

PEOPLE'S ORDINANCE NO. 32

AN ORDINANCE GRANTING A FRANCHISE BY THE CITY OF GRAND JUNCTION, TO PUBLIC SERVICE COMPANY OF COLORADO, ITS SUCCESSORS AND ASSIGNS, TO LOCATE, BUILD, CONSTRUCT, ACQUIRE, PURCHASE, EXTEND, MAINTAIN AND OPERATE INTO, WITHIN AND THROUGH SAID CITY OF GRAND JUNCTION, A PLANT OR PLANTS, SUBSTATIONS, AND WORKS, FOR THE PURCHASE, MANUFACTURE, GENERATION, TRANSMISSION AND DISTRIBUTION OF ELECTRICITY AND GAS, EITHER NATURAL, ARTIFICIAL OR MIXED, AND TO FURNISH, DISTRIBUTE AND SELL SAID ELECTRICITY AND GAS TO THE CITY OF GRAND JUNCTION, AND THE INHABITANTS THEREOF, FOR LIGHT, HEAT AND POWER OR OTHER PURPOSES BY MEANS OF PIPES, MAINS, CONDUITS, CABLES, POLES AND WIRES STRUNG THEREON, OR OTHERWISE, ON, OVER, UNDER, ALONG, ACROSS THE THROUGH ALL STREETS, ALLEYS VIADUCTS, BRIDGES, ROADS, LANES, AND OTHER PUBLIC WAYS AND PLACES IN THE CITY OF GRAND JUNCTION, AND AUTHORIZING SAID COMPANY, ITS SUCCESSORS AND ASSIGNS, TO USE CERTAIN STREETS AND PUBLIC PLACES FOR THE PURPOSE OF FURNISHING SAID SERVICES; AND FIXING THE TERMS AND CONDITIONS THEREOF IF THE RESULTS OF A VOTE OF THE QUALIFIED ELECTORS SHALL HAVE BEEN DETERMINED TO HAVE BEEN AFFIRMATIVE FOR THE GRANT OF SAID FRANCHISE.

WHEREAS, Public Service Company of Colorado has filed its application with the City of Grand Junction, Colorado, for the granting to it by the City of Grand Junction, Colorado, for a franchise in terms as hereinafter set forth; and

WHEREAS, according to the terms of the Charter of the City of Grand Junction, the Treasurer of the City of Grand Junction has determined that the expense of the submission to the qualified electors of the question of granting such franchise is the amount of \$3,500.00; and

WHEREAS, Public Service Company of Colorado, Applicant for such franchise, has deposited with the Treasurer of the City of Grand Junction the sum of \$3,500.00 for the expense of the submission of the question of the granting of such franchise to the qualified electors, all in accordance with the City Charter of the City of Grand Junction, Colorado.

BE IT ORDAINED BY THE CITY COUNCIL  
OF THE CITY OF GRAND JUNCTION

THIS ORDINANCE shall not become effective unless and until it shall have been submitted to and approved by the vote of the qualified electors of the City of Grand Junction, voting at a Special Election to be held in accordance with the Charter of

said City, and with the laws of the State of Colorado in such case made and provided.

## ARTICLE I

### Section 1

#### Definitions.

"City" - the City of Grand Junction, Colorado, the grantor of the within franchise; also, depending upon the context, may refer to the City of Grand Junction as now constituted or as the same hereafter increases in size by annexation and otherwise.

"Company" - Public Service Company of Colorado, a Colorado corporation, the Grantee of the within franchise and including also its successors and assigns.

"Public Utilities Commission" - shall refer to the Public Utilities Commission of the State of Colorado and shall include any authority succeeding to the regulatory powers thereof.

"Grand Junction Service Area" - the Grand Junction Service Area shall be as delineated on the map attached hereto and made a part hereof; provided there shall be excepted therefrom any portion of such area which becomes a part of another municipality during the term of this franchise.

"Street(s) and Public Way(s)" - shall include and extend to streets, alleys, viaducts, bridges, roads, lanes and easements through and in which the City is the grantee or holder thereof for street and/or utility purposes and also any extension, connection with or continuation of the same, and all new streets, alleys, viaducts, bridges, roads, lanes and easements in which the City is the grantee or the holder thereof for street and/or utility purposes as may be hereafter laid out, opened, located or constructed within the territory now or hereinafter included in the boundaries or limits of said City; provided, however, such shall not be construed to mean or include parkland or other land owned by the City.

## ARTICLE II

### Section 1

#### Grant of Authority.

The City does hereby grant to the Company the franchise right, privilege and authority to construct, purchase, acquire, locate, maintain, operate and extend into, within and through

said City, plants, works, systems and facilities for the generation, production, manufacture, storage, purchase, exchange transmission and distribution of electrical energy and gaseous fuels (natural, artificial, synthetic, liquified natural, liquified petroleum, manufactures, or other mixture thereof), for lighting, heating, cooling, power, or other similar utility purposes with the right and privilege for the period and upon the terms and conditions hereinafter specified to sell, furnish and distribute any or all of said electrical energy and electrical service and gaseous fuel and gas service to the City and the inhabitants thereof, by means of pipes, mains, conduits, wires, cables, poles and structures, or otherwise, on, over, under, along and across all streets, and public ways in the City. The authority granted by this Section shall apply to the following streets and public ways, and any extension, connection with or continuation of the same streets, public ways and other public places as may be hereafter laid out, opened, located or constructed within the territory now or hereafter included in the boundaries of said City of Grand Junction, to the same extent as set forth in this Section: Acoma Drive, Allyce Avenue, Apache Drive, Aspen Avenue, Bacon Street, Bader Drive, Ball Ridge Court, Balsam Court, Bass Street, Belaire Drive, Belford Avenue, Bluegill Drive, Boeing Street, Bonita Avenue, Bookcliff Avenue and Drive, Brassie Drive, Brittany Drive, Bunker Drive, Bunting Avenue, Callow Lane, Cannell Avenue, Canon Street, Capra Way, Cedar Avenue and Court, Center Avenue, Cheyenne Drive, Chipeta Avenue, Cherry Lane, Chuluota Avenue, Cindy Ann Road, Colorado Avenue, College Place, Compton Street, Consistory Court, Court Road, Crawford Avenue, David Street, Dolores Street, Dorothy Avenue, El Corona Drive, Ella Street, Elm Avenue and Drive, Elm Circle and Court, Epps Drive, Escalante Street, Fairway Drive, Fairview Avenue, Fischer Avenue, Franklin Avenue, Gary Drive, Glen Road, Glenwood Avenue, Grand Avenue, Grand Mesa Avenue, Gunnison Avenue and Boulevard, Hale Avenue, Hall Avenue, Harris Road, Hermosa Avenue, Highland Drive East and West, Hill Avenue, Hillcrest Avenue, Holly Lane, Hopi Drive, Horizon Court, Houston Avenue, Idella Court, Independent Avenue, Juniper Court and Street, Kennedy Avenue, Kimball Avenue, Knollwood Lane, Laguna Drive, Lakeshore Drive, Lakeside Drive and Court, Lauralee Avenue, LaVeta Street, Lawrence Avenue, Lilac Lane, Linda Lane, Lorey Drive, Lost Lane, Lowell Lane and Avenue, Main Street, Manor Avenue, Mantey Heights Drive, Maple Court and Street, Mayfair Drive, McFarland Court, Mesa Avenue, Mesa Court, Milo Drive, Minnow Drive, Mira Vista Road, Miriam Avenue, Mountain View Drive, Mt. View Circle and Street, Mulberry Street, Music Lane, Niblic Drive, Nine Iron Drive, Noland Avenue, Normandy Drive, North Avenue, Northacres Road, Northern Way, Northridge Drive, Orchard Avenue, Ouray Avenue, Overlook Drive, Palisade Street, Palmer Street, Patterson Road, Pear Street, East Parkview, West Parkview, Park Avenue and Drive, Peach Street,

Pinyon Avenue and Street, Pitkin Avenue, Poplar Court and Drive, Pine Street, Picardy Drive, Parkland Court, Princess Street, Putter Drive, Rice Street, Rico Way, Ridge Drive, Ridgewood Lane (Margie Lane), Rio Grande Drive, Rockaway, Rood Avenue, Roubideaux Street, Sage Court, Santa Clara Avenue, Santa Fe Drive, Sherman Drive, Sherwood Drive West, North and East, Skyline Court, South Avenue, Sparn Court and Street, Spruce Street, Struthers Avenue, Sunshine Lane, Sunset Court and Street, Taos Drive, Teller Avenue, Texas Avenue, Unaweep Avenue, Ute Avenue, Viewpoint Drive, Vine Street, Walnut Avenue, Walnut Court, Wasatch Street, Wellington Avenue, West Street, White Avenue, Willow Road, Willowbrook Road, Winters Avenue, Zuni Drive; Streets numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27 and 28; Avenues numbered 1, 2, 3 and 4; Courts numbered 2, 3, 8 and 24; Roads numbered 26 3/4, 27, 27 3/8, 28, 28 1/4, 28 1/2, 28 3/4 and 29; Roads lettered B 1/2, B 3/4, D, F 1/4, F 1/2, F 3/4 and G; U.S. Highways 6, 24 and 50; State Highway 340; and all alleys connecting and between the above streets and public ways.

## Section 2

### Manner of Use - Repair.

The Company is further granted the right, privilege and authority to excavate in, occupy and use any and all streets, and public ways under the terms and conditions as herein set forth for the purpose of bringing electrical energy and gas into, within and through the City and supplying electrical energy and gas to said City and the inhabitants thereof and in the territory adjacent thereto; provided, however, that the Company shall so locate its plants, works, substations, transmission and distribution structures, lines, equipment, mains, pipes, and conduits within said City as to cause minimum interference with the proper use of streets, and public ways and to cause minimum interference with the right or reasonable convenience of property owners whose property adjoins any of said streets or public ways. Should it become necessary for the Company, in exercising its rights and performing its duties hereunder, to interfere with any sidewalk, street or public way or any other public improvement, all applicable and necessary permits shall be obtained without charge and the Company shall, at its own cost and expense, in a workmanlike manner, repair, replace and restore such sidewalk, street or public way or other improvement after the installation of mains, pipes, conduits, poles or other structures. The Company shall be liable, as provided by law, for damage to any water mains, sewers or other public improvements belonging to the City now in or which may hereafter be placed in said streets or public ways due to construction activities of the Company. Location of

City water and sewer mains and other City facilities will be supplied to the Company upon request.

The Company agrees to comply with any valid requirements which the City may impose through the City Council, from time to time with respect to digging, making a cut or other opening in a sidewalk or street or public way of the City.

### Section 3

#### City Held Harmless.

The Company shall so maintain and operate its plant, equipment, poles, wires, mains, pipes, structures and apparatus as to afford all reasonable protection against injury or damage to persons or property therefrom. The Company shall save the City harmless from all liability, or damage and all claims or demands whatsoever in nature, and all reasonable expenses, including attorneys' fees, arising out of the exercise by the Company of the rights and privileges herein granted; provided, that the Company shall have had notice of the pendency of any claim or action against the City arising out of such exercise by the Company of said rights and privileges and be permitted at its own expense to appear and defend or assist in the defense of the same.

### Section 4

#### Relocation at Company Expense.

If at any time it shall be necessary for the Company to relocate any facility lying within, on, over, across or above any street or public way to permit the City to make any public improvement or build any public project, such relocation shall be made by the Company at its own expense. Such relocation shall be accomplished by the Company in accordance with a schedule established by the City after consultation with the Company and shall be done in the manner as provided in Section 2 of Article II above.

### Section 5

#### Use of Facilities by City.

The City shall have the right to use, without cost, all poles and suitable overhead structures or underground trenches of the Company within the Grand Junction Service Area for the purpose of hanging traffic signals or signs, or installing wires or for any other reasonable City use, provided, that such uses by the City shall not interfere in any unreasonable manner with the

Company's use of same or cause expense to the Company, nor shall the Company assume or be subject to liability for any damages resulting from the use of said facilities by the City.

In addition, the City shall have the right to use any other underground facilities of the Company where such use is mutually agreeable.

### ARTICLE III

#### Section 1

##### Heating Value.

The natural gas to be supplied hereunder shall contain a monthly average gross heating value of not less than the heating value set forth in applicable Rules and Regulations as are effective from time to time with The Public Utilities Commission of the State of Colorado.

#### Section 2

##### Adequacy of Supply.

The Company shall at all times during the term of this franchise, take all reasonable and necessary steps to assure an adequate natural gas supply, but if unable to reasonably procure the same, the Company may, and is hereby authorized to, supply an adequate amount of other gaseous fuels, as hereinbefore defined, or mixtures thereof, to satisfy the requirements of the City and the inhabitants thereof. The Company shall have the further right to supply said other gaseous fuels, or mixtures thereof, at periods of peak usage or at such other times or for such purposes which will result in efficiencies in the operation of the Company's system, provided that the supply of said other gaseous fuels will not impair service to the Company's customers. Such other gaseous fuels, or mixtures thereof, shall be supplied by Company in accordance with all applicable rules and orders of the Public Utilities Commission.

#### Section 3

##### General Standards of Service.

The Company shall persevere at all times in having an adequate source of supply in a quality to meet generally accepted standards of performance in the furnishing of gas and electricity to the customers in Grand Junction. Continued efforts shall be maintained to furnish the same in an efficient manner and at the lowest practicable cost.

## ARTICLE IV

### Section 1

#### Rates - Regulations.

Except as may be otherwise provided in the franchise, the Company shall furnish electrical energy and gaseous fuels within the corporate limits of the City, or any addition thereto, to the City and to the inhabitants thereof, and to any person or persons or corporation doing business in the City or any addition thereto, at the rates and under the terms and conditions set forth in the Rate Schedules, Standards for Service, Rules and Regulations, and Service Connection and Extension Policies, as are on file with and in effect from time to time with the Public Utilities Commission, all of which collectively hereinafter are referred to as "Company's Tariffs."

### Section 2

#### No Discrimination.

The Company shall not, as to rates, charges, service, facilities, rules, regulations or in any other respect make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage, provided that nothing in this grant shall be taken to prohibit the establishment from time to time of a graduated scale of charges and classified rate schedules to which any customer within an established classification would be entitled.

### Section 3

#### Extensions.

Enlargements and extensions of Company's distribution systems shall be in accordance with the Company's Tariffs.

### Section 4

#### Rules and Regulations.

The Company from time to time may, so long as not inconsistent with any of the terms hereof, promulgate such rules, regulations, terms and conditions governing the conduct of its business, including the utilization of electrical energy and gaseous fuel and payment therefor and the interference with, or alternation of any of the Company's property upon the premises of its customers, as shall be necessary to insure continuous and

uninterrupted service to each and all of its customers and the proper measurement thereof and payment therefor. The Company shall keep and maintain on file at its office in the City available to the public, copies of its Rate Schedules, Standards for Service, Rules and Regulations, and Service Connection and Extension Policies as are on file with and in effect from time to time with the Public Utilities Commission.

#### Section 5

##### Municipal Service.

The Company shall during the term of this franchise furnish upon order by the City at the various sites of consumption by the City gas and electricity in accordance with Company's Tariffs.

#### Section 6

##### Street Lights and Traffic Signals.

The Company, when providing street lighting service and electrical energy for traffic signals within the City, shall charge the City at rates not in excess of those now or hereafter prevailing in the City and County of Denver for the same or similar service, subject to the approval of the Public Utilities Commission.

The Company agrees to replace or install street lights and poles in the City with ornamental street lights and poles supplied by overhead or underground fee, as requested by the City, in accordance with Company's Tariffs. Street lights and poles which are acquired by the City from a source other than the Company shall be provided street lighting service upon order of the City in accordance with provisions hereinabove set forth.

#### ARTICLE V

#### Section 1

##### Franchise Fee and Payment.

As consideration for this franchise, and in lieu of other compensation for the franchise granted herein (except any lawful taxation upon the property of the company or any licenses, charges or impositions not levied on account of such use), the Company shall pay to the City a sum equal to three percent (3%) of the first Ten Thousand Dollars (\$10,000.00) of annual gross revenue derived from the sale of electric energy and of the first Ten Thousand Dollars (\$10,000.00) of annual gross revenue derived from the sale of gaseous fuel, to each customer at any one



location, and a sum equal to two (2%) per cent of the annual gross revenue derived from the sale of electrical energy or gaseous fuel in excess of Ten Thousand Dollars (\$10,000.00) to each customer for each such service so used at any one location, provided, however, there shall be excluded from all of such gross revenue all amounts paid to the Company by the City for street lighting and other public authority rates under which the City receives service.

In the event that the franchise fee herein provided is declared illegal, unconstitutional or void by any court or other proper authority, then it is agreed that the Company shall be contractually bound to pay the City on the same schedule as provided herein for the franchise fee an aggregate amount equal to that amount which would have been paid as a franchise fee.

The term "gross revenue" as used herein shall be construed to mean any revenue derived within the City from the sale of electrical energy and gaseous fuels after adjustment for the net write-off of uncollectible accounts and corrections of bills theretofore rendered and in the event that the gross revenue of the Company for any period of time during the term of this franchise is subsequently reduced by virtue of a refund to any of the customers of the Company upon which the above-referred to franchise payment is calculated and as a result thereof the Company has paid in excess of the percent of its gross revenue provided herein as so adjusted for any such period of time, the Company shall be entitled to a refund from the City of all of said amounts paid in excess of said percentage of its gross revenue as adjusted by such refund.

On or before the fifteenth (15) day of each month following the approval and acceptance of the within franchise, the Company shall make monthly payments of one-twelfth (1/12) of the amount that is estimated by the Company to be due for the calendar year for which payments are being made. On or before the first day of March of each year the Company shall determine the amount due the City based upon the revenue received in the previous calendar year, and any amount due shall be paid to the City along with interest on such amount computed at the rate of six (6%) per cent on an annual basis for a nine (9) month period. In the event the Company is due a credit, such credit will receive interest computed on the same basis, except as provided in the next preceding paragraph. A similar schedule of payments shall be followed in the last year of the franchise and the final payment will be due within five (5) months after the last month of operations and interest shall be due as herein set forth. The City Council of the City or its duly authorized representatives shall have access to the books of the Company for the purpose of

auditing or checking to insure that the franchise fee has been correctly computed and paid.

## Section 2

### Increase in Franchise Fees.

In the event that the Company should, during the term of this franchise, increase its franchise fee payments to any city or town in the State of Colorado, in which it supplies gas and/or electric service under a franchise, in a manner which would result in a higher level of payments to the City than is herein provided, the Company agrees to place the same change or changes in effect under this franchise subject to approval by the City Council.

## ARTICLE VI

### Section 1

#### Annual Report to the City.

The Company, by the first day of May of each and every year during the term hereof shall provide the City an annual report for the prior calendar year. Such report shall set forth the results of its gas and electric operations within the City in sufficient detail to determine the indicated rate of return upon such operations. The City shall periodically review the principles and procedures used to allocate to the Grand Junction operations plant, equipment, expenses and other items that are not accounted for on a direct basis. In making such allocations, the Company agrees to consistently apply generally accepted standards, principles and procedures and will not change the method of making such allocations without so advising the City in writing and explaining the changes made. In addition, such annual report shall include a detailed statement of the amount budgeted for underground conversion under Section 3 of Article IX hereof the amount expended for the prior calendar year and a statement of amounts carried over or advanced, if any, the amounts budgeted and expended to funds for projects for which there is otherwise available either federal or state funds for undergrounding purpose. The Company shall also submit a report in which is listed all real estate property owned by the Company in the Grand Junction Service Area and such other reports as the City Council may, from time to time, request with respect to the operations of the Company under this franchise.

### Section 2

#### Technological Improvements.

The Company will introduce technological advances in its equipment and service in the City when such advances are technically and economically feasible, safe and of benefit to the City of Grand Junction and its residents. Upon request by the City, the Company shall review with and report advances which have occurred in the electric and gas industries and the extent to which such advances have been put into effect in its operations in the City.

## ARTICLE VII

### Section 1

#### Franchise Non-Exclusive.

The right to use and occupy the streets and public ways for the purposes herein set forth shall not be exclusive, and the City reserves the right to grant similar uses and other uses by way of franchise or revocable permit in said street and public ways to any other persons, partnership or corporation.

### Section 2

#### Effective Date - Term.

This franchise shall take effect upon its approval by vote of the electors of the City of Grand Junction entitled to vote, and shall continue in effect thereafter for a term of twenty (20) years, unless sooner terminated or altered under terms and provisions as hereinabove or hereinafter set forth.

### Section 3

#### Forfeiture.

It is agreed that in case of the failure of the Company to perform and carry out any of the stipulations, terms, conditions and agreements herein set forth in any substantial particular, and with respect to which redress is not otherwise herein provided, the City acting through its City Council may, after hearing, determine such substantial failure; and thereupon, after notice given the Company of such determination, the Company shall have a reasonable time not to exceed six (6) months in which to remedy the conditions respecting which such determinations shall have been made. After the expiration of such time and failure to correct such conditions, the City Council may declare this franchise forfeited and, thereupon, the Company shall have no further right, privilege or authority hereunder.

#### Section 4

##### Renewal.

Upon the expiration of this franchise, if the Company shall not have acquired an extension or renewal thereof and accepted the same, it may have, and it is hereby granted, the right to enter upon the streets and public ways of the City for the purpose of removing therefrom any or all of its plants, structures, pipes, mains, conduits, cables, poles, and wire, or equipment pertaining thereto, at any time after the City has had ample time and opportunity to purchase, condemn or replace them. In the event of removal, the Company shall accomplish the same at its own expense and do the same in a workmanlike manner and restore all areas in which any removal has occurred to the original condition and at all times protect the property of others.

#### Section 5

##### Police Power Reserved.

The right is hereby reserved to the City to adopt, from time to time, in addition to the provisions herein contained, such ordinances as may be valid exercise of its police or taxing powers.

#### Section 6

##### Restriction on Assignment.

This franchise shall not be leased, assigned or otherwise alienated without the express consent of the City agreed to by resolution of the City Council, and any assignment or sale of this franchise to any person, partnership or corporation, without the consent of the City as aforesaid, shall at the option of the City Council or the City operated as a forfeiture of the grants hereunder. No act other than above stated by the City shall constitute a consent to such lease, assignment or alienation.

#### Section 7

##### Acquisition.

The right is hereby reserved to the City to purchase or, in the event the parties cannot agree upon the purchase price, to condemn and take over the property and plant of the Company, in whole or in part, at any time during the term of this franchise, upon the payment therefor of its fair valuation, such fair valuation to be determined according to constitutional principles

of just compensation; provided, however, that if the City shall so purchase or condemn and take over either the natural gas or electric distribution system of the Company, this franchise shall be construed as separate and independent franchises, one relating to the natural gas system and the other to the electric system.

## ARTICLE VIII

### Section 1

#### Construction and Design of Facilities.

The Company, prior to construction of any transmission lines or any generating plant, building, substation, regulator station, or similar structure within the Grand Junction Service Area (including the City of Grand Junction), shall furnish to the City plans for such facility(ies) and the landscaping thereof. Such plans shall be reviewed by the City to insure that all applicable laws including building and zoning codes and air and water pollution regulations are complied with and further that aesthetic and good planning principles have been given due consideration.

### Section 2

#### Compliance with Air and Water Pollution Laws.

The Company shall continue to pursue programs which will result in its facilities meeting the standards required by law. Upon request by the City, the Company will provide the City with a status report of the Company's efforts in making all of its facilities in the Grand Junction Service area comply with applicable water pollution air pollution laws.

### Section 3

#### Open Space Program.

The Company recognizes and supports the City's preservation of open space. The Company owns or may own land and water facilities lying within the Grand Junction Service Area and will permit such lands and water facilities to be used by the public for recreational and open space use, to the extent that such use does not interfere with the Company's use of such lands and water facilities; it being recognized that the Company has the primary responsibility to operate and use such facilities for public utility purposes. The intent herein expressed shall be applicable to all land and water facilities subsequently acquired by the Company within the presently designated Grand Junction Service Area or modifications thereof.

In the event the Company at any time during the term of this franchise proposes to sell or dispose of any of its land or water facilities lying within the then designated Grand Junction Service Area, it shall permit or grant to the City the right of first refusal to purchase the same. The price at which the same will be offered shall be the fair market value thereof. In the event a bonafide offer acceptable to the Company has been received by the Company, the amount of such offer shall be deemed the fair market value. The City shall have ninety (90) days in which to exercise the right of first refusal and shall give written notice of its decision to the Company.

#### Section 4

##### Annexations.

The Company agrees that when any property which it owns becomes eligible for voluntary annexation to the City, it will petition to annex the same upon request made by the City, provided that no condition of such annexation shall impair the Company's ownership or then existing use of its property and water or water rights for public utility purposes. Except as herein provided, the Company agrees to meet all terms and conditions imposed upon the annexation by the City as are no more stringent than those imposed generally upon property owners seeking annexation of their land to the City.

#### ARTICLE IX

In recognition of the desirability for improvement in the aesthetic environment of the City, the Company agrees to pursue a policy of undergrounding the overhead electric distribution facilities in accordance with the provisions set forth hereinbelow:

#### Section 1

##### Underground Distribution Lines in New Areas.

The Company will place underground newly constructed electric distribution lines (including feeder lines) within, bordering, or needed to serve newly developed areas within the Grand Junction Service Area (including the City of Grand Junction) in accordance with the Company's Tariffs as required by subdivision and other regulations adopted by the City of other proper authority.

#### Section 2

### Overhead Conversion.

The Company will cooperate with the City in undertaking and developing a program of converting to underground existing overhead electric distribution lines (including feeder lines) in the City. In furtherance of such program and to assist in payment of the costs thereof, the City may adopt legislation necessary to accomplish the same which may include authorization for the creation of special districts in the nature of local improvement districts for areas of the City in which conversion to underground electric distribution is to be accomplished. Such conversions shall be charged for by the Company in accordance with Company's Tariffs for residential, commercial and industrial services. In establishing such tariffs for residential service, the per lot or other appropriate unit credit or allowance, except for any removal or remaining useful life costs, shall be the same as that allowed for new construction in newly developed areas.

In determining the costs of such conversion, the Company shall make no charge for the removal of or the remaining useful life of overhead distribution lines (including feeder lines) which must be replaced by the Company for any reason other than the conversion.

### Section 3

### Overhead Conversion at Expense of Company.

In addition, and to assist in the development of such program, the Company agrees to budget and allocate an annual amount equivalent to at least one (1%) per cent of the preceding year's electric revenues derived from customers within the City for the purpose of undergrounding its overhead distribution facilities in the City, at the expense of the Company, in connection with public projects to be undertaken by the City; provided that the undergrounding extends for a minimum distance of one (1) block or seven hundred fifty feet (750 feet), whichever is the lesser. Public projects shall be those public improvement programs undertaken where the replacement of the Company's existing overhead distribution lines (including feeder lines) with underground distribution facilities is determined by the City acting by and through the City Council to be in the general public interest.

Any unexpended portion of the one (1%) per cent of electrical revenue shall be carried over to succeeding years and, in addition, upon request by the City, the Company agrees to anticipate amounts to be available for up to three (3) years in advance to be used to underground its overhead distribution facilities in such public projects. Any amounts so advanced shall

be credited against amounts to be expended in succeeding years until such advance is eliminated. Any expenses for relocation which the Company would be required to expense pursuant to Section 4 of Article II hereof shall not be charged to this allocation.

Funds to be expended pursuant to this Section 3 shall not be used in any project or situation for which there are otherwise available either federal or state funds for the purpose of undergrounding utilities, but shall rather be used in projects and situations for which no federal or state funds are available.

If, during the term of this franchise, the Company should receive the authority of the Public Utilities Commission to undertake a system-wide program or programs of undergrounding its electric distribution facilities, the Company will budget and allocate to the program of undergrounding in the City such amount as may be determined and approved by the Public Utilities Commission, but in no case shall such amount be less than one (1%) per cent of annual electric revenues as hereinabove provided.

#### Section 4

##### Review of Undergrounding Program.

Representatives of both the City and the Company shall meet periodically in regard to Company's program of undergrounding its electric utility facilities and at such meetings shall review:

a. Undergrounding programs, including conversions, public projects and replacements, which have been accomplished or are underway by Company, together with Company's plans for additional electric undergrounding.

b. The status of technology in the field of electric undergrounding.

c. Construction and operation and maintenance costs of underground lines versus overhead lines.

d. Public projects anticipated by the City.

Such meetings shall be to further cooperation between the City and the Company to achieve a continuing program for the orderly undergrounding of electrical lines in the City. The intention of the Company is to make substantial progress during the term of this franchise in putting underground its electric distribution lines (including feeder lines) throughout the City.



Section 5

Cooperation With Other Utilities.

The City and Company shall, when undertaking a project of undergrounding, work with other utilities or companies which have their lines overhead to have all lines undergrounded as part of the same project. The Company will also cooperate with other utilities or companies when they are placing their lines underground.

ARTICLE X

Section 1

Amendment to Franchise.

At any time during the term of this franchise, the City, through its City Council, or the Company may propose amendments to this franchise by giving thirty (30) days written notice to the other of the proposed amendment(s) desired, and both parties thereafter, through their designated representatives, will, within a reasonable time, negotiate in good faith in an effort to agree upon mutually satisfactory amendment(s).

No amendment or amendments to this franchise shall be effective until mutually agreed upon by the City and the Company and until submitted to a vote of the qualified electors of the City and approval by a majority of those voting thereon; and no such amendment or amendments shall be submitted to the electors of the City until such amendment or amendments are agreed upon by City Council and the Company.

INTRODUCED, READ AND ORDERED PUBLISHED, the 7 day of September, 1977.

PASSED, ADOPTED AND APPROVED this 16 day of November, 1977.

Attest:

/s/ Karl M. Johnson  
President of the Council Pro Tem

/s/ Neva B. Lockhart, CMC  
City Clerk

I HEREBY CERTIFY that the foregoing People's Ordinance, being People's Ordinance No. 32, was introduced, read, and ordered published by the City Council of the City of Grand Junction, Colorado, at a regular meeting of said body held on the

7 day of September, 1977, and that the same was published in The Daily Sentinel and in the Rocky Mountain News on September 19, 26, October 3, 10, 17, 24 and 31, 1977. People's Ordinance No. 32 is to be submitted to the registered electors of said City for their acceptance or rejection at a Special Municipal Election to be held November 22, 1977.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official Seal of said City this 17 day of November, 1977.

/s/ Neva B. Lockhart, CMC  
City Clerk

I HEREBY CERTIFY that the foregoing People's Ordinance No. 32 was submitted to a vote of the registered electors for their adoption or rejection at a Special Municipal Election held in the City of Grand Junction on the 22nd day of November, 1977, at which election a majority of the votes were cast in favor of the acceptance of People's Ordinance No. 32.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City this 25th day of November, 1977.

/s/ Neva B. Lockhart, CMC  
City Clerk

ACCEPTANCE OF FRANCHISE BY  
PUBLIC SERVICE COMPANY OF COLORADO

WHEREAS, on September 7, 1977, at the regular meeting of the City Council of the City of Grand Junction, Mesa County, Colorado, there was introduced and ordered published People's Ordinance No. 32, entitled

AN ORDINANCE GRANTING A FRANCHISE BY THE CITY OF GRAND JUNCTION TO PUBLIC SERVICE COMPANY OF COLORADO, ITS SUCCESSORS AND ASSIGNS, TO LOCATE, BUILD, CONSTRUCT, ACQUIRE, PURCHASE, EXTEND, MAINTAIN AND OPERATE INTO, WITHIN AND THROUGH SAID CITY OF GRAND JUNCTION, A PLANT OR PLANTS, SUBSTATIONS, AND WORKS, FOR THE PURCHASE, MANUFACTURE, GENERATION, TRANSMISSION AND DISTRIBUTION OF ELECTRICITY AND GAS, EITHER NATURAL, ARTIFICIAL OR MIXED, AND TO FURNISH, DISTRIBUTE AND SELL SAID ELECTRICITY AND GAS TO THE CITY OF GRAND JUNCTION, AND THE INHABITANTS THEREOF, FOR LIGHT, HEAT AND POWER OR OTHER PURPOSES BY MEANS OF PIPES, MAINS, CONDUITS, CABLES, POLES AND WIRES STRUNG THEREON, OR OTHERWISE, ON, OVER, UNDER, ALONG, ACROSS AND THROUGH ALL STREETS, ALLEYS, VIADUCTS, BRIDGES, ROADS, LANES, AND OTHER PUBLIC WAYS AND PLACES IN THE CITY OF GRAND JUNCTION, AND AUTHORIZING SAID COMPANY, ITS SUCCESSORS AND ASSIGNS, TO USE

CERTAIN STREET AND PUBLIC PLACES FOR THE PURPOSE OF FURNISHING SAID SERVICES; AND FIXING THE TERMS AND CONDITIONS THEREOF IF THE RESULTS OF A VOTE OF THE QUALIFIED ELECTORS SHALL HAVE BEEN DETERMINED TO HAVE BEEN AFFIRMATIVE FOR THE GRANT OF SAID FRANCHISE.

and

WHEREAS, said People's Ordinance No. 32 was duly published in full in The Grand Junction Daily Sentinel and The Rocky Mountain News, legal daily newspapers of general circulation within the City of Grand Junction for once a week for six consecutive weeks, in accordance with the terms of Section Nos. 51 and 53 of the Charter of the City of Grand Junction; and

WHEREAS, said People's Ordinance No. 32 was passed, adopted and approved on November 16, 1977 by an affirmative vote of the majority of all members of the City Council of the City of Grand Junction in accordance with the terms of Section No. 50 of the Charter of the City of Grand Junction; and

WHEREAS, said People's Ordinance No. 32 was submitted to and approved by the vote of the qualified electors of the City of Grand Junction on November 22, 1977 in accordance with the terms of Section No. 105 of the Charter of the City of Grand Junction; and

WHEREAS, the undersigned grantee in such franchise is agreeable with the terms and conditions thereof.

NOW, THEREFORE, in consideration of the foregoing, and in pursuance of the provisions of the Charter of the City of Grand Junction, Public Service Company of Colorado hereby accepts all of the terms and conditions of the franchise contained in People's Ordinance No. 32, effective November 22, 1977.

IN WITNESS WHEREOF, Public Service Company of Colorado has caused its corporate name to be hereunto subscribed by its Senior Vice President, and its corporate seal to be hereunto affixed, attested by its Secretary, this 21st day of December, 1977.

PUBLIC SERVICE COMPANY OF COLORADO

By Senior Vice President

ATTEST:

Secretary

SEAL

FILED WITH THE CITY CLERK OF THE CITY OF GRAND JUNCTION THIS 23  
DAY OF DECEMBER, 1977.

/s/ Neva B. Lockhart, CMC  
City Clerk