

APPENDIX B - FRANCHISES

FRANCHISES

NOTE: The franchise ordinances included herein are for information only. Each of them contains the substance as adopted by the governing body but enacting clauses, repealers and signatures have been omitted. Complete copies of each ordinance as adopted are on file in the office of the city clerk. Date of adoption of each franchise ordinance is shown in parentheses at the end of the text.

ORDINANCE NO. 547

AN ORDINANCE GRANTING THE WHEATLAND ELECTRIC COOPERATIVE, INC. ITS SUCCESSORS AND ASSIGNS, THE FRANCHISE AND RIGHT TO CONSTRUCT, OPERATE AND MAINTAIN ELECTRIC TRANSMISSION AND DISTRIBUTION LINES, FACILITIES OR SYSTEMS WITHIN THE CORPORATE LIMITS OF THE CITY OF ARGONIA STATE OF KANSAS, TO TRANSMIT, DISTRIBUTE AND SELL ELECTRIC ENERGY TO THE SAID CITY AND ITS INHABITANTS, AND TO TRANSMIT ELECTRIC ENERGY THROUGH THE SAID CITY FOR DISTRIBUTION AND SALE TO RESIDENTS OUTSIDE THE CITY.

Section 1

The Wheatland Electric Cooperative, Inc., a corporation organized and existing under and by virtue of the laws of the State of Kansas (hereinafter called the "Cooperative"), its successors, lessees or assigns, said Cooperative being a cooperation, operating a system for the transmission of electric current between two or more incorporated cities in the State of Kansas, into and through which it has built transmission lines, is hereby granted the franchise, privilege and right for fifteen years, to construct, operate and maintain electric transmission and distribution lines or systems with the limits of the City of Argonia, hereinafter called the City (as said limits are presently constructed or may in the future be extended), to transmit distribute and sell electric energy to the City or its inhabitants , and for sale to residents outside the City.

Section 2

The grant herein made includes the further right and privilege to construct, operate, maintain and repair, relocate and extend said electric lines or systems including all poles, wires, cables, conductors, conduits, anchors, guys, transformers, transformer stations, and all fixtures and facilities necessary for the convenience of the Cooperative's business along, upon, over, under, through and across the streets, alleys, and public grounds, within the said City (as said streets, alleys, and public grounds are presently laid out or as they may be laid in the future.) This grant includes the right to enter upon such lands as necessary to carry out the privileges and obligations granted hereunder.

Section 3

Said electric lines or systems, poles , wires, cables, conductors, conduits, anchors, guys, transformers, transformer station, and all fixtures and facilities necessary for the operation of the Cooperative's business, shall be constructed, operated, maintained, repaired or relocated in such places and manner as will be consistent with necessity, and cause the least inconvenience with other public uses of such streets, alleys or public grounds . When Cooperative shall do any work of construction, repair or maintenance of said system in the course of which any pavements, curbing or gutter upon any street,

alley, bridge or public place shall be excavated, Cooperative shall properly protect excavations and shall promptly restore such street, alley, bridge or public place as far as practicable to as good condition as before such work was done. Cooperative will hold the City harmless from any liability arising from the sole negligent act or omissions of said grantee. Cooperative shall provide and keep in force public liability insurance with limit of One Million Dollars (\$1,000,000.00) for bodily injury and property damage and a Five Million Dollars (\$5,000,000.00) Umbrella policy, such policies naming both Cooperative and City as insured parties. Cooperative shall maintain on file at the Office of the City Clerk a current Certificate of Insurance verifying such public liability coverage.

Section 4

As consideration for the granting of this franchise, the Cooperative shall:

- a) Operate and maintain the existing standard street lighting system for the City and in the event of growth of the City or reasonable need for change, modification or improvement of said street lighting system as the cooperative and the City may agree upon, and upon terms that are fair, reasonable and just to the Cooperative and the City and, if applicable, in accordance with the latest legally adopted rates, rules and regulations.
- b) For the cost of operation and maintenance of said street lighting system, the City agrees to pay the Cooperative in accordance with the Cooperative's latest public street lighting rate schedule or succeeding rate schedule.
- c) The Cooperative agrees to sell and deliver unto the City during the period of this franchise such energy as may be required by the City for heat, power and other end uses the governing body of the City shall direct, all in accordance with its current municipal power service rate schedule or any succeeding legally adopted rate schedule.
- d) The Cooperative, its successors and assigns, shall locate its electric lines or system in the streets, avenues, alleys and other public places in such a manner as to cause the least interference with the use of said streets, avenues, alleys and public places. At times when City causes public improvements to be made to any streets, avenues, alleys or other public places within the City that are occupied by Cooperative's electrical facilities or system, Cooperative shall, at the request of the City, relocate its electrical facilities or system at Cooperative's expense to conform to the City's planned improvement. If said Cooperative is required to move, alter or rebuild any of its electrical facilities or system not located on public right-of-way, the cost of moving altering or rebuilding said facilities or system not located on public right-of-way, shall be borne by the requesting party. In the event City vacates or otherwise abandons City right-of-way on which Cooperative facilities or systems are located, or planned to be located, the Ordinance and contract selling, vacating or abandoning such City right-of-way shall provide a City-granted easement to Cooperative.
- e) The Cooperative's rights and obligations under the franchise agreement may be terminated by the Cooperative if the City, or an entity owned, operated, controlled or affiliated with the City, begins to provide electric service to customers within the City's boundaries or within three (3) miles thereof. If Cooperative elects to cease exercising any of its rights or obligations under this franchise pursuant to this provision, the Cooperative shall give the City thirty (30) days written notice prior to such termination.

Section 5

In consideration of the premises, the Cooperative agrees to pay to the City, and the City agrees to accept as adequate compensation and consideration for the franchise hereby granted and in lieu of occupation, license, privilege and all other taxes and fees, 5% percent of the total of the gross receipts for electric energy sold by the Cooperative to all consumers located within the City's boundaries during the term of this franchise. Any consideration hereunder shall be reported and paid to the City by the Cooperative on a semiannual basis on each March 31 and September 30 for the years in which the franchise remains in effect, reflecting such electric energy sold to customers within the City's boundaries for the six months' period ending at the last meter reading preceding each February 28 and August 31, respectively. Such payments shall be rendered in cash to the City. The term "gross receipts", as used in this Section shall include all receipts from the sale of electric energy as used in the City of Argonia, Kansas, and shall exclude electrical energy sold for resale. The City may elect to exclude receipts from (1) electrical energy sold to the United States or the State of Kansas or to any agency or political subdivision thereof, and (2) the electrical energy sold for other use which cannot be classified as domestic, commercial, or industrial, such as the electrical energy used by public utilities, telephone, telegraph, and radio communication companies, railroads, pipe line companies, educational institutions not operating for profit, churches and charitable institutions, *provided* it provides Cooperative 90 days' notice of such request in writing.

Section 6

The City shall have access to and the right to examine, at all reasonable times, all books, receipts, files, records and documents of Cooperative necessary to verify the correctness of said payments.

Section 7

The Cooperative, its successors and assigns, in the construction, maintenance and operation of its electric system, under the rights and privileges herein granted, shall exercise all reasonable and proper precaution to avoid damage or injury to persons or property, and shall hold and save harmless the City of Argonia, Kansas, from any and all damage, injury and expense caused by the sole negligence of said Cooperative, its successors and assigns, or its or their agents or servants.

Section 8

The Cooperative is hereby granted the privilege of trimming such trees located within the City's boundaries as may interfere with the safe and proper construction and operation of the electric system.

Section 9

No assignment of Cooperative's rights granted by this franchise shall be effective without the prior written consent of City.

(8-11-14)