company's facilities.

Section 3. The rates and charges to be charged by the Company for furnishing gas service hereunder and the rules and regulations to be made and enforced by the Company for the conduct of its business shall be those from time to time on file and effective with the Arizona Corporation Commission applicable to such service.

Section 4. The Company shall have the right and privilege of assigning this franchise and all rights and privileges granted herein, and whenever the word "Company" appears herein, it shall be construed as applying to its successors, lessees and assigns.

Section 5. The Company, its successors, lessees and assigns, for and in consideration of the granting of this franchise and as rental for the occupation and use or easement over, upon and beneath the streets, avenues, easements, rights-of-way, highways, alleys, sidewalks, bridges and public grounds in said Municipality shall pay

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to the Municipality, commencing with the first full billing period after the effective date of this franchise and continuing each year during all the time this provision shall remain in force and effect, a total aggregate sum of two percent (2%) of the gross receipts of the Company, its successors, lessees and assigns, during such year, for gas sold within the corporate limits of the Municipality, subject to the limitations hereinafter stated; such gross receipts to consist of the total amount collected from users and consumers on account of gas sold and consumed within the corporate limits of the Municipality under the Company's rates in existence at the time, excepting therefrom however, the gross receipts for gas sold to industrial consumers under special contract, and the gross receipts for gas sold to the Municipality for its own use. The Company shall make such payments semi-annually on or before the last day of January and July in each such year while this provision shall remain in full force and effect. For the prupose of determining such revenue, the books of the Company shall at all times be subject to inspection by duly authorized municipal officials. Said payments shall be in lieu of any and all other franchise, license, privilege, instrument, occupation, excise or revenue taxes and all other exactions or charges (except general ad valorem property taxes, special assessments for local improvements, and except municipal privilege, sales or use taxes authorized by law and collected by the Company from users and consumers of gas within the corporate limits of the Municipality) upon the business, revenue, property, gas lines, installations, gas systems, conduits, storage tanks, pipes, fixtures or other appurtenances of the Company and all

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other property or equipment of the Company, or any part thereof, in said Municipality during the term of this franchise; provided that anything to the contrary herein notwithstanding said payment shall continue only so long as said Company is not prohibited from making the same by any lawful authority having jurisdiction in the premises, and so long as the municipality does not charge, levy or collect, or attempt to charge, levy or collect other franchise, license, privilege, occupation, excise or revenue taxes or other exactions or charges hereinabove mentioned, and if any lawful authority having jurisdiction in the premises hereafter prohibits said payment, or the Municipality does levy, charge or collect or attempt to levy, charge or collect such other franchise, license, privilege, occupation, excise or revenue taxes, or other exactions or charges, the obligation to make such payments hereinabove provided for shall forthwith cease.

Section 6. This franchise shall be accepted by the Company in writing, which acceptance shall be filed with the Municipality within sixty (60) days after the passage of this ordinance, and when so accepted, this ordinance shall be a contract duly executed by and between the Municipality and the Company.

Section 7. If any section, paragraph, subdivision, clause, phrase or provision hereof shall be adjudged invalid or unconstitutional, the same shall not affect the validity hereof as a whole, or any part or provision other than the part so decided to be invalid or unconstitutional.

Section 8. This franchise shall continue in full force and effect for a period of twenty-five (25) years from the date of passage

FLG 2176444

of this ordinance.

Section 9. All plant, system, pipelines, works, and all other physical property installed by the Company in accordance with the terms of this franchise shall be and remain the property of the Company, and upon expiration of this franchise or any extension or renewal thereof, the Company is hereby granted the right to enter upon the streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and other structures and places and public grounds of said Municipality for the purpose of removing any and all such plant, system, pipelines, works and other property of the Company, at any time within six months after termination of this franchise or any such extension or renewal thereof.

Section 10. The immediate operation of this ordinance is necessary for the preservation of the public peace, health and safety of the Town of Snowflake, Navajo County, Arizona, and an emergency is hereby declared to exist and this ordinance shall be in full force and effect from and after its adoption by the Common Council of the Town of Snowflake and its approval by the Mayor thereof.

PASSED AND ADOPTED by the Common Council of the Town of Snowflake, this 14th day of August, 1985.

APPROVED:

Nonie Johnson
Mayor
Town of Snowflake, Arizona

FLG 2176445

ATTEST:

Charlene Rogers
Town Clerk

APPROVED by the Mayor of the Town of Snowflake, Arizona, this 14th day of August, 1985.

Nonie Johnson
Mayor
Town of Snowflake, Arizona

FLG 2176446

TAYLOR

Taylor

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ORDINANCE NO. 33

AN ORDINANCE GRANTING TO SOUTHERN UNION COMPANY, A CORPORATION, ACTING BY AND THROUGH SOUTHERN UNION GAS COMPANY, A DIVISION THEREOF, ITS LEGAL REPRESENTATIVES, SUCCESSORS, LESSEES AND ASSIGNS, CERTAIN POWERS, LICENSES, RIGHTS-OF-WAY, PRIVILEGES AND FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN IN THE TOWN OF TAYLOR, STATE OF ARIZONA, AS NOW OR HEREAFTER CONSTITUTED, WORKS, SYSTEMS AND PLANTS FOR THE HANDLING, PRODUCTION, MANUFACTURING, TRANSPORTING, STORING, SALE AND DISTRIBUTION OF GAS INTO, OUT OF, AND THROUGH SAID MUNICIPALITY, AND FOR THE DISTRIBUTION AND SALE OF SUCH GAS TO SAID MUNICIPALITY, ITS INHABITANTS AND OTHERS, INCLUDING CUSTOMERS INSIDE, BEYOND, AND OUTSIDE OF THE LIMITS OF SAID MUNICIPALITY; AND TO USE THE STREETS, AVENUES, EASEMENTS, RIGHTS-OF-WAY, ALLEYS, HIGHWAYS, SIDEWALKS, BRIDGES AND OTHER STRUCTURES AND PLACES AND PUBLIC GROUNDS IN SAID MUNICIPALITY FOR A PERIOD OF TWENTY-FIVE (25) YEARS; AND PRESCRIBING IN CONNECTION THEREWITH CERTAIN RIGHTS, DUTIES, TERMS AND CONDITIONS HEREIN MENTIONED; AND PROVIDING FOR THE PAYMENT TO SAID MUNICIPALITY OF A PERCENTAGE OF CERTAIN REVENUES OF GRANTEE FROM ITS OPERATIONS THEREIN; AND DECLARING AN EMERGENCY.

BE IT ORDAINED by the governing body of the Town of Taylor, as follows:

Section 1. That the Town of Taylor, a municipal corporation in Navajo County, Arizona, herein called the "Municipality," hereby grants to, and vests in, Southern Union Company, a corporation, acting by and through Southern Union Gas Company, a division thereof, duly authorized to transact within this State a public service business as a gas utility, herein called the "Company," a franchise with the right to operate a gas plant, system, pipelines and works in the Municipality, as now or hereafter constituted, and the authority, license, power and privilege to maintain, construct, build, equip, conduct or otherwise establish and operate in said

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Municipality, works or systems and plants to manufacture, use, sell, store, distribute, convey or otherwise establish, conduct, serve, supply or furnish the inhabitants of said Municipality and others, and to the Municipality whenever it may desire to contract therefor, gas for light, fuel, power, heat and any and all other useful purposes, and the Company hereby is granted passage, right-of-way and its right to occupy and use in any lawful way during the life of this franchise, every and any and all streets, avenues, alleys, highways, sidewalks, bridges and other structures and places and public grounds of said town, both above and beneath the surface of the same, as said streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and other structures and places and public grounds now exist or may be hereafter extended, for every and any such service, use, effect and lawful purpose as herein mentioned.

Section 2. The Company is hereby authorized, licensed and empowered to do any and all things necessary and proper to be done and performed in executing the powers and utilizing the privileges herein mentioned and granted by this franchise, provided the same do not unreasonably conflict with water or other pipes, sewers or other pre-exiting underground installations, and that all work done in said streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges or other grounds of said Municipality by the Company shall be done with the utmost diligence and the least inconvenience to the public or individuals, and the Company shall, within a reasonable time, restore such streets, avenues,

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easements, rights-of-way, alleys, highways, sidewalks, bridges and public grounds excavated by it to their original condition as nearly as practicable, subject to the reasonable approval of the Municipality. The Company shall remove or relocate its lines and facilities as and when required by the Municipality; such removal or relocation shall be made at the sole expense of the Municipality. The Company shall save the Municipality, its officers and agents, harmless from any and all liabilities proximately caused by the Company's negligence in the erection, construction, installation or operation hereunder of the Company's facilities.

Section 3. The Company hereby agrees to indemnify and hold harmless the Municipality, its officers, boards, commissions, employees, agents and independent contractors, against and from any and all claims, demands, causes of action, suits or proceedings regardless of the merits of the same, damages including damages to city property, liability, costs and expenses of every type, all or any part thereof which arise by reason of any injury to any person or persons including death or property damages, resulting from the negligence of the Company, its officers, agents, employees, servants and/or independent contractors, while exercising any of the rights, privileges, powers granted herein except where the Municipality's negligence has, in some manner, contributed. The Municipality shall promptly notify the Company of any claim or cause of action which may be asserted against the Municipality relating to or covering any matter against which the Company has

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agreed, as set forth above, to indemnify, defend and save harmless the Municipality. The Company reserves the right, but not the obligation, to employ such attorneys, expert witnesses and consultants as it deems necessary to defend against the claim or cause of action. The Company further reserves the right to take total or partial control of such defense. In the event that the Municipality is in control, either totally or partially of such defense, the Company shall pay all expenses incurred by the Municipality in providing the defense.

Section 4. The rates and charges to be charged by the Company for furnishing gas service hereunder and the rules and regulations to be made and enforced by the Company for the conduct of its business shall be those from time to time on file and effective with the Arizona Corporation Commission applicable to such service.

Section 5. The Company shall have the right and privilege of assigning this franchise and all rights and privileges granted herein, and whenever the word "Company" appears herein, it shall be construed as applying to its successors, lessees, and assigns.

Section 6. The Company, its successors, lessees, and assigns, for and in consideration of the granting of this franchise and as rental for the occupation and use or easement over, upon and beneath the streets, avenues, easements, rights-of-way, highways, alleys, sidewalks, bridges and public grounds in said Municipality shall pay to the Municipality, commencing with the first full billing period after the effective date of this franchise and

continuing each year during all the time this provision shall remain in force and effect, a total aggregate sum of two percent (2%) of the gross receipts of the Company, its successors, lessees and assigns, during such year, for gas sold within the corporate limits of the Municipality, subject to the limitations hereinafter stated; such gross receipts to consist of the total amount collected from users and consumers on account of gas sold and consumed within the corporate limits of the Municipality under the Company's rates in existence at the time, excepting therefrom, however, the gross receipts for gas sold to industrial consumers under special contract, and the gross receipts for gas sold to the Municipality for its own use. The Company shall make such payments semi-annually on or before the last day of January and July in each such year while this provision shall remain in full force and effect. For the purpose of determining such revenue, the books of the Company shall at all times be subject to inspection by duly authorized municipal officials. Said payments shall be in lieu of any and all other franchise, license, privilege, instrument, occupation, excise or revenue taxes and all other exactions or charges (except general ad valorem property taxes, special assessments for local improvements, and except municipal privilege, sales or use taxes authorized by law and collected by the Company from users and consumers of gas within the corporate limits of the Municipality) upon the business, revenue, property, gas lines, installations, gas systems, conduits, storage tanks, pipes, fixtures or other appurtenances of the Company and all other

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property or equipment of the Company, or any part thereof, in said Municipality during the term of this franchise; provided that anything to the contrary herein notwithstanding said payment shall continue only so long as said Company is not prohibited from making the same by any lawful authority having jurisdiction in the premises, and so long as the municipality does not charge, levy or collect, or attempt to charge, levy or collect other franchise, license, privilege, occupation, excise or revenue taxes or other exactions or charges hereinabove mentioned, and if any lawful authority having jurisdiction in the premises hereafter prohibits said payment, or the Municipality does levy, charge or collect or attempt to levy, charge or collect such other franchise, license, privilege, occupation, excise or revenue taxes, or other exactions or charges, the obligation to make such payments hereinabove provided for shall forthwith cease.

Section 7. This franchise shall be accepted by the Company in writing, which acceptance shall be filed with the Municipality within sixty (60) days after the passage of this ordinance, and when so accepted, this ordinance shall be a contract duly executed by and between the Municipality and the Company.

Section 8. If any section, paragraph, subdivision, clause, phrase or provision hereof shall be adjudged invalid or unconstitutional, the same shall not affect the validity hereof as a whole, or any part or provision other than the part so decided to be invalid or unconstitutional.

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Section 9. This franchise shall continue in full force and effect for a period of twenty-five (25) years from the date of passage of this ordinance.

Section 10. All plant, system, pipelines, works, and all other physical property installed by the Company in accordance with the terms of this franchise shall be and remain the property of the Company, and upon expiration of this franchise or any extension or renewal thereof, the Company is hereby granted the right to enter upon the streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and other structures and places and public grounds of said Municipality for the purpose of removing any and all such plant, system, pipelines, works and other property of the Company, at any time within six months after termination of this franchise or any such extension or renewal thereof.

Section 11. The immediate operation of this ordinance is necessary for the preservation of the public peace, health and safety of the Town of Taylor, Arizona, and an emergency is hereby declared to exist and this ordinance shall be in full force and effect from and after its adoption by the Town Council of the Town of Taylor and its approval by the Mayor thereof.

PASSED AND ADOPTED by the Town Council of the Town of Taylor, this 9th day of August, 1990.

APPROVED:

Mayor
Town of Taylor, Arizona

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ATTEST:

Helen Capps
Town Clerk

APPROVED by the Mayor of the Town of Taylor, Arizona, this 9th day of August, 1990.

Mayor
Town of Taylor, Arizona

Section 3. That a Special Election is hereby called to be held in the Town of Taylor, State of Arizona, on the 3RD day of OCTOBER, 1990, for the purpose of submitting to a vote of the qualified electors of the Town of Taylor, the question as to whether the foregoing franchise shall be granted to Southern Union Company, a corporation, acting by and through Southern Union Gas Company, a division thereof.

Section 4. The ballots to be used at the election shall be substantially the following form: (English and Spanish)

"OFFICIAL BALLOT"

Gas Franchise
Town of Taylor, Arizona
Special Election

SHALL A FRANCHISE BE GRANTED TO SOUTHERN UNION COMPANY, A CORPORATION, ACTING BY AND THROUGH SOUTHERN UNION GAS COMPANY, A DIVISION THEREOF, ITS SUCCESSORS AND ASSIGNS, TO CONSTRUCT, OPERATE AND MAINTAIN IN THE TOWN OF TAYLOR, NAVAJO COUNTY, ARIZONA, AS NOW OR HEREAFTER CONSTITUTED, WORKS, SYSTEMS AND PLANTS FOR THE HANDLING, PRODUCTION, MANUFACTURING, TRANSPORTING, STORING, SALE AND DISTRIBUTION OF GAS INTO, OUT OF AND

THROUGH SAID MUNICIPALITY, AND FOR THE DISTRIBUTION AND SALE OF SUCH GAS TO SAID MUNICIPALITY, ITS INHABITANTS AND OTHERS, INCLUDING CUSTOMERS INSIDE, BEYOND AND OUTSIDE OF THE LIMITS OF SAID MUNICIPALITY; AND TO USE THE STREETS, AVENUES, ALLEYS, HIGHWAYS, SIDEWALKS, BRIDGES AND OTHER STRUCTURES AND PLACES AND PUBLIC GROUNDS IN SAID MUNICIPALITY FOR A PERIOD OF TWENTY-FIVE (25) YEARS, IN ACCORDANCE WITH THE PROPOSED ORDINANCE NO. 33 SET FORTH IN FULL IN RESOLUTION NO. 222, ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF TAYLOR, ARIZONA, ON THE 3rd DAY OF October, 1990, AND SUBMITTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF TAYLOR, ARIZONA, TO THE QUALIFIED VOTERS OF THE TOWN:

FOR THE FRANCHISE 76

AGAINST THE FRANCHISE 1

The voter shall indicate his vote "For the Franchise" or "Against the Franchise" by inserting an "X" in the square opposite such phrase.

We certify the within ballot was marked by us for an elector, incapable under the law of marking his own ballot, as directed by him.

Faye Letner
Judge

Shelia Hall
Judge

Section 5. That the polling place for said Special Election shall be and the same is hereby designated to be the Taylor Town Hall, 424 W. Paper Mill Road, Taylor, Arizona.

Section 6. That the polling place shall be open from the hour of 6:00 o'clock A.M. until the hour of 7:00 o'clock P.M. on the day of said Special Election.

Section 7. That the following persons be, and they hereby are, appointed as election officers at said special election.

Betty Gillick, Inspector.

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SHELIA HALL, Judge.

FAYE LETNER, Judge.

HELENE HUNT, Clerk.

HELEN BRIMHALL, Clerk.

BILLY PROVONSHA, Marshall.

Section 8. That Notice of the Special Election shall be given by the Town Clerk of the Town of Taylor by causing a copy of this Resolution, containing the proposed franchise to be published in full in the Holbrook Tribune, a newspaper of bi-weekly circulation printed and published in Navajo County, State of Arizona, affording not less than thirty (30) days' notice through ten (10) insertions made prior to the date of the Special Election, and by posting said Notice and Resolution in each of the three (3) public places in the Town of Taylor at least ten (10) days prior to the date of the Special Election. The publication and posting shall be in English and Spanish.

Section 9. That the immediate operation of this Resolution is necessary for the preservation of the public peace, health and safety of the Town of Taylor, State of Arizona, and an emergency is hereby declared to exist, and this Resolution shall be in full

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force and effect from and after its adoption by the Town Council of the Town of Taylor and its approval by the Mayor thereof.

UNANIMOUSLY PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF TAYLOR, THIS 9 DAY OF AUGUST, 1990.

Mayor

ATTEST:

Town Clerk

Approved by the Mayor of the Town of Taylor, this 9 day of AUGUST, 1990.

Mayor

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WILLIAMS

ORDINANCE NO. 726

AN ORDINANCE GRANTING TO CITIZENS UTILITIES COMPANY, A DELAWARE CORPORATION, ITS LEGAL REPRESENTATIVES, SUCCESSORS, LESSEES AND ASSIGNS, CERTAIN POWERS, LICENSES, RIGHTS-OF-WAY, PRIVILEGES AND FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN IN THE CITY OF WILLIAMS, STATE OF ARIZONA, AS NOW OR HEREAFTER CONSTITUTED, WORKS, SYSTEMS AND PLANTS FOR THE HANDLING, PRODUCTION, MANUFACTURING, TRANSPORTING, STORING, SALE AND DISTRIBUTION OF GAS INTO, OUT OF, AND THROUGH SAID MUNICIPALITY, AND FOR THE DISTRIBUTION AND SALE OF SUCH GAS TO SAID MUNICIPALITY, ITS INHABITANTS AND OTHERS, INCLUDING CUSTOMERS INSIDE, BEYOND, AND OUTSIDE OF THE LIMITS OF SAID MUNICIPALITY; AND TO USE THE STREETS, AVENUES, EASEMENTS, RIGHTS-OF-WAY, ALLEYS, HIGHWAYS, SIDEWALKS, BRIDGES AND OTHER STRUCTURES AND PLACES AND PUBLIC GROUNDS IN SAID MUNICIPALITY FOR A PERIOD OF TWENTY-FIVE (25) YEARS; AND PRESCRIBING IN CONNECTION THEREWITH CERTAIN RIGHTS, DUTIES, TERMS AND CONDITIONS HEREIN MENTIONED; AND PROVIDING FOR THE PAYMENT TO SAID MUNICIPALITY OF A PERCENTAGE OF CERTAIN REVENUES OF GRANTEE FROM ITS OPERATIONS THEREIN; AND DECLARING AN EMERGENCY.

BE IT ORDAINED by the governing body of the City of Williams, as follows:

Section 1. That the City of Williams, a municipal corporation in Coconino County, Arizona, herein called the "Municipality," hereby grants to, and vests in, Citizens Utilities Company, a Delaware corporation, duly authorized to transact within this State a public service business as a gas utility, herein called the "Company," a franchise with the right to operate a gas plant, system, pipelines and works in the Municipality, as now or hereafter constituted, and the authority, license, power and privilege to maintain, construct, build, equip, conduct or otherwise establish and operate in said Municipality, works or systems and plants to manufacture, use, sell, store, distribute,

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convey or otherwise establish, conduct, serve, supply or furnish the inhabitants of said Municipality and others, and to the Municipality whenever it may desire to contract therefor, gas for light, fuel, power, heat and any and all other useful purposes, and the Company hereby is granted passage, right-of-way and its right to occupy and use in any lawful way during the life of this franchise, every and any and all streets, avenues, alleys, highways, sidewalks, bridges and other structures and places and public grounds of said City, both above and beneath the surface of the same, as said streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and other structures and places and public grounds now exist or may be hereafter extended, for every and any such service, use, effect and lawful purpose as herein mentioned.

In conducting its activities authorized by this franchise, the Company will comply with all federal, state, county and municipal laws, ordinances and regulations. All plants, systems, pipelines, works, structures and equipment, and other appurtenances erected by the Company, shall be so located as to cause minimal interference with (i) the proper use by the general public and by any entity using the same with authority from the Municipality of streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and other structures or places or public grounds; and (ii) the rights and reasonable convenience of property owners who adjoin any of said streets, avenues, easements, rights-of-way, alleys,

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highways, sidewalks, bridges or other structures or places or public grounds.

Section 2. The Company is hereby authorized, licensed and empowered to do any and all things necessary and proper to be done and performed in executing the powers and utilizing the privileges herein mentioned and granted by this franchise, provided the same do not unreasonably conflict with water or other pipes, sewers or other pre-existing underground installations, and that all work done in said streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges or other grounds of said Municipality by the Company shall be done with the utmost diligence and the least inconvenience to the public or individuals, and the Company shall, within a reasonable time, restore such streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and public grounds excavated by it to their original condition as nearly as practicable at its expense and subject to the reasonable approval of the Municipality.

The Company shall remove or relocate its lines and facilities as and when required by the Municipality; such removal or relocation shall be made at the sole expense of the Municipality. In the event that the Municipality, at any time during the period of this franchise, shall elect to alter or change the grade of any street, avenue, easement, right-of-way, alley, highway, sidewalk, bridge or other structure, place or public ground, the Company shall, upon reasonable notice by the Municipality, remove, relay and relocate its pipes, structures and other fixtures and

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improvements at the expense of the Municipality. However, if said removal or relocation is reasonably required to bring the Company into the compliance with the terms of this franchise or any federal, state, county or municipal laws, ordinances and regulations, the Company shall bear all such expense.

The Company shall save the Municipality, its officers, agents and employees, harmless from, and shall defend and indemnify them against, any and all liabilities proximately caused, wholly or in part, by the Company's negligence or intentional acts or omissions in the erection, construction, installation or operation hereunder of the Company's facilities.

Section 3. The Company's plant, systems, pipelines, works and other structures, equipment, improvements and appurtenances shall be installed in accordance with good engineering practices and shall be located, erected, constructed, reconstructed, removed, repaired, maintained and operated so as not to endanger or interfere with the lives of persons or to interfere with the improvements the Municipality may deem proper to make or to unnecessarily hinder or obstruct pedestrian or vehicular traffic to public ways, places and structures. Erection, installation, construction, replacement, removal, repair, maintenance and operation of the system shall be in accordance with the provisions of all requirements of the Municipality which may now be in effect or may be enacted in the future. All installations shall be of a permanent nature, durable and maintained in a safe, suitable and

substantial condition in good order and repair. The Company shall not install Swanson 2306 and 3306 pipe within the franchise area.

Section 4. The Company hereby agrees to indemnify and hold harmless the Municipality, its officers, boards, commissions, employees, agents and independent contractors, against and from any and all claims, demands, causes of action, suits or proceedings regardless of the merits of the same, damages including damages to city property, liability, costs and expenses of every type, all or any part thereof which arise by reason of any injury to any person or persons including death or property damages, resulting from the negligence of the Company, its officers, agents, employees, servants and/or independent contractors, while exercising any of the rights, privileges, powers granted herein except for that portion of any liability, obligation or damage caused by the negligence of the Municipality as determined in accordance with the provisions of the Uniform Contribution Among Tortfeasors Act as set forth in A.R.S. § 12-2501, et. seq. The Company shall carry public liability insurance in a reasonable sum to cover its activities under this franchise and all liability potentially arising therefrom. The Municipality shall promptly notify the Company of any claim or cause of action which may be asserted against the Municipality relating to or covering any matter against which the Company has agreed, as set forth above, to indemnify, defend and save harmless the Municipality. The Company reserves the right, but not the obligation, to employ such attorneys, expert witnesses and consultants as it deems necessary to defend against the claim

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or cause of action. The Company further reserves the right to take total or partial control of such defense. In the event that the Company declines to employ such attorneys, expert witnesses and consultants against the claims or cause of action and the Municipality takes control, either totally or partially of such defense, the Company shall pay all expenses incurred by the Municipality in providing the defense.

Section 5. The rates and charges to be charged by the Company for furnishing gas service hereunder and the rules and regulations to be made and enforced by the Company for the conduct of its business shall be those from time to time on file and effective with the Arizona Corporation Commission applicable to such service.

The Company shall notify the Municipality in writing of any application it makes to the Arizona Corporation Commission for authority to increase its rates as soon as said application has been filed.

Section 6. The Company shall have the right and privilege of assigning this franchise and all rights and privileges granted herein, and whenever the word "Company" appears herein, it shall be construed as applying to its successors, lessees and assigns.

Section 7. The Company, its successors, lessees, and assigns, for and in consideration of the granting of this franchise and as rental for the occupation and use or easement over, upon and beneath the streets, avenues, easements, rights-of-way, highways, alleys, sidewalks, bridges and public grounds in said Municipality shall pay to the Municipality, commencing with the first full

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billing period after the effective date of this franchise and continuing each year during all the time this provision shall remain in force and effect, a total aggregate sum of two percent (2%) of the gross receipts of the Company, its successors, lessees and assigns, during such year, for gas sold within the corporate limits of the Municipality, subject to the limitations hereinafter stated; such gross receipts to consist of the total amount collected from users and consumers on account of gas sold and consumed within the corporate limits of the Municipality under the Company's rates in existence at the time, excepting therefrom, however, the gross receipts for gas sold to industrial consumers under special contract, and the gross receipts for gas sold to the Municipality for its own use. The Company shall make such payments semi-annually on or before the last day of January and July in each such year while this provision shall remain in full force and effect. For the purpose of determining such revenue, the books of the Company shall at all times be subject to inspection by duly authorized municipal officials. Said payments shall be in lieu of any and all other franchise, license, privilege, instrument, occupation, excise or revenue taxes and all other exactions or charges (except general ad valorem property taxes, special assessments for local improvements, and except municipal privilege, sales or use taxes authorized by law and collected by the Company from users and consumers of gas within the corporate limits of the Municipality) upon the business, revenue, property, gas lines, installations, gas systems, conduits, storage tanks, pipes,

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fixtures or other appurtenances of the Company and all other property or equipment of the Company, or any part thereof, in said Municipality during the term of this franchise; provided that anything to the contrary herein notwithstanding said payment shall continue only so long as said Company is not prohibited from making the same by any lawful authority having jurisdiction in the premises, and so long as the Municipality does not charge, levy or collect, or attempt to charge, levy or collect other franchise, license, privilege, occupation, excise or revenue taxes or other exactions or charges hereinabove mentioned, and if any lawful authority having jurisdiction in the premises hereafter prohibits said payment, or the Municipality does levy, charge or collect or attempt to levy, charge or collect such other franchise, license, privilege, occupation, excise or revenue taxes, or other exactions or charges, the obligation to make such payments hereinabove provided for shall forthwith cease.

Section 8. This franchise shall be accepted by the Company in writing, which acceptance shall be filed with the Municipality within sixty (60) days after the passage of this ordinance, and when so accepted, this ordinance shall be a contract duly executed by and between the Municipality and the Company.

Section 9. If any section, paragraph, subdivision, clause, phrase or provision hereof shall be adjudged invalid or unconstitutional, the same shall not affect the validity hereof as a whole, or any part or provision other than the part so decided to be invalid or unconstitutional.

Section 10. This franchise shall continue in full force and effect for a period of twenty-five (25) years from the date of passage of this ordinance.

Section 11. All plant, system, pipelines, works, and all other physical property installed by the Company in accordance with the terms of this franchise shall be and remain the property of the Company, and upon expiration of this franchise or any extension or renewal thereof, the Company is hereby granted the right to enter upon the streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and other structures and places and public grounds of said Municipality for the purpose of removing any and all such plant, system, pipelines, works and other property of the Company, at any time within six months after termination of this franchise or any such extension or renewals thereof.

All work undertaken by the Company in the removal of said property shall be done in a workmanlike manner and with the utmost diligence and least inconvenience to the Municipality and the public. The Company shall, at its own expense and in a manner and time approved by the Municipality, restore all streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and public grounds which may be excavated or otherwise affected by the Company in the removal of said property as nearly as possible to the condition of said property existing at the time of commencement of said restoration.

Section 12. The immediate operation of this ordinance is necessary for the preservation of the public peace, health and

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safety of the City of Williams, Arizona, and an emergency is hereby declared to exist and this ordinance shall be in full force and effect from and after its adoption by the City Council of the City of Williams and its approval by the Mayor thereof.

PASSED, APPROVED AND ADOPTED by the Mayor and Council of the City of Williams, Arizona, this 25th day of August, 1994, by a vote of 7 in favor, 0 opposed.

Calder W. Chapman, Mayor

ATTEST:

Marian C. Rock, City Clerk

APPROVED AS TO FORM:

Gary Verburg, City Attorney

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WINSLOW

ORDINANCE NO. 659

AN ORDINANCE GRANTING TO CITIZENS UTILITIES COMPANY, A DELAWARE CORPORATION, ITS LEGAL REPRESENTATIVES, SUCCESSORS, LESSEES AND ASSIGNS, CERTAIN POWERS, LICENSES, RIGHTS-OF-WAY, PRIVILEGES AND FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN IN THE CITY OF WINSLOW, STATE OF ARIZONA, AS NOW OR HEREAFTER CONSTITUTED, WORKS, SYSTEMS AND PLANTS FOR THE HANDLING, PRODUCTION, TRANSPORTING, STORING, SALE AND DISTRIBUTION OF GAS INTO, OUT OF, AND THROUGH SAID MUNICIPALITY, AND FOR THE DISTRIBUTION AND SALE OF SUCH GAS TO SAID MUNICIPALITY, ITS INHABITANTS AND OTHERS, INCLUDING CUSTOMERS INSIDE, BEYOND, AND OUTSIDE OF THE LIMITS OF SAID MUNICIPALITY; AND TO USE THE STREETS, AVENUES, EASEMENTS, RIGHTS-OF-WAY, ALLEYS, HIGHWAYS, SIDEWALKS, BRIDGES AND OTHER STRUCTURES AND PLACES AND PUBLIC GROUNDS IN SAID MUNICIPALITY FOR A PERIOD OF TWENTY-FIVE (25) YEARS; AND PRESCRIBING IN CONNECTION THEREWITH CERTAIN RIGHTS, DUTIES, TERMS AND CONDITIONS HEREIN MENTIONED; AND PROVIDING FOR THE PAYMENT TO SAID MUNICIPALITY OF A PERCENTAGE OF CERTAIN REVENUES OF GRANTEE FROM ITS OPERATIONS THEREIN; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WINSLOW, ARIZONA, as follows:

SECTION 1. That the City of Winslow, a municipal corporation in Navajo County, Arizona, herein called the "Municipality," hereby grants to, and vests in, Citizens Utilities Company, a Delaware corporation, duly authorized to transact within this State a public service business as a gas utility, herein called the "Company," a franchise with the right to operate a gas plant, system, pipelines and works in the Municipality, as now or hereafter constituted, and the authority, license, power and privilege to maintain, construct, build, equip, conduct or otherwise establish and operate in said Municipality, works or systems and plants to use, sell, store, distribute, convey or otherwise establish, conduct, serve, supply or furnish the inhabitants of said Municipality and others, and to

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the Municipality whenever it may desire to contract therefor, gas for light, fuel, power, heat and any and all other useful purposes, and the Company hereby is granted passage, right-of-way and its right to occupy and use in any lawful and reasonable way during the life of this franchise, every and any and all streets, avenues, alleys, highways, sidewalks, bridges and other structures and places and public grounds of said Municipality, both above and beneath the surface of the same, as said streets, avenues, easements, rights-of way, alleys, highways, sidewalks, bridges and other structures and places and public grounds now exist or may be hereafter extended, for every and any such service, use, effect and lawful purpose as herein mentioned.

In all its activities authorized by this franchise, the Company will comply with all federal, state, county and municipal laws, ordinances and regulations. All plants, systems, pipelines, works, structures and equipment, and other appurtenances erected by the Company shall be so located as to cause minimum interference with the proper use by the general public and by any entity using the same with authority from the Municipality of streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges or other structures or places or public grounds, and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of the said streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges, or other structures or places or public grounds.

SECTION 2. The Company is hereby authorized, licensed and empowered to do any and all things necessary and proper to be done

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and performed in executing the powers and utilizing the privileges herein mentioned and granted by this franchise, provided the same do not unreasonably conflict with water or other pipes, sewers or other pre-existing underground installations, and that all work done in said streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges or other grounds or property of said Municipality by the Company shall be done with the utmost diligence and the least inconvenience to the public or individuals, and the Company shall, at its own expense, and in a manner approved by the Municipality, and within a reasonable time, restore such streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and public grounds excavated by it to their original condition as nearly as practicable.

In the event that, at any time during the period of this franchise, the Municipality shall elect to alter, or to change the grade of any street, avenue, easement, right-of-way, alley, highway, sidewalk, bridge, or other structure, place or public ground, the Company shall, upon reasonable notice by the Municipality, remove, relay and relocate its pipes, structures and other fixtures and improvements at the expense of the Municipality; provided, however, that if said removal or relocation is reasonably required to bring the Company into compliance with the terms of this franchise, the Company shall bear all such expenses.

The Company shall save the Municipality, its officers, agents and employees, harmless and shall defend the Municipality from any and all liabilities proximately caused, wholly or in part, by the Company's negligence or intentional acts or omissions in the

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erection, construction, installation or operation hereunder of the Company's facilities.

SECTION 3. The Company's plant, systems, pipelines, works and other structures, equipment, improvements and appurtenances shall be installed in accordance with good engineering practices, and shall be located, erected, constructed, reconstructed, removed, repaired, maintained and operated so as not to endanger or interfere with the lives of persons or to interfere with the improvements the Municipality may deem proper to make, or to unnecessarily hinder or obstruct pedestrian or vehicular traffic to public ways, places and structures. Erection, installation, construction, replacement, removal, repair, maintenance and operation of the system shall be in accordance with the provisions of all requirements of the Municipality which may now be in effect or may be enacted in the future. All installations shall be of a permanent nature, durable, and maintained in a safe, suitable and substantial condition, in good order and repair.

SECTION 4. The Company hereby agrees to indemnify and hold harmless the Municipality, its officers, boards, commissions, employees, agents and independent contractors, against and from any and all claims, demands, causes of action, suits or proceedings regardless of the merits of the same, damages including damages to city property, liability, costs and expenses of every type, all or any part thereof which arise by reason of any injury to any person or persons including death or property damages, resulting from the negligence of the Company, its officers, agents, employees, servants and/or independent contractors, while exercising any of

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the rights, privileges and powers granted herein except where the Municipality's negligence has, in some manner, contributed, and except for that portion of any liability, obligation or damage which is caused by the negligence of the Municipality. The Company shall carry public liability insurance in a reasonable sum to cover its activities under this franchise and all liability arising therefrom. The Municipality shall promptly notify the Company of any claim or cause of action which may be asserted against the Municipality relating to or covering any matter against which the Company has agreed, as set forth above, to indemnify, defend and save harmless the Municipality. Each party reserves the right, but not the obligation, to employ such attorneys, expert witnesses and consultants as it deems necessary to defend against the claim or cause of action against such party. In the event that the Municipality is in control, either totally or partially of such defense, the Company shall pay all expenses incurred by the Municipality in providing the defense.

SECTION 5. The rates and charges to be charged by the Company for furnishing gas service hereunder and the rules and regulations to be made and enforced by the Company for the conduct of its business shall be those from time to time on file and effective with the Arizona Corporation Commission or other governmental agency charged with the supervision or control over such services.

SECTION 6. The Company shall have the right and privilege of assigning this franchise and all rights and privileges granted herein, and whenever the word "Company" appears herein, it shall be construed as applying to its successors, lessees, and assigns.

SECTION 7. The Company, its successors, lessees, and assigns, for and in consideration of the granting of this franchise and as rental for the occupation and use or easement over, upon and beneath the streets, avenues, easements, rights-of-way, highways, alleys, sidewalks, bridges and public grounds in said Municipality shall pay to the Municipality, commencing with the first full billing period after the effective date of this franchise and continuing each year during all the time this provision shall remain in force and effect, a total aggregate sum of two percent (2%) of the gross receipts of the Company, its successors, lessees, and assigns, during such year, for gas sold within the corporate limits of the Municipality, subject to the limitations hereinafter stated; such gross receipts to consist of the total amount collected from users and consumers on account of gas sold and consumed within the corporate limits of the Municipality under the Company's rates in existence at the time, excepting therefrom, however, the gross receipts for gas sold to industrial consumers under special contract, and the gross receipts for gas sold to the Municipality for its own use. The Company shall make such payments semi-annually on or before the last day of January and July in each such year while this provision shall remain in full force and effect. For the purpose of determining such revenue, the books of the Company shall at all times be subject to inspection by duly authorized municipal officials. Said payments shall be in lieu of any and all other franchise, license, privilege, instrument, occupation, excise or revenue taxes and all other exactions or charges (except general ad valorem property taxes, special

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assessments for local improvements, and except municipal privilege, sales or use taxes authorized by law and required to be collected by the Company from users and consumers of gas within the corporate limits of the Municipality) upon the business, revenue, property, gas lines, installations, gas systems, conduits, storage tanks, pipes, fixtures or other appurtenances of the Company and all other property or equipment of the Company, or any part thereof, in said Municipality during the term of this franchise; provided that anything to the contrary herein notwithstanding said payment shall continue only so long as said Company is not prohibited from making the same by any lawful authority having jurisdiction in the premises, and so long as the Municipality does not charge, levy or collect, or attempt to charge, levy or collect other franchise, license, privilege, occupation, excise or revenue taxes or other exactions or charges hereinabove mentioned, and if any lawful authority having jurisdiction in the premises hereafter prohibits said payment, or the Municipality does levy, charge or collect or attempt to levy, charge or collect such other franchise, license, privilege, occupation, excise or revenue taxes, or other exactions or charges, the obligation to make such payments hereinabove provided for shall forthwith cease.

SECTION 8. This franchise shall be accepted by the Company in writing, which acceptance shall be filed with the Municipality within sixty (60) days after the passage of this ordinance, and when so accepted, this ordinance shall be a contract duly executed by and between the Municipality and the Company.

SECTION 9. If any section, paragraph, subdivision, clause,

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phrase or provision hereof shall be adjudged invalid or unconstitutional, the same shall not affect the validity hereof as a whole, or any part or provision other than the part so decided to be invalid or unconstitutional.

SECTION 10. This franchise shall continue in full force and effect for a period of twenty-five (25) years from the date of passage of this ordinance.

SECTION 11. All plant, system, pipelines, works, and all other physical property installed by the Company in accordance with the terms of this franchise shall be and remain the property of the Company, and upon expiration of this franchise or any extension or renewal thereof, the Company is hereby granted the right to enter upon the streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and other structures and places and public grounds of said Municipality for the purpose of removing any and all such plant, system, pipelines, works and other property of the Company, at any time within six months after termination of this franchise or any such extension or renewal thereof.

All work done in the removal of said property shall be done with the utmost diligence and least inconvenience to the public or individuals, and the Company shall, at its own expense and in a manner and time approved by the Municipality, restore all streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and public grounds which may be excavated or otherwise affected by the Company in the removal of said property, to the condition as exists at the time of commencement of said restoration, as nearly as possible.

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SECTION 12. The immediate operation of this ordinance is necessary for the preservation of the public peace, health and safety of the City of Winslow, Arizona, and an emergency is hereby declared to exist and this ordinance shall be in full force and effect from and after its adoption by the City Council of the City of Winslow, Arizona and its approval by the Mayor thereof.

PASSED AND ADOPTED by the Council of the City of Winslow, Arizona, this 7th day of June, 1994.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

YAVAPAI COUNTY

FRANCHISE AND LICENSE

FOR

FOR PIPELINES AND RELATED FACILITIES

WHEREAS, CITIZENS UTILITIES COMPANY, a corporation duly authorized to transact within this State a public service business as a gas utility (herein called "Company"), has made application to the Board of Supervisors of Yavapai County, Arizona, for a franchise, license and right of way to construct, maintain and operate in the public roads, highways and streets and other public places of such County (other than State highways and public ways within the confines of any incorporated city or town) pipelines and appurtenant facilities for the transportation, distribution and sale of natural gas to the public; and

WHEREAS, said application has been considered and found to be reasonable and proper:

NOW, THEREFORE, IT IS HEREBY ORDERED BY THE BOARD OF SUPERVISORS OF YAVAPAI COUNTY, ARIZONA:

Section I. That the County of Yavapai, State of Arizona (herein called "County"), subject to the provisions hereof, hereby grants to and vests in Citizens Utilities Company, a corporation (herein called "Company") a franchise and license with the right to operate gas plants, systems, pipelines and works in the County, as now or hereafter constituted, and the authority, license, power privilege to maintain, construct, build equip, conduct or otherwise establish and operate in said County works or systems and plants to manufacture, use, sell, store, distribute, convey or otherwise

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establish, conduct, serve, supply or furnish inhabitants of the County and others, and to the County whenever it may desire to contract therefor, natural gas for light, fuel, power, heat and any and all other useful purposes, and the Company is hereby granted passage, right of way and the right to occupy and use in any lawful way during the life of the franchise and license every and any and all roads, highways, streets, avenues, alleys, bridges and other structures and places and public grounds of said County, both above and beneath the surface of the same, as said roads, highways, streets, avenues, alleys, bridges and other structures and places and public grounds now exist or may be hereafter extended, for every and any such service, use, effect and lawful purpose as herein mentioned; provided, this grant shall not apply to any state highway or to any roads, highways streets, avenue, alleys, bridges or other structures or public grounds within the confines of any incorporated city or town.

Section II. The Company is hereby authorized and empowered to do any and all things necessary and property to be done and performed in executing the powers and utilizing the privileges hereinmentioned and granted by this franchise and license provided the same do not conflict with water or other pipes, sewers or other underground installations existing, and that all work done in said roads, highways, streets, alleys, bridges or other structures or public grounds of said County by the Company shall be done with the utmost diligence and the least inconvenience to the public or individuals, and the Company shall within a reasonable time, restore all public places excavated by it to their original condition as nearly as possible, and said work shall be done

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subject to the approval and supervision of the County. The Company shall save the County, its Board of Supervisors, officers and agents, harmless from any and all liability arising or incurred because of the erection, construction, installation or operation hereunder of the Company's facilities caused by the Company's negligence. The rights of any persons claiming to be injured or damaged in any manner by the Company or by the exercise of any right or provision hereunder shall not be affected hereby.

Section III. The rates and charges to be charged by the Company for furnishing natural gas service hereunder and the rules and regulations to be made and enforced by the Company for the conduct of its business shall be those from time to time on file and effective with the Arizona Corporation Commission applicable to such service.

Section IV. The Company shall have the right and privilege of assigning this franchise and all rights and privileges granted herein and whenever the word "Company" appears herein, it shall be construed as applying to its successors and assigns. This section shall not be deemed a warranty of assignability by the County.

Section V. Citizens Utilities Company, its successors, lessees and assigns, for and in consideration of the granting of this license and franchise, and as rental for the occupation and use of easement over, upon and beneath the roads, highways, streets, avenues, alleys, bridges and public grounds in said County shall pay to the County each year during all the time this provision shall remain in force and effect a total aggregate sum of

FLG 211762

two per cent (2%) of the gross receipts of Citizens Utilities Company, its successors, lessees and assigns, during such year, for gas sold within the County, subject to the limitations hereinafter stated; such gross receipts to consist of the total amount collected from users and consumers on account of gas sold and consumed within the County under the Company's rates in existence at the time of payment, excepting therefrom, however, (1) the gross receipts for gas sold to industrial consumers under special contract, and (2) the gross receipts for gas sold to the County for its own use, and (3) the gross receipts for gas sold to consumers within the limits of any incorporated city or town as such limits may exist from time to time. The Company shall make such payments semiannually on or before the last day of January and July in each such year while this provision shall remain in force and effect. For the purpose of determining such revenue, the books of the Company shall at all times be subject to inspection by duly authorized County officials. Said payments shall be in lieu of any and all other County franchise, license, privilege, instrument, occupation, excise of revenue taxes and all other exactions (except general ad valorem property taxes and special assessments for local improvements, and except municipal privilege, sales or use taxes authorized by law and collected by the Company from users and consumers of gas within the County) upon the business, revenue, property, gas lines, installations, gas systems, conduits, storage tanks, pipes, fixtures or other appurtenances of the Company and all other property or equipment of the Company, or any part thereof, in said County during the term of this license and

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franchise; provided that anything to the contrary herein notwithstanding said payment shall continue only so long as said Company is not prohibited from making the same by any lawful authority having jurisdiction in the premises, and so long as the County does not charge, levy or collect or attempt to charge, levy or collect other franchise, license, privilege, occupation, excise or revenue taxes, or other exactions or charges hereinabove mentioned, and if any lawful authority having jurisdiction in the premises hereafter prohibits such payment, or the County does levy, charge or collect or attempt to levy, charge or collect such other franchise, license, privilege, occupation, excise or revenue taxes, or other exactions or charges, the obligation to make such payments hereinabove provided for shall forthwith pro tanto cease to the extent of such other exaction.

Section VI. This franchise and license shall be accepted by the Company in writing, which acceptance shall be filed with the County within sixty (60) days after the passage of this grant, and when so accepted this grant shall be a contract duly executed by and between the County and the Company.

Section VII. If any section, paragraph, subdivision, clause, phrase or provision hereof shall be adjudged invalid or unconstitutional, the same shall not affect the validity hereof as a whole, or any part or provision other than the part so decided to be invalid or unconstitutional.

Section VIII. The Board of Supervisors may, at any time hereafter, impose according to law such restrictions and limitations, additional to these incorporated herein, as to the use

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by the Company of such roads, highways, streets, avenues, alleys, bridges and other structures and public places as the Board deems best for the public safety and welfare and convenience.

Section IX. The Company shall bear all expenses, including damages and compensation for any alteration of the direction, surface, grade, or alignment of any County road, highway, street, avenue, alley, bridge or other structure or public place, made for the purpose of this franchise and license.

Section X. This franchise and license shall cease to confer upon the Company any rights or privileges within the limits of any city or town when the latter shall have incorporated and there shall be in effect its municipal franchise in favor of the Company for gas purposes.

Section XI. This franchise and license shall continue in full force and effect for a period of twenty-five (25) years from its date of passage.

Section XIII. After the passage of this grant and upon its acceptance by the Company all rights and privileges heretofore granted by the County by that certain franchise and license to the Company passed and effective the 19th day of October, 1970 shall be superseded by this grant and shall then be of no further force or effect.

PASSED AND EFFECTIVE this 9th day of May, 1994.

BOARD OF SUPERVISORS
Yavapai County, Arizona

Bill Feldmeier-Chairman

FLG 2177655

GHERAL BROWNLOW-MEMBER

CARLTON CAMP-MEMBER

ATTEST:

BEV STADDON, CLERK

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YAVAPAI PRESCOTT INDIAN TRIB

FRANCHISE AGREEMENT

DATE:

_____, 1987

PARTIES:

SOUTHERN UNION COMPANY,
a corporation ("Company")

and

YAVAPAI - PRESCOTT INDIAN TRIBE ("Tribe")

SUBJECT:

Franchise to Construct, Operate and Maintain Gas Service Lines

W I T N E S S E T H

WHEREAS, the Yavapai-Prescott Indian Tribe ("Tribe") is an Indian Tribe operating under a Bureau of Indian Affairs approved Articles of Assocation; and,

WHEREAS, Southern Union Company is a corporation, acting by and through Southern Union Gas Company, a division thereof, duly authorized to transact within this State a public service business as a gas utility ("Company"); and

WHEREAS, the Tribe desires that Southern Union Gas render gas service on the Yavapai - Prescott Indian Reservation ("Reservation") pursuant to 25 C.F.R. $169:22; and

WHEREAS, Company is willing to render gas service on the Reservation;

NOW, THEREFORE, the parties agree as follows:

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done with the utmost diligence and the least inconvenience to the public or individuals, and the Company shall, within a reasonable time, restore, such streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and public grounds excavated by it to their original condition as nearly as practicalbe, subject to the reasonable approval of the Tribe. The Company shall remove or relocate its lines and facilities as and when required by the Tribe; said removal or relocation shall be made at the sole expense of the Company, except where entitlement to reimbursement shall be provided by contract or law. In the event of such entitlement, reimbursement shall be provided by contract or law. In the event of such entitlement, reimbursement shall be made strictly in accordance therewith. The Company shall keep accurate records of the location of all facilities in the public rights-of-way and furnish said records to the Tribe upon request.

Section 3: The Company hereby agrees to indemnify and hold harmless the Tribe, its officers, boards, commissions, employees, agents and independent contractors, against and from any and all claims, demands, causes of action, suits or proceedings regardless of the merits of the same, damages including damages to tribal property, liability, costs and expenses of every type, all or any part thereof which arise by reason of any injury to any person or persons including death, or property damage, resulting from the negligence of the Company, its officers, agents, employees, servants and/or independent contractors, while exercising any of the rights, privileges, powers granted herein except where the Tribe's negligence has in some manner contributed. The Tribe shall promptly notify the Company of any claim or cause of action which may be asserted against the Tribe relating to or covering any matter against which the Company has

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agreed, as set forth above, to indemnify, defend and save harmless the Tribe. The Company reserves the right, but not the obligation, to employ such attorneys, expert witnesses and consultants as it deems necessary to defend against the claim or cause of action. The Company further reserves the right to take total or partial control of such defense. In the event that the Tribe is in control, either totally or partially of such defense, the Company shall pay all expenses incurred by the Tribe in providing the defense.

Section 4: The rates and charges to be charged by the Company for furnishing gas service hereunder and the rules and regulations to be made and enforced by the Company for the conduct of its business shall be those from time to time on file and effective with the Arizona Corporation Commission applicable to such service.

Section 5: The Company shall have the right and privilege of assigning this franchise and all rights and privileges granted herein, and whenever the word "Company" appears herein, it shall be construed as applying to its successors, lessees and assigns.

Section 6: The Company, its successors, lessees and assigns, for and in consideration of the granting of this franchise and as rental for the occupation and use or easement over, upon and beneath the streets, avenues, easements, rights-of-way, highways, alleys, sidewalks, bridges and public grounds on said Reservation shall pay to the Tribe, commencing with the first full billing period after the effective date of this franchise and continuing each year during all the time this provision shall remain in force and effect, a total aggregate sum of two percent (2%) of the gross receipts of the Company, its successors, lessees and assigns, during such year, for gas sold within the jurisdictional limits of the Tribe, subject

to the limitations hereinafter stated; such gross receipts to consist of the total amount collected from users and consumers on account of gas sold and consumed within the jurisdictional limits of the Tribe under the Company's rates in existence at the time, excepting therefrom however, the gross receipts for gas sold to the Tribe for its own use. The Company shall make such payments semi-annually on or before the last day of January and July in each such year while this provision shall remain in full force and effect. For the purpose of determining such revenue, the books of the Company shall at all times be subject to inspection by duly authorized tribal officials. Said payments shall be in lieu of any and all other franchise, license, privilege, instrument, occupation, excise or revenue taxes and all other exactions or charges (except general ad valorem property taxes, special assessments for local improvements, and except municipal privilege, sales or use taxes authorized by law and collected by the Company from users and consumers of gas within the jurisdictional limits of the Tribe) upon the business, revenue, property, gas lines, installations, gas systems, conduits, pipes, fixtures or other appurtenances of the Company and all other property or equipment of the Company, or any part thereof, on said Reservation during the term of this franchise; provided that anything to the contrary herein notwithstanding said payment shall continue only so long as said Company is not prohibited from making the same by any lawful authority have jurisdiction in the premises, and so long as the Tribe does not charge, levy or collect, or attempt to charge, levy or collect other franchise, license, privilege, occupation, excise or revenue taxes or other exactions or charges hereinabove mentioned, and if any lawful authority having jurisdiction in the premises hereafter prohibits said payment, or the Tribe does levy, charge or collect

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or attempt to levy, charge or collect such other franchise, license, privilege, occupation, excise or revenue taxes, or other exactions or charges, the obligation to make such payments hereinabove provided for shall forthwith cease.

Section 7: This franchise shall be accepted by the Company and Tribe in writing, which acceptance shall be filed with the Secretary of the Department of Interior within thirty (3) days after the date of its execution.

Section 8: If any section, paragraph, subdivision, clause, phrase of provision hereof shall be adjudged invalid or unconstitutional, the same shall not affect the validity hereof as a whole, or any part or provision other than the part so decided to be invalid or unconstitutional.

Section 9: This franchise shall continue in full force and effect for a period of twenty-five (25) years from the date of passage of this ordinance and shall automatically renew for identical periods thereafter unless otherwise terminated by law or mutual consent of the parties hereto. Pursuant to Article 13, Seciton 6 of the Arizona Constitution, the franchise herein granted is not exclusive and nothing herein contained shall be construed to prevent the Tribe from granting other like or similar grants or privileges to any other person, firm or corporation.

Section 10: All plant, system, pipelines, works, and all other physical property installed by the Company in accordance with the terms of this franchise shall be and remain the property of the Company, and upon expiration of this franchise or any extension or renewal thereof, the Company is hereby granted the right to enter upon the streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and other

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structures and places and public grounds of said Tribe for the purpose of removing any and all such plant, system, pipelines, works and other property of the Company, at any time within six months after termination of this franchise or any such extension or renewal thereof.

SECTION 11: The parties agree that in the event of any dispute over the terms and conditions of this agreement, such dispute shall be determined by the United States District Court for the District of Arizona, the Tribe specifically waiving any claim of sovereign immunity as to declaratory and injunctive relief only.

SOUTHERN UNION COMPANY,
a corporation

APPROVED AS TO FORM
BOARD DEPARTMENT

BY _____
Its Sr. Vice Pres.

YAVAPAI - PRESCOTT INDIAN TRIBE

BY _____
Its President

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PROPOSED NOGALES ELECTRIC

COPY

ORDINANCE NO. 02004-05-013

BEFORE THE MAYOR AND CITY COUNCIL OF THE CITY OF NOGALES, ARIZONA

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NOGALES, ARIZONA GRANTING A FRANCHISE TO UNS ELECTRIC, INC. TO MAINTAIN AND OPERATE AN ELECTRIC ENERGY TRANSMISSION AND DISTRIBUTION SYSTEM WITHIN THE CORPORATE LIMITS OF THE CITY OF NOGALES, ARIZONA

SECTION 1. DEFINITIONS.

For the purposes of this Agreement, the following terms, phrases, words, and their derivatives shall have the meanings given in this Section. When consistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is mandatory and "may" is permissive. Words not defined in this Section or in A.R.S. §§ 40-201, et seq., shall be given their generally accepted meaning in the electric utility industry.

1. "Agreement" means this Franchise Agreement;

2. "Board" means the Dispute Resolution Board;

3. "City" means the City of Nogales, Arizona, an Arizona Municipal corporation, and its successors and assigns;

4. "City Official" means an individual authorized by the City of Nogales to take relevant action under the Agreement on behalf of the City of Nogales.

5. "Company" means UNS Electric, Inc., a corporation organized and existing under and by virtue of the laws of the State of Arizona and its successors and assigns;

6. "Council" means the present governing body or any future body constituting the legislative body of the City of Nogales;

7. "Facility" or "Facilities" means and includes, but is not limited to, electric works, systems, improvements, and equipment of the Company such as electric substations, boxes, conduits, transformers, wires, cables (including but not limited to fiber optic cable), pipes, poles, meters, and all necessary appurtenances thereto located within the geographical area as defined in Section 2;

8. "Right-of-way" means the surface, the air space above the surface and the area below the surface of any public streets, roadways, highways, avenues, lanes, alleys, courts, places, curbs, sidewalks, or other public ways in the City (excepting state highways) which have been or may hereafter be dedicated to or otherwise acquired by the City; and

9. "Wire" is inclusive of, but not limited to, fiber optic cable, radio frequency (RF) cable, and electrical wire or telephone/data cable.

SECTION 2. GRANT OF FRANCHISE.

There is granted to the Company the right, privilege, and franchise to construct, maintain, and operate upon, over, along, across, and under the present and future Right-of-way of the City an electric transmission and distribution system together with all necessary appurtenances for the purpose of supplying electricity to the City, its successors, its inhabitants, and all persons and corporations either within or beyond the limits thereof. This grant shall extend to all Right-of-way as is now designated or may be designated in the future within the corporate limits of the City and any part thereof or

as now located or as they may be hereafter altered or extended with the present or future municipal limits of the City. Nothing contained in this Agreement shall be construed to authorize the Company to engage in activities other than electric sales and transportation for service as established through the franchise to the City.

SECTION 3. NON-EXCLUSIVITY.

The right to use and occupy the Right-of-way for the purposes set forth in this Agreement is not and shall not be deemed an exclusive franchise. The City reserves the right to itself to make or grant a similar use in the Right-of-way to any person, firm, or corporation.

SECTION 4. EFFECTIVE DATE AND DURATION.

This Agreement shall become effective on immediately after approval by a majority of the qualified electors residing within the corporate limits of the City and voting at a municipal election called pursuant to Article 13, § 4 of the Arizona Constitution and A.R.S. § 9-501, et seq., and Chapter "X" of the City Charter to be held in the City on September 7, 2004, for that purpose and shall continue for a period of twenty-five (25) years from the above effective date. Provided, however, that ten (10) years after the date upon which this Agreement becomes effective, or upon assignment of this Agreement pursuant to Section 22, the City or Company may request the renegotiation of the terms of the following sections: 14 (Construction, Maintenance, and Repair of Right-of-way), 17 (Permits and Licenses), and 18 (Undergrounding). The renegotiated provisions shall become effective immediately upon acceptance by the Company and approval by the Council. In the event the parties to this Agreement reach an impasse after entering into negotiations, the issue may be referred to a Dispute

Resolution Board for resolution. The recommendation of the Board is not binding on either party. If either party rejects the recommendation of the Board, the City may terminate this Agreement. If the Company refuses to enter into negotiations, the City may terminate this Agreement by giving written notice of termination to the Company. If the City terminates this Agreement pursuant to this Section, the Agreement ends on the anniversary date immediately subsequent to the notice of termination.

SECTION 5. SCOPE OF FRANCHISE.

This Agreement shall extend to and include all those specific and particular streets, avenues, alleys, highways, bridges, and other Rights-of-way within the limits of the City, and any part thereof, either as now located and as they may be hereafter located, annexed, altered, or extended within the present or future limits of the City.

SECTION 6. THIRD PARTY ACCESS TO COMPANY'S SYSTEM.

Entities other than the City and Company may occupy or use the Company's Facilities only if:

(a) the entity obtains the permission of the City and Company and pays all appropriate fees to the City;

(b) such use or occupation of the Facilities by the entity does not interfere with the Company or City's use of the Facilities or the use of such Facilities by entities holding a valid franchise from the City;

(c) such use or occupation does not endanger public health or safety; and

(d) the entity indemnifies and holds the City and Company harmless for any such use or occupation and the Company incurs no additional expense in connection therewith.

SECTION 7. COMPANY STOCK.

The Company, or any entity holding this Agreement or doing any business hereunder, shall not issue any of its corporate stock on account of this grant. Any violation of the terms of this Section shall, at the option of the City and upon the passage of appropriate ordinance by the Council, operate as a forfeiture of this grant.

SECTION 8. OFFICE LOCATION AND SERVICE RESPONSE.

The Company shall maintain an office within the corporate limits of the City, provide a toll free telephone number, and shall provide prompt, reasonable responses to customers' service requests. The office must be sufficient in size and staffing to serve the needs of its customers throughout its local service territory. The Company shall provide a 24-hour toll free telephone number for emergency use that is available seven (7) days a week.

SECTION 9. FRANCHISE FEE.

(a) Imposition of Fee. The Company agrees to pay the City a fee ("Franchise Fee") equal to two and one-quarter (2.25) percent of all gross receipts from the delivery of electricity to all customers within the present or any future corporate limits of the City. The Company may credit against the gross revenues the net write-off for uncollectible accounts and corrections of bills. Such payments are due and payable in quarterly installments to the City within thirty (30) days after the end of each quarterly period, beginning with the first full quarterly period following the effective date of this Agreement.

(b) In General. The fee payments required by Section 9 and any other fees required to be paid under this Agreement shall not exempt the Company from the

payment of any other license fee, permit fee, tax of any nature, or charge on the business, occupation, property, or income of the Company that may be imposed by the City except as may otherwise may be provided in the ordinance imposing such other license fee, tax, or other charge. This section shall be interpreted as requiring the Company to obtain a permit for construction only as required by the City Charter, Code, or ordinance. The City may not impose any additional fees for the Company's use of public utility easements because of such easements being a part of the right-of-way under this Agreement.

(c) Public Benefits Fee.

(1) Imposition of Fee. Of the total revenues received by the City from the fee imposed by Subsection (a), one-ninth (1/9) of such revenues may be used in accordance with Paragraph (2).

(2) Use of Fee. The revenues described in Paragraph (1) may be appropriated by the Council to be used as follows:

(A) Low Income Assistance. To fund low-income energy assistance programs such as weatherization, residential lifetime service, senior discount, bill assistance, and rate discount programs.

(B) Undergrounding. To pay the City's share of electric transmission and distribution line undergrounding expenses incurred under Section 21.

(C) Renewable Energy Incentives. To fund programs designed to encourage the use of renewable energy.

(d) Lien. For the purpose of securing to the City the payments required to be made under this Section, the City shall have a lien and the same shall be charged upon all the property, estate, and effects of the Company in any form, real, personal, or mixed. The City may enforce this lien by civil action in a court of competent jurisdiction, but such lien shall be subordinate to any mortgages or deeds of trust securing any bona fide indebtedness.

SECTION 10. AUDIT AND INFORMATION REQUIREMENTS.

(a) Audit Requirements.

1. Record Requirements. The Company shall keep and maintain complete and accurate books and records of its business and operations for the purpose of insuring compliance with this Agreement.

2. Inspection of Records. For the purpose of verifying the data provided pursuant to Subsection (a)(1) above, all records of the Company used in compiling such data shall, at the close of each quarterly period, be open for inspection by such officer, persons, or persons as may be appointed for that purpose by the City. The City may audit the Company accounts relating to delivery of electricity to its customers within the corporate limits of the City and to the City outside its corporate limits, gross revenues, and property subject to taxation by the City for the purpose of verifying the distribution of such property by taxing districts, and may thus confer with the Company regarding any alleged or reported discrepancies or irregularities in Company procedures or activities relating to data submitted pursuant to this Section. The Company shall provide responses to inquiries made by the City within a reasonable amount of time.

(b) Information Required by Other Regulatory Agencies. The City may request in writing copies of any and all reports, data, and any other type of information which the Company is required to submit to any other governmental or quasi-governmental body, including, but not limited to, the United States of America, the Federal Energy Regulatory Commission, the State of Arizona, and the Arizona Corporation Commission. Reports, data, and any other types of information filed confidentially and not available to the public do not have to be submitted to the City.

(c) City Energy Usage. The Company shall upon request provide to the City all information it maintains with respect to energy usage by the City at each location in which electricity is delivered to a City owned or maintained location. Such information may be requested only once every twelve (12) months and shall be provided at the cost set by the Company's billing tariff as approved by the Arizona Corporation Commission.

SECTION 11. RELIABILITY OF UTILITY SERVICE.

(a) Service Outage Map. On an annual basis, the Company shall provide to the City a report of all service outages that last for longer than one (1) hour, technical upgrades made to its distribution system, and efforts made to improve the reliability of the distribution system.

(b) Reporting and Access. The Company shall report in advance to the City any plans to include technological advances relating to communications systems, such as fiber optics, which may utilize Facilities already in place for the transmission of communication signals, which Facilities may be installed by the Company for its use, the use of the City, or for use of others as the Company may license. The City may use said Facilities if it reaches a prior agreement with the Company regarding consideration

for the use of said Facilities. In no event shall the City's use impair the Company's ability to use its own Facilities. Upon request of the City, the Company will provide a detailed report for the use of such communications systems subject to protecting confidential information. Nothing contained herein shall be construed to authorize the Company to provide commercial telecommunications activities to the public, nor shall this Agreement be construed as a franchise or license for said telecommunications activities within the City.

SECTION 12. EMERGENCY PROCEDURES.

(a) Company Equipment and Staff Requirements. The Company shall maintain equipment and staff capable of providing timely emergency repairs and restoration of service in case of power outages and other events which may present a danger to public safety or health.

(b) Joint Emergency Procedures. The Company shall cooperate with the City in developing joint standard operating procedures for emergencies requiring the collective response of City departments, such as Police and Fire, and the Company.

SECTION 13. INTERCONNECTIONS.

The Company shall provide information to its customers necessary for interconnection of distributed generation with its distribution system, and the Company must allow such connections to its distribution system. The Company shall not impose any requirements, standards, or tests on any grid-interconnected system exceeding applicable federal or state regulatory standards.

SECTION 14. CONSTRUCTION, MAINTENANCE, AND REPAIR OF THE RIGHT-OF-WAY.

(a) Interference with Public Uses. The electric transmission and distribution systems, and appurtenances herein provided for, to be constructed, installed, operated and maintained hereunder, shall be so located or relocated as to interfere as little as is possible with traffic or other authorized uses, including that of other utilities, over, under, or through the Right-of-way.

(b) Repair of the Right-of-way. If, in the installation, use, or maintenance of its Facilities, the Company damages or disturbs the surface or subsurface of any public road or adjoining public property of the public improvement located thereon, therein, or hereunder, the Company shall promptly, at its own expense and in a manner acceptable to the City and in accordance with applicable City regulations and standards, restore the surface or subsurface of the public road or public property or repair or replace the public improvement thereon, therein, or hereunder in as good of condition as before such damage or disturbance. If such restoration, repair, or replacement of the surface, subsurface, or any structure located thereon, therein, or thereunder is not completed within a reasonable time, or such repair or replacement does not meet the City's duly adopted standards, the City shall, following reasonable notice to the Company, have the right to perform the necessary restoration, repair, or replacement either through its own forces or through a hired contractor, and the Company shall reimburse the City for its expenses in so doing within thirty (30) days after its receipt of the City's invoice. The Company will bear the full reasonable costs of all barricades, signing, rerouting of traffic, or other actions which the City considers

necessary in the interest of public safety during the opening or alteration within the public right-of-way.

(c) Construction Delay Costs. The Company shall promptly repair and restore any property, street, alley, parkway, bridge, or public place in which the Company has performed any construction activity within a time period designated in the written notice to the Company. If, after the Company certifies to the City that its Facilities are no longer in conflict with a public project, the City discovers the Company's Facilities in the Right-of-way are still in conflict and so delays the project's construction causing the City to incur damages due to such delay, the Company shall reimburse the City for those damages attributable to the delay created by the conflict.

(d) City Notification of Delay. If the City becomes aware of a potential delay involving the Company's Facilities, the City shall promptly notify the Company of this potential delay.

SECTION 15. RELOCATION OF AND CONFLICTS WITH SERVICE.

(a) Relocation Requirement. Whenever the City shall, for a lawful purpose, require the relocation or reinstallation of any Facility of the Company or its successors in any Right-of-way, the Company shall, upon notice of such requirement and within a reasonable amount of time, commence work to remove and relocate or reinstall such Facilities as may be reasonably necessary to meet the requirements of the City. The Company shall pay the costs of any such relocation or reinstallation unless it can demonstrate to the City that its Facilities were lawfully installed therein prior to the conveyance, dedication, or other transfer by any party of the Right-of-way to the public or to the City. For the purposes of this Section, the acquisition of Right-of-way by the

City from another governmental entity shall not entitle the Company to reimbursement from the City for relocation or reinstallation unless the Company can demonstrate to the City that the Company's Facilities were lawfully installed therein prior to the conveyance, dedication, or other transfer by any party of the Right-of-way to the other governmental entity. Any money and all rights to reimbursement from the State of Arizona or the federal government to which the Company may be entitled for work done by the Company pursuant to this Section shall be the property of the Company. The City shall assign or otherwise transfer to the Company all rights it may have to recover costs for such work performed by the Company and shall reasonably cooperate with the Company's efforts to obtain reimbursement.

(b) Discovery of Conflicts. If, during the design or construction for public improvements, the City discovers a potential conflict with proposed construction, the Company shall locate and, if necessary, expose its Facilities in conflict. The City shall make every reasonable effort to design and construct projects to avoid relocation expense to the Company. The Company agrees to furnish the location information to the City within a reasonable amount of time from the date of the discovery of the potential conflict.

(c) Company Obligations if Conflict Exists. If, during the course of a project, the City determines that the Company's Facilities are in conflict the following shall apply:

1. Prior to City's Notice to Proceed to its Contractor. The Company shall, within a reasonable time after receiving written notice from the City, remove or relocate the conflicting Facility.

2. After City's Notice to Proceed to its Contractor. The City and Company shall immediately begin the coordination necessary to remove or relocate the Facility. Actual construction of such removal or relocation shall begin within a reasonable amount of time after written notification from the City to the Company of the conflict.

(d) Prior Right of City. The City reserves the prior and superior right to lay, construct, erect, install, use, operate, repair, replace, remove, relocate, regrade, widen, realign, or maintain any street and public way, aerial, surface, or subsurface improvement for all public purposes, including but not limited to water mains, traffic control conduits, cable and device, storm sewers, subways, tunnels, bridges, viaducts, or any other public construction within the Rights-of-way of the City. The Company shall move its Facilities, consistent with Subsection (a), that are located in the Right-of-way at its own cost to such a location as the City may direct within another portion of the Right-of-way.

(e) Relocation of Non-Company Systems. Consistent with the limitations of Subsection (a), if a conflict exists between the Company's future or existing Facilities and future or existing City utility or communication systems, or non-City utility systems occupying the Right-of-way under authority of a City permit, franchise, or license, the City shall not bear the cost of relocating such City systems or non-City systems, regardless of the function served, where such systems must be relocated and the conflict between the Company's potential Facilities and existing Facilities can only be resolved by the movement of the existing City or permittee systems.

SECTION 16. PROJECT DESIGN MODIFICATIONS.

If City construction projects require design modifications as a direct result of the Company's Facilities in the Right-of-way, the City and Company shall make reasonable efforts, including design modifications if practicable, to avoid conflicts with Company Facilities. The Company shall pay for any increased construction or redesign costs caused by such modification. Such modifications may be made only in the event the City and Company determine that modification of the project is more feasible than relocation of the Facility.

SECTION 17. PERMITS AND LICENSES.

(a) Permit Requirement. The Company shall, when required by the City Charter, Code, or ordinance, obtain a permit and pay all applicable fees prior to removing, relocating, or reconstructing, if necessary, any portion of its electrical transmission and distribution system in the right-of-way. Whenever the Company causes any opening or alteration to be made for any purpose in any right-of-way, the work shall be completed within a reasonable time and the Company shall, consistent with the requirements of the City Charter, Code, or ordinance, without expense to the City, and upon the completion of such work, restore the property disturbed in a manner consistent with the City's duly adopted standards or as required by its permit which may incorporate special standards when required for City purposes. Pursuant to the City Charter, Code, or ordinance, the City shall issue such permit to the Company on such conditions as are reasonable and necessary to ensure compliance with the terms and conditions of this Agreement and any other applicable ordinance or rule or regulation of the City.

(b) Permit Requirement in Emergency Situations. Notwithstanding Subsection (a), if the Company is required to make repairs in compliance with Federal and/or State codes that are of an emergency nature, the Company shall notify the City prior to such repairs, if practicable, and shall obtain the necessary permits in a reasonable time after notification.

SECTION 18. UNDERGROUNDING.

(a) In General. Subject to Subsection (c), any area where the Company is not already required, pursuant to federal, State, or existing local law or agreement, to place its electric transmission or distribution lines underground in any new construction or relocation of aerial transmission or distribution lines, the City may require the Company to place such lines underground if the City pays the difference between the cost of placing such lines underground and the cost of placing them aerially.

(b) City Projects. In the design and construction of any City project, the Company shall, at the City's option, relocate existing aerial lines underground. The Company shall provide to the City a design and an itemized cost estimate for such undergrounding. Subject to Subsection (c), the City shall pay all costs associated with the undergrounding required by this Subsection except for the Company's electrical engineering costs for design and cost estimate for such undergrounding.

(c) Exception to Undergrounding. The Company shall be required to place new aerial transmission or distribution lines underground only when such placement is feasible for technical or system reasons. Such reasons cannot include the monetary cost of the proposed undergrounding project.

(d) Joint Use of Trenches. In the construction of new underground facilities or the relocation of existing aerial facilities underground, the Company shall notify an appropriate City Official within a reasonable amount of time prior to construction. The City shall be permitted to co-locate its utility system, lawfully permitted in the right-of-way, in the proposed underground location upon such reasonable terms and conditions as the Company may require.

(e) Moratorium on Relocations. If the Company undergrounds a transmission or distribution line pursuant to Subsections (a) or (b) or Section 15(a), the Company shall not be required to pay any cost for relocating such line again for a period of ten (10) years after the date of completion of such undergrounding.

SECTION 19. CITY ACCESS TO COMPANY INFRASTRUCTURE.

(a) In General. The Company shall, without cost to the City, permit the use by the City of space in excess of the Company's existing or projected requirements upon its Facilities for Wires for fire alarm, police, and communications purposes of the City. The Company shall furnish, string on the available space on its poles, and draw in and maintain in the available space in the conduits and subways of the Company, all Wires and fixtures necessary for fire alarm, police, and communication purposes of the City. The City shall pay the Company's actual cost for providing access to its infrastructure under this Section.

(b) City Access to Company Underground Facilities. Whenever the Company proposes to install new underground conduits or replace existing underground conduits within or under the Right-of-way, it shall notify the City as soon as is reasonable prior to such construction and shall allow the City, at its own expense and without charge to the

Company, to share the trench of the Company to lay its own conduit. The City's access may not unreasonably interfere with the Company's Facilities, the utility systems of other entities lawfully permitted in the Right-of-way, or delay the accomplishment of the project.

(c) Excess Capacity. If requested by the City under Subsections (a) and (b), the design of any new or upgraded infrastructure of the Company shall provide for capacity dedicated for City use. The City shall pay all costs of design, construction, and maintenance of such infrastructure associated with such additional capacity.

(d) Indemnification. The City shall indemnify and hold harmless the Company, its officers, employees, agents, and servants against and from any and all claims, demands, causes of action, suits, proceedings, regardless of the merits of the same, damages, including damages to Company property, liability, and costs or expenses of every type, all or any part thereof which arises by reason of any injury to any person or persons, including death, or property damage, resulting from the negligence of the City, its officers, boards, commissions, agents, employees, and servants which may be occasioned by the use set forth in this Section or while performing any functions in proximity with the Company's operations under this Agreement except where the Company's negligence has in some manner contributed.

(e) Subject to applicable federal, state and municipal law, City reserves the right and power to purchase and condemn the plant and distribution facilities of Company within City's corporate limits or any additions there, as provided by law.

SECTION 20. FAILURE TO RENEW AGREEMENT.

If this Agreement is not renewed prior to the expiration of its term and the City has not purchased or condemned the Facilities, the Company and the City agree to abide by the terms of this Agreement for one (1) year after such expiration or until a new agreement is reached, whichever occurs first.

SECTION 21. REMOVAL OF FACILITIES.

When the Company abandons any of its Facilities and records such abandonment pursuant to A.R.S. § 40-360.30(A), it shall notify the City of such abandonment. Abandoned Facilities shall be removed from the Right-of-way to the satisfaction of the City at Company's cost unless permitted by the City to be left in place in such manner as the City may prescribe. The Company shall, to the satisfaction of and without cost or expense to the City, promptly remove such Facilities. All City property affected by such removal shall be repaired and restored by the Company consistent with the provisions of this Agreement upon written notice from the City. Any such Facilities which are not removed within one hundred twenty (120) days of either the date of abandonment or of the date the City authorizes removal, whichever is later, shall automatically incur charges to be determined by the City. For the purposes of this Section, "abandoned" has the same meaning as that term has in A.R.S. § 40-360.21(1).

SECTION 22. SUCCESSORS OR ASSIGNS.

(a) Assignment Requirements. The right, privilege, or franchise granted by this Agreement shall not be leased, assigned, or otherwise alienated without the express consent of the City evidenced by an ordinance or resolution passed by the Council. The Company shall provide not less than ninety (90) days' notice to the City

prior to any such assignment. No dealing with the lessee or its assigns on the part of the City to require the performance of any act or payment of any compensation shall be deemed to operate as such consent. Any assignment shall become effective upon the passage of an ordinance or resolution by the City and written acceptance of this Agreement and any renegotiated terms by the lessee or assignee.

(b) City Consent Provided. The consent of the City is given to the Company to subject this grant and any property constructed or operated under it to any present or future mortgage or other charge incurred by the Company in the ordinary course of business solely for the purpose of securing bonds, notes, or other obligations of the Company. A mortgagee, creditor, or trustee may exercise its rights under any such mortgage or charge without further consent of the City and may purchase at judicial, trustee's, or other involuntary sale and may own and exercise this Agreement and the rights granted by it, but shall be equally subject, with the Company, to the duties and obligations imposed by this Agreement.

SECTION 23. REGULATION BY THE CITY.

As required by the City Charter, the City expressly reserves to itself, subject to the limitations of the Constitution and laws of Arizona, the right, whether in terms reserved or not, to make all regulations which shall be necessary to secure, in the most ample manner, the uniform, convenient, and adequate service to the public, including, among other things, the right to pass and enforce ordinances to require reasonable extensions of such service and of such public utility works. The City, subject to the limitations of the Constitution and laws of Arizona, shall have full power to enforce, by forfeiture or otherwise, compliance by the Company with all of the terms and conditions

of this Agreement for the effective security of efficient service or for the continued maintenance of the property of the Company in good condition and repair throughout the term of this Agreement.

SECTON 24. DISPUTE RESOLUTION.

(a) In General. If a dispute exists regarding an obligation of the City or Company under this Agreement and the matter cannot be resolved through the mutual agreement of the parties, such controversy may be submitted to arbitration. The arbitration procedures described in A.R.S. § 12-1501, et seq. (Uniform Arbitration Act), shall be followed to the extent they do not conflict with the provisions of this Section.

(b) Dispute Resolution Board. All disputes regarding an obligation of the Company or City under this Agreement may be submitted to a Dispute Resolution Board. The Board shall consist of one member selected by the City, one member selected by the Company, and a third person agreed upon by both parties. The person agreed upon by both parties shall be chairperson of the Board. The City and the Company shall share expenses for the Board equally.

(c) Decisions of the Board. The Board shall hear disputes promptly and render an opinion as soon as possible but in no event later than sixty (60) days after the Board has concluded the arbitration proceedings. Decisions of the Board are not binding on the City or the Company.

SECTION 25. ENTIRE AGREEMENT.

This Agreement constitutes the entire agreement of the parties. There have been no representations made other than those contained in this Agreement or any exhibits.

SECTION 26. SEVERABILITY.

(a) In General. Except as provided in Subsection (b), if any provision of this Agreement is adjudged invalid or unconstitutional, the same shall not affect the validity of this Agreement as a whole or any part of the provisions hereof other than the part so adjudged to be invalid or unconstitutional.

(b) Exception. If any part of of Section 9 is adjusted invalid or unconstitutional, this entire Agreement will be deemed to be invalid and without effect.

SECTION 27. INDEMNIFICATION AND INSURANCE.

(a) Indemnification. The Company shall indemnify, defend, and hold harmless the City from any and all claims, demands, suits, actions, proceedings, loss, cost, and damages of every kind and description, including any reasonable attorney's fees and/or litigation expenses, which may be brought or made against or by any person, caused by, arising out of, or contributed to, in part, by reasons of any act, omission, professional error, fault, mistake, or negligence of the Company, its employees, agents, representatives, or affiliates, their employees, agents, or representatives in connection with or incidental to the performance of this Agreement, or arising out of worker's compensation claims, unemployment compensation claims, or unemployment disability compensation claims of employees of the Company and/or its affiliates or claims under similar such laws or obligations.

(b) Insurance. The Company shall maintain throughout the term of this Agreement liability insurance to adequately insure and/or protect the legal liability of the Company with respect to the installation, operation, and maintenance of its Facilities together with all the necessary and desirable appurtenances authorized by this

Agreement to occupy the Right-of-way. Such insurance program will provide protection for bodily injury and property damage including contractual liability and legal liability for damages arising from the operation by the Company of its Facilities. Such insurance program shall comply with the insurance requirements of the City Risk Manager. The Company shall file with the City documentation of such liability insurance program within sixty (60) days following the effective date of this Agreement and thereafter upon request of the City. Failure to file such documentation shall render this Agreement voidable at the option of the City. The policy limits or any insurance maintained in compliance with this Section shall not limit the Company's indemnification requirements under Subsection (a).

SECTION 28. FORCE MAJEURE.

The Company shall not be deemed to be in violation of this Agreement for the delay of performance or failure to perform in whole or in part its obligations under this Agreement due to strike, war or act of war (whether an actual declaration is made or not), insurrection, riot, act of public enemy, fire, flood, act of God, or by other events to the extent that such events are caused by circumstances beyond the Company's control and are not caused by negligence on the part of the Company or any person acting on its behalf. In the event that the delay in performance or failure to perform affects only part of the Company's capacity to perform its obligations under this Agreement, the Company shall perform such obligations to the extent it is able to do so in as expeditious a manner as possible. The Company shall promptly notify the City in writing of an event covered by this Section and the date, nature, and cause of the event. The Company, in such notice, shall indicate the anticipated extent of such delay

and the obligations under this Agreement that will or may be affected by the delay or failure to perform.

SECTION 29. ELECTION.

This Agreement shall be submitted to be voted upon by the qualified electors residing within the corporate limits of the City at a general or special municipal election of the City to be held for that purpose. Before calling any such election, the estimated, reasonable, pro rata expenses of the election, to be determined by the Council, shall be first deposited by the Company for such franchise with the City Clerk.

SECTION 30. NOTICES.

Unless otherwise specified in this Agreement, all notices from the Company to the City pursuant to or concerning this Agreement shall be in writing and delivered to the City Manager. The Company shall maintain within the City throughout the term of this Agreement an address for service of notices from the City by mail and a local office and telephone number for the conduct of matters relating to this Agreement during normal business hours. The Company shall provide to the City, within thirty (30) days after the effective date of this Agreement, the name, position, and address of the individual who is designated by the Company to receive notices from the City pursuant to or concerning this Agreement.

DATED this 2nd day of June, 2004.

CITY OF NOGALES

By: _____
Mayor

Attest:

_____
Clerk, City Council

Approved as to Form:

_____
City Attorney

UNS ELECTRIC, INC.

By: _____

Title: Senior Vice President

PROPOSED

NOGALES

GAS

copy

ORDINANCE NO. 02004-05-014

BEFORE THE MAYOR AND CITY COUNCIL
OF THE CITY OF NOGALES, ARIZONA

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NOGALES, ARIZONA GRANTING A FRANCHISE TO UNS GAS, INC. TO MAINTAIN AND OPERATE A GAS ENERGY TRANSMISSION AND DISTRIBUTION SYSTEM WITHIN THE CORPORATE LIMITS OF THE CITY OF NOGALES, ARIZONA

SECTION 1. DEFINITIONS.

For the purposes of this Agreement, the following terms, phrases, words, and their derivatives shall have the meanings given in this Section. When consistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is mandatory and "may" is permissive. Words not defined in this Section or in A.R.S. §§ 40-201, et seq., shall be given their generally accepted meaning in the gas utility industry.

1. "Agreement" means this Franchise Agreement;

2. "Board" means the Dispute Resolution Board;

3. "City" means the City of Nogales, Arizona, an Arizona Municipal corporation, and its successors and assigns;

4. "City Official" means an individual authorized by the City of Nogales to take relevant action under the Agreement on behalf of the City of Nogales.

5. "Company" means UNS Gas, Inc., a corporation organized and existing under and by virtue of the laws of the State of Arizona and its successors and assigns;

6. "Council" means the present governing body or any future body constituting the legislative body of the City of Nogales;

7. "Facility" or "Facilities" means and includes, but is not limited to, gas works, systems, improvements, and equipment of the Company such as gas substations, boxes, conduits, transformers, wires, cables (including but not limited to fiber optic cable), pipes, poles, meters, and all necessary appurtenances thereto located within the geographical area as defined in Section 2;

8. "Right-of-way" means the surface, the air space above the surface and the area below the surface of any public streets, roadways, highways, avenues, lanes, alleys, courts, places, curbs, sidewalks, or other public ways in the City (excepting state highways) which have been or may hereafter be dedicated to or otherwise acquired by the City; and

9. "Wire" is inclusive of, but not limited to, fiber optic cable, radio frequency (RF) cable, and gas wire or telephone/data cable.

SECTION 2. GRANT OF FRANCHISE.

There is granted to the Company the right, privilege, and franchise to construct, maintain, and operate upon, over, along, across, and under the present and future Right-of-way of the City a gas transmission and distribution system together with all necessary appurtenances for the purpose of supplying gas to the City, its successors, its inhabitants, and all persons and corporations either within or beyond the limits thereof. This grant shall extend to all Right-of-way as is now designated or may be designated in the future within the corporate limits of the City and any part thereof or as

now located or as they may be hereafter altered or extended with the present or future municipal limits of the City. Nothing contained in this Agreement shall be construed to authorize the Company to engage in activities other than gas sales and transportation for service as established through the franchise to the City.

SECTION 3. NON-EXCLUSIVITY.

The right to use and occupy the Right-of-way for the purposes set forth in this Agreement is not and shall not be deemed an exclusive franchise. The City reserves the right to itself to make or grant a similar use in the Right-of-way to any person, firm, or corporation.

SECTION 4. EFFECTIVE DATE AND DURATION.

This Agreement shall become effective immediately after approval by a majority of the qualified electors residing within the corporate limits of the City and voting at a municipal election called pursuant to Article 13, § 4 of the Arizona Constitution and A.R.S. § 9-501, et seq., and Chapter "X" of the City Charter to be held in the City on September 7, 2004, for that purpose and shall continue for a period of twenty-five (25) years from the above effective date. Provided, however, that ten (10) years after the date upon which this Agreement becomes effective, or upon assignment of this Agreement pursuant to Section 22, the City or Company may request the renegotiation of the terms of the following sections: 14 (Construction, Maintenance, and Repair of Right-of-way) and 17 (Permits and Licenses). The renegotiated provisions shall become effective immediately upon acceptance by the Company and approval by the Council. In the event the parties to this Agreement reach an impasse after entering into negotiations, the issue may be referred to a Dispute Resolution Board for resolution.

The recommendation of the Board is not binding on either party. If either party rejects the recommendation of the Board, the City may terminate this Agreement. If the Company refuses to enter into negotiations, the City may terminate this Agreement by giving written notice of termination to the Company. If the City terminates this Agreement pursuant to this Section, the Agreement ends on the anniversary date immediately subsequent to the notice of termination.

SECTION 5. SCOPE OF FRANCHISE.

This Agreement shall extend to and include all those specific and particular streets, avenues, alleys, highways, bridges, and other Rights-of-way within the limits of the City, and any part thereof, either as now located and as they may be hereafter located, annexed, altered, or extended within the present or future limits of the City.

SECTION 6. THIRD PARTY ACCESS TO COMPANY'S SYSTEM.

Entities other than the City and Company may occupy or use the Company's Facilities only if:

(a) the entity obtains the permission of the City and Company and pays all appropriate fees to the City;

(b) such use or occupation of the Facilities by the entity does not interfere with the Company or City's use of the Facilities or the use of such Facilities by entities holding a valid franchise from the City;

(c) such use or occupation does not endanger public health or safety; and

(d) the entity indemnifies and holds the City and Company harmless for any such use or occupation and the Company incurs no additional expense in connection therewith.

SECTION 7. COMPANY STOCK.

The Company, or any entity holding this Agreement or doing any business hereunder, shall not issue any of its corporate stock on account of this grant. Any violation of the terms of this Section shall, at the option of the City and upon the passage of appropriate ordinance by the Council, operate as a forfeiture of this grant.

SECTION 8. OFFICE LOCATION AND SERVICE RESPONSE.

The Company shall maintain an office within the corporate limits of the City, provide a toll free telephone number, and shall provide prompt, reasonable responses to customers' service requests. The office must be sufficient in size and staffing to serve the needs of its customers throughout its local service territory. The Company shall provide a 24-hour toll free telephone number for emergency use that is available seven (7) days a week.

SECTION 9. FRANCHISE FEE.

(a) Imposition of Fee. The Company agrees to pay the City a fee ("Franchise Fee") equal to two (2.00) percent of all gross receipts from the delivery of gas to all customers within the present or any future corporate limits of the City. The Company may credit against the gross revenues the net write-off for uncollectible accounts and corrections of bills. Such payments are due and payable in quarterly installments to the City within thirty (30) days after the end of each quarterly period, beginning with the first full quarterly period following the effective date of this Agreement.

(b) In General. The fee payments required by Section 9 and any other fees required to be paid under this Agreement shall not exempt the Company from the payment of any other license fee, permit fee, tax of any nature, or charge on the

business, occupation, property, or income of the Company that may be imposed by the City except as may otherwise may be provided in the ordinance imposing such other license fee, tax, or other charge. This section shall be interpreted as requiring the Company to obtain a permit for construction only as required by the City Charter, Code, or ordinance. The City may not impose any additional fees for the Company's use of public utility easements because of such easements being a part of the right-of-way under this Agreement.

(c) Lien. For the purpose of securing to the City the payments required to be made under this Section, the City shall have a lien and the same shall be charged upon all the property, estate, and effects of the Company in any form, real, personal, or mixed. The City may enforce this lien by civil action in a court of competent jurisdiction, but such lien shall be subordinate to any mortgages or deeds of trust securing any bona fide indebtedness.

SECTION 10. AUDIT AND INFORMATION REQUIREMENTS.

(a) Audit Requirements.

1. Record Requirements. The Company shall keep and maintain complete and accurate books and records of its business and operations for the purpose of insuring compliance with this Agreement.

2. Inspection of Records. For the purpose of verifying the data provided pursuant to Subsection (a)(1) above, all records of the Company used in compiling such data shall, at the close of each quarterly period, be open for inspection by such officer, persons, or persons as may be appointed for that purpose by the City. The City may audit the Company accounts relating to delivery of gas to its customers

within the corporate limits of the City and to the City outside its corporate limits, gross revenues, and property subject to taxation by the City for the purpose of verifying the distribution of such property by taxing districts, and may thus confer with the Company regarding any alleged or reported discrepancies or irregularities in Company procedures or activities relating to data submitted pursuant to this Section. The Company shall provide responses to inquiries made by the City within a reasonable amount of time.

(b) Information Required by Other Regulatory Agencies. The City may request in writing copies of any and all reports, data, and any other type of information which the Company is required to submit to any other governmental or quasi-governmental body, including, but not limited to, the United States of America, the Federal Energy Regulatory Commission, the State of Arizona, and the Arizona Corporation Commission. Reports, data, and any other types of information filed confidentially and not available to the public do not have to be submitted to the City.

(c) City Energy Usage. The Company shall upon request provide to the City all information it maintains with respect to energy usage by the City at each location in which gas is delivered to a City owned or maintained location. Such information may be requested only once every twelve (12) months and shall be provided at the cost set by the Company's billing tariff as approved by the Arizona Corporation Commission.

SECTION 11. RELIABILITY OF UTILITY SERVICE.

(a) Service Outage Map. On an annual basis, the Company shall provide to the City a report of all service outages that last for longer than one (1) hour, technical

upgrades made to its distribution system, and efforts made to improve the reliability of the distribution system.

(b) Reporting and Access. The Company shall report in advance to the City any plans to include technological advances relating to communications systems, such as fiber optics, which may utilize Facilities already in place for the transmission of communication signals, which Facilities may be installed by the Company for its use, the use of the City, or for use of others as the Company may license. The City may use said Facilities if it reaches a prior agreement with the Company regarding consideration for the use of said Facilities. In no event shall the City's use impair the Company's ability to use its own Facilities. Upon request of the City, the Company will provide a detailed report for the use of such communications systems subject to protecting confidential information. Nothing contained herein shall be construed to authorize the Company to provide commercial telecommunications activities to the public, nor shall this Agreement be construed as a franchise or license for said telecommunications activities within the City.

SECTION 12. EMERGENCY PROCEDURES.

(a) Company Equipment and Staff Requirements. The Company shall maintain equipment and staff capable of providing timely emergency repairs and restoration of service in case of power outages and other events which may present a danger to public safety or health.

(b) Joint Emergency Procedures. The Company shall cooperate with the City in developing joint standard operating procedures for emergencies requiring the collective response of City departments, such as Police and Fire, and the Company.

SECTION 13. INTERCONNECTIONS.

The Company shall provide information to its customers necessary for interconnection of distributed generation with its distribution system, and the Company must allow such connections to its distribution system. The Company shall not impose any requirements, standards, or tests on any grid-interconnected system exceeding applicable federal or state regulatory standards.

SECTION 14. CONSTRUCTION, MAINTENANCE, AND REPAIR OF THE RIGHT-OF-WAY.

(a) Interference with Public Uses. The gas transmission and distribution systems, and appurtenances herein provided for, to be constructed, installed, operated and maintained hereunder, shall be so located or relocated as to interfere as little as is possible with traffic or other authorized uses, including that of other utilities, over, under, or through the Right-of-way.

(b) Repair of the Right-of-way. If, in the installation, use, or maintenance of its Facilities, the Company damages or disturbs the surface or subsurface of any public road or adjoining public property of the public improvement located thereon, therein, or hereunder, the Company shall promptly, at its own expense and in a manner acceptable to the City and in accordance with applicable City regulations and standards, restore the surface or subsurface of the public road or public property or repair or replace the public improvement thereon, therein, or hereunder in as good of condition as before such damage or disturbance. If such restoration, repair, or replacement of the surface, subsurface, or any structure located thereon, therein, or thereunder is not completed within a reasonable time, or such repair or replacement

does not meet the City's duly adopted standards, the City shall, following reasonable notice to the Company, have the right to perform the necessary restoration, repair, or replacement either through its own forces or through a hired contractor, and the Company shall reimburse the City for its expenses in so doing within thirty (30) days after its receipt of the City's invoice. The Company will bear the full reasonable costs of all barricades, signing, rerouting of traffic, or other actions which the City considers necessary in the interest of public safety during the opening or alteration within the public right-of-way.

(c) Construction Delay Costs. The Company shall promptly repair and restore any property, street, alley, parkway, bridge, or public place in which the Company has performed any construction activity within a time period designated in the written notice to the Company. If, after the Company certifies to the City that its Facilities are no longer in conflict with a public project, the City discovers the Company's Facilities in the Right-of-way are still in conflict and so delays the project's construction causing the City to incur damages due to such delay, the Company shall reimburse the City for those damages attributable to the delay created by the conflict.

(d) City Notification of Delay. If the City becomes aware of a potential delay involving the Company's Facilities, the City shall promptly notify the Company of this potential delay.

SECTION 15. RELOCATION OF AND CONFLICTS WITH SERVICE.

(a) Relocation Requirement. Whenever the City shall, for a lawful purpose, require the relocation or reinstallation of any Facility of the Company or its successors in any Right-of-way, the Company shall, upon notice of such requirement and within a

reasonable amount of time, commence work to remove and relocate or reinstall such Facilities as may be reasonably necessary to meet the requirements of the City. The Company shall pay the costs of any such relocation or reinstallation unless it can demonstrate to the City that its Facilities were lawfully installed therein prior to the conveyance, dedication, or other transfer by any party of the Right-of-way to the public or to the City. For the purposes of this Section, the acquisition of Right-of-way by the City from another governmental entity shall not entitle the Company to reimbursement from the City for relocation or reinstallation unless the Company can demonstrate to the City that the Company's Facilities were lawfully installed therein prior to the conveyance, dedication, or other transfer by any party of the Right-of-way to the other governmental entity. Any money and all rights to reimbursement from the State of Arizona or the federal government to which the Company may be entitled for work done by the Company pursuant to this Section shall be the property of the Company. The City shall assign or otherwise transfer to the Company all rights it may have to recover costs for such work performed by the Company and shall reasonably cooperate with the Company's efforts to obtain reimbursement.

(b) Discovery of Conflicts. If, during the design or construction for public improvements, the City discovers a potential conflict with proposed construction, the Company shall locate and, if necessary, expose its Facilities in conflict. The City shall make every reasonable effort to design and construct projects to avoid relocation expense to the Company. The Company agrees to furnish the location information to the City within a reasonable amount of time from the date of the discovery of the potential conflict.

(c) Company Obligations if Conflict Exists. If, during the course of a project, the City determines that the Company's Facilities are in conflict the following shall apply:

1. Prior to City's Notice to Proceed to its Contractor. The Company shall, within a reasonable time after receiving written notice from the City, remove or relocate the conflicting Facility.

2. After City's Notice to Proceed to its Contractor. The City and Company shall immediately begin the coordination necessary to remove or relocate the Facility. Actual construction of such removal or relocation shall begin within a reasonable amount of time after written notification from the City to the Company of the conflict.

(d) Prior Right of City. The City reserves the prior and superior right to lay, construct, erect, install, use, operate, repair, replace, remove, relocate, regrade, widen, realign, or maintain any street and public way, aerial, surface, or subsurface improvement for all public purposes, including but not limited to water mains, traffic control conduits, cable and device, storm sewers, subways, tunnels, bridges, viaducts, or any other public construction within the Rights-of-way of the City. The Company shall move its Facilities, consistent with Subsection (a), that are located in the Right-of-way at its own cost to such a location as the City may direct within another portion of the Right-of-way.

(e) Relocation of Non-Company Systems. Consistent with the limitations of Subsection (a), if a conflict exists between the Company's future or existing Facilities and future or existing City utility or communication systems, or non-City utility systems occupying the Right-of-way under authority of a City permit, franchise, or license, the

City shall not bear the cost of relocating such City systems or non-City systems, regardless of the function served, where such systems must be relocated and the conflict between the Company's potential Facilities and existing Facilities can only be resolved by the movement of the existing City or permittee systems.

SECTION 16. PROJECT DESIGN MODIFICATIONS.

If City construction projects require design modifications as a direct result of the Company's Facilities in the Right-of-way, the City and Company shall make reasonable efforts, including design modifications if practicable, to avoid conflicts with Company Facilities. The Company shall pay for any increased construction or redesign costs caused by such modification. Such modifications may be made only in the event the City and Company determine that modification of the project is more feasible than relocation of the Facility.

SECTION 17. PERMITS AND LICENSES.

(a) Permit Requirement. The Company shall, when required by the City Charter, Code, or ordinance, obtain a permit and pay all applicable fees prior to removing, relocating, or reconstructing, if necessary, any portion of its gas transmission and distribution system in the right-of-way. Whenever the Company causes any opening or alteration to be made for any purpose in any right-of-way, the work shall be completed within a reasonable time and the Company shall, consistent with the requirements of the City Charter, Code, or ordinance, without expense to the City, and upon the completion of such work, restore the property disturbed in a manner consistent with the City's duly adopted standards or as required by its permit which may incorporate special standards when required for City purposes. Pursuant to the City

Charter, Code, or ordinance, the City shall issue such permit to the Company on such conditions as are reasonable and necessary to ensure compliance with the terms and conditions of this Agreement and any other applicable ordinance or rule or regulation of the City.

(b) Permit Requirement in Emergency Situations. Notwithstanding Subsection (a), if the Company is required to make repairs in compliance with Federal and/or State codes that are of an emergency nature, the Company shall notify the City prior to such repairs, if practicable, and shall obtain the necessary permits in a reasonable time after notification.

SECTION 18. CITY ACCESS TO COMPANY INFRASTRUCTURE.

(a) In General. The Company shall, without cost to the City, permit the use by the City of space in excess of the Company's existing or projected requirements upon its Facilities for Wires for fire alarm, police, and communications purposes of the City. The Company shall furnish, string on the available space on its poles, and draw in and maintain in the available space in the conduits and subways of the Company, all Wires and fixtures necessary for fire alarm, police, and communication purposes of the City. The City shall pay the Company's actual cost for providing access to its infrastructure under this Section.

(b) City Access to Company Underground Facilities. Whenever the Company proposes to install new underground conduits or replace existing underground conduits within or under the Right-of-way, it shall notify the City as soon as is reasonable prior to such construction and shall allow the City, at its own expense and without charge to the Company, to share the trench of the Company to lay its own conduit. The City's access

may not unreasonably interfere with the Company's Facilities, the utility systems of other entities lawfully permitted in the Right-of-way, or delay the accomplishment of the project.

(c) Excess Capacity. If requested by the City under Subsections (a) and (b), the design of any new or upgraded infrastructure of the Company shall provide for capacity dedicated for City use. The City shall pay all costs of design, construction, and maintenance of such infrastructure associated with such additional capacity.

(d) Indemnification. The City shall indemnify and hold harmless the Company, its officers, employees, agents, and servants against and from any and all claims, demands, causes of action, suits, proceedings, regardless of the merits of the same, damages, including damages to Company property, liability, and costs or expenses of every type, all or any part thereof which arises by reason of any injury to any person or persons, including death, or property damage, resulting from the negligence of the City, its officers, boards, commissions, agents, employees, and servants which may be occasioned by the use set forth in this Section or while performing any functions in proximity with the Company's operations under this Agreement except where the Company's negligence has in some manner contributed.

(e) Subject to applicable federal, state and municipal law, City reserves the right and power to purchase and condemn the plant and distribution facilities of Company within City's corporate limits or any additions there, as provided by law.

SECTION 19. FAILURE TO RENEW AGREEMENT.

If this Agreement is not renewed prior to the expiration of its term and the City has not purchased or condemned the Facilities, the Company and the City agree to

abide by the terms of this Agreement for one (1) year after such expiration or until a new agreement is reached, whichever occurs first.

SECTION 20. REMOVAL OF FACILITIES.

When the Company abandons any of its Facilities and records such abandonment pursuant to A.R.S. § 40-360.30(A), it shall notify the City of such abandonment. Abandoned Facilities shall be removed from the Right-of-way to the satisfaction of the City at Company's cost unless permitted by the City to be left in place in such manner as the City may prescribe. The Company shall, to the satisfaction of and without cost or expense to the City, promptly remove such Facilities. All City property affected by such removal shall be repaired and restored by the Company consistent with the provisions of this Agreement upon written notice from the City. Any such Facilities which are not removed within one hundred twenty (120) days of either the date of abandonment or of the date the City authorizes removal, whichever is later, shall automatically incur charges to be determined by the City. For the purposes of this Section, "abandoned" has the same meaning as that term has in A.R.S. § 40-360.21(1).

SECTION 21. SUCCESSORS OR ASSIGNS.

(a) Assignment Requirements. The right, privilege, or franchise granted by this Agreement shall not be leased, assigned, or otherwise alienated without the express consent of the City evidenced by an ordinance or resolution passed by the Council. The Company shall provide not less than ninety (90) days' notice to the City prior to any such assignment. No dealing with the lessee or its assigns on the part of the City to require the performance of any act or payment of any compensation shall be deemed to operate as such consent. Any assignment shall become effective upon the

passage of an ordinance or resolution by the City and written acceptance of this Agreement and any renegotiated terms by the lessee or assignee.

(b) City Consent Provided. The consent of the City is given to the Company to subject this grant and any property constructed or operated under it to any present or future mortgage or other charge incurred by the Company in the ordinary course of business solely for the purpose of securing bonds, notes, or other obligations of the Company. A mortgagee, creditor, or trustee may exercise its rights under any such mortgage or charge without further consent of the City and may purchase at judicial, trustee's, or other involuntary sale and may own and exercise this Agreement and the rights granted by it, but shall be equally subject, with the Company, to the duties and obligations imposed by this Agreement.

SECTION 22. REGULATION BY THE CITY.

As required by the City Charter, the City expressly reserves to itself, subject to the limitations of the Constitution and laws of Arizona, the right, whether in terms reserved or not, to make all regulations which shall be necessary to secure, in the most ample manner, the uniform, convenient, and adequate service to the public, including, among other things, the right to pass and enforce ordinances to require reasonable extensions of such service and of such public utility works. The City, subject to the limitations of the Constitution and laws of Arizona, shall have full power to enforce, by forfeiture or otherwise, compliance by the Company with all of the terms and conditions of this Agreement for the effective security of efficient service or for the continued maintenance of the property of the Company in good condition and repair throughout the term of this Agreement.

SECTON 23. DISPUTE RESOLUTION.

(a) In General. If a dispute exists regarding an obligation of the City or Company under this Agreement and the matter cannot be resolved through the mutual agreement of the parties, such controversy may be submitted to arbitration. The arbitration procedures described in A.R.S. § 12-1501, et seq. (Uniform Arbitration Act), shall be followed to the extent they do not conflict with the provisions of this Section.

(b) Dispute Resolution Board. All disputes regarding an obligation of the Company or City under this Agreement may be submitted to a Dispute Resolution Board. The Board shall consist of one member selected by the City, one member selected by the Company, and a third person agreed upon by both parties. The person agreed upon by both parties shall be chairperson of the Board. The City and the Company shall share expenses for the Board equally.

(c) Decisions of the Board. The Board shall hear disputes promptly and render an opinion as soon as possible but in no event later than sixty (60) days after the Board has concluded the arbitration proceedings. Decisions of the Board are not binding on the City or the Company.

SECTION 24. ENTIRE AGREEMENT.

This Agreement constitutes the entire agreement of the parties. There have been no representations made other than those contained in this Agreement or any exhibits.

SECTION 25. SEVERABILITY.

(a) In General. Except as provided in Subsection (b), if any provision of this Agreement is adjudged invalid or unconstitutional, the same shall not affect the validity

of this Agreement as a whole or any part of the provisions hereof other than the part so adjudged to be invalid or unconstitutional.

(b) Exception. If any part of of Section 9 is adjusted invalid or unconstitutional, this entire Agreement will be deemed to be invalid and without effect.

SECTION 26. INDEMNIFICATION AND INSURANCE.

(a) Indemnification. The Company shall indemnify, defend, and hold harmless the City from any and all claims, demands, suits, actions, proceedings, loss, cost, and damages of every kind and description, including any reasonable attorney's fees and/or litigation expenses, which may be brought or made against or by any person, caused by, arising out of, or contributed to, in part, by reasons of any act, omission, professional error, fault, mistake, or negligence of the Company, its employees, agents, representatives, or affiliates, their employees, agents, or representatives in connection with or incidental to the performance of this Agreement, or arising out of worker's compensation claims, unemployment compensation claims, or unemployment disability compensation claims of employees of the Company and/or its affiliates or claims under similar such laws or obligations.

(b) Insurance. The Company shall maintain throughout the term of this Agreement liability insurance to adequately insure and/or protect the legal liability of the Company with respect to the installation, operation, and maintenance of its Facilities together with all the necessary and desirable appurtenances authorized by this Agreement to occupy the Right-of-way. Such insurance program will provide protection for bodily injury and property damage including contractual liability and legal liability for damages arising from the operation by the Company of its Facilities. Such insurance

program shall comply with the insurance requirements of the City Risk Manager. The Company shall file with the City documentation of such liability insurance program within sixty (60) days following the effective date of this Agreement and thereafter upon request of the City. Failure to file such documentation shall render this Agreement voidable at the option of the City. The policy limits or any insurance maintained in compliance with this Section shall not limit the Company's indemnification requirements under Subsection (a).

SECTION 27. FORCE MAJEURE.

The Company shall not be deemed to be in violation of this Agreement for the delay of performance or failure to perform in whole or in part its obligations under this Agreement due to strike, war or act of war (whether an actual declaration is made or not), insurrection, riot, act of public enemy, fire, flood, act of God, or by other events to the extent that such events are caused by circumstances beyond the Company's control and are not caused by negligence on the part of the Company or any person acting on its behalf. In the event that the delay in performance or failure to perform affects only part of the Company's capacity to perform its obligations under this Agreement, the Company shall perform such obligations to the extent it is able to do so in as expeditious a manner as possible. The Company shall promptly notify the City in writing of an event covered by this Section and the date, nature, and cause of the event. The Company, in such notice, shall indicate the anticipated extent of such delay and the obligations under this Agreement that will or may be affected by the delay or failure to perform.

SECTION 28. ELECTION.

This Agreement shall be submitted to be voted upon by the qualified electors residing within the corporate limits of the City at a general or special municipal election of the City to be held for that purpose. Before calling any such election, the estimated, reasonable, pro rata expenses of the election, to be determined by the Council, shall be first deposited by the Company for such franchise with the City Clerk.

SECTION 29. NOTICES.

Unless otherwise specified in this Agreement, all notices from the Company to the City pursuant to or concerning this Agreement shall be in writing and delivered to the City Manager. The Company shall maintain within the City throughout the term of this Agreement an address for service of notices from the City by mail and a local office and telephone number for the conduct of matters relating to this Agreement during normal business hours. The Company shall provide to the City, within thirty (30) days after the effective date of this Agreement, the name, position, and address of the individual who is designated by the Company to receive notices from the City pursuant to or concerning this Agreement.

DATED this 2ND day of JUNE, 2004.

CITY OF NOGALES

By _____
Mayor

Attest:

_____
Clerk, City Council

Approved as to Form:

_____
City Attorney

UNS GAS, INC.

By: _____

Title: Senior Vice President