

ORDINANCE NO. 280

AN ORDINANCE GRANTING TO THE SAN MIGUEL POWER ASSOCIATION INC., ITS SUCCESSORS AND ASSIGNS, AN ELECTRIC LIGHT, HEAT AND POWER FRANCHISE

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF RICO, COLORADO

PART I

Section 1: On or about September 1, 1972, the Town of Rico, by Ordinance provided for by franchise that San Miguel Power Association, Inc., or a predecessor supplier of electric light, heat and power was granted an exclusive franchise to operate within the municipal boundaries of the Town of Rico, which franchise expired September 1, 1987.

Section 2: San Miguel Power Association, Inc. continued to operate within the municipal boundaries of the Town of Rico and to collect and pay over to the Town of Rico, in cash, a sum equal to 2% of the gross revenue derived by the company from the sale and use of electrical power and energy within the corporate limits of the Town of Rico. Said payments having been made by the company, and accepted by the Town, the Town hereby accepts and ratifies any and all actions, collections, and operations of San Miguel Association, Inc. relating to the sale of electric, heat, light and power within the municipal limits of the Town of Rico during the period of lapse.

PART II

Section 1: That there is hereby granted to San Miguel Power Association, Inc., a Corporation, organized under and by virtue of the laws of the State of Colorado, its successors and assigns, (hereinafter called the "Company") the right, privilege or franchise for a term of fifteen (15) years from and after July 11, 1989, to erect, construct, maintain and operate in the present and future streets, alleys and public places in the Town of Rico, State of Colorado, and its successors, electric light and power lines, together with all the necessary or desirable appurtenances (including underground conduits, poles, towers, wires, transmission lines and telegraph and telephone lines for its own use), for the purpose of supplying electricity to said Town the inhabitants thereof; and to persons and corporations beyond the limits thereof, for light, heat, power and other purposes.

Section 2: The kind and quality of service to be furnished by the Company thereunder shall conform to standard electrical engineering and operating practices and shall be equivalent to that furnished to other municipalities of the State of Colorado of the same class as and similarly situated to the Town of Rico.

Section 3: The Company shall furnish electrical energy within the corporate limits of the Town or any addition to the Town and to the inhabitants and any person or persons or corporation doing business in the Town or any addition thereto at the rates and under the terms and conditions set forth in rate schedules, standards for rules and regulations and service connection and extension policies as are effective from time to time as determined in accordance with the laws and regulations of the State of Colorado.

Section 4: Poles and towers shall be so erected as to interfere as little as possible with traffic over said streets and alleys. The location of all poles, towers and conduits shall be fixed under the supervision of the Board of Trustees of said Town but not so as unreasonably to interfere with the proper operation of said lines.

Section 5: It is agreed and understood that the Town reserves the right to purchase or condemn the electrical distribution system of the Company in a manner provided by law.

Section 6: For the rights and privileges granted by said franchise to the Company, and so long as the Company shall exercise the rights and privileges granted thereby, the Company agrees to pay quarterly to the Town of Rico, in cash a sum equal to two (2) per centum on the gross revenue derived by the Company from the sale and use of electrical power and energy within the corporate limits of the Town of Rico, said payments to be in lieu of any municipal, occupation or license tax upon the Company, its property or business. The term "gross revenue" as used herein shall be construed to mean any revenue of the Company derived from the sale and use of electric power and energy within the Town beginning with July 11, 1989; after adjustment for the net write-off of uncollectible accounts and any corrections of bills theretofore rendered.

Section 7: The quarterly payments herein specified shall be made not later than the 25th day of the month following the preceding calendar quarter. Each payment shall be supported by a statement verified by a duly authorized representative of the Company as to its truth or correctness, showing the gross revenues for the period covered by said payments. The books of the Company showing gross revenues derived from the sale and use of electric power and energy within the corporate limits of the Town of Rico shall be open for inspection by the Board of Trustees of said Town or its authorized representatives at all reasonable times for the purpose of verifying said adjusted gross revenues.

Section 8: The Company shall so maintain its electrical equipment and distribution systems as to afford all reasonable protection against injury or damage to persons or property therefrom, and the Company shall indemnify the Town from all liability or damage and all reasonable expenses necessarily

accruing against the Town arising out of the negligent exercise by the Company of the rights and privileges hereby granted; provided that the Company shall have had notice of the pendency of any action against the Town arising out of such exercise by the Company of said rights and privileges and be permitted at its own expensen to appear and defend or assist in the defense of the same.

Section 9: All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

Section 10: This ordinance shall take effect as soon as it shall have been approved, published as required by law and deposited and recorded in the office of the Recorder and Clerk of the Town of Rico.

Passed on first reading this 13th day of June 1989.

Lonnie Cole
Mayor

ATTEST

Linda Yellowman
Town Clerk

STATE OF COLORADO)
)ss.
County of Dolores)

I, Linda Yellowman, the duly qualified and acting Clerk of the Town of Rico, Colorado, hereby certify that the foregoing is a full, true and correct copy of a proposed ordinance granting an electric light, heat and power franchise to San Miguel Power Association, Inc., introduced and placed upon its first reading at a regular meeting of said Town Board to be held at the hour of 7:30 P.M. on June 13, 1989 in the Town Hall in said Town.

WITNESSED my hand and the corporate seal of said Town this 14th day of June 1989.

Linda Yellowman
Town Clerk