

ORDINANCE 2022-15

AN ORDINANCE OF THE CITY OF FRUITA, MESA COUNTY, COLORADO, GRANTING BY FRANCHISE TO PUBLIC SERVICE COMPANY OF COLORADO, ITS AFFILIATES, SUCCESSORS AND ASSIGNS, THE RIGHT TO USE THE STREETS WITHIN THE CITY TO FURNISH, SELL, TRANSPORT AND DISTRIBUTE GAS AND ELECTRICITY TO THE CITY AND TO ALL RESIDENTS OF THE CITY, GRANTING THE RIGHT TO ACQUIRE, CONSTRUCT, INSTALL, LOCATE, MAINTAIN, OPERATE AND EXTEND INTO, WITHIN AND THROUGH THE CITY ALL FACILITIES REASONABLY NECESSARY TO FURNISH, SELL, TRANSPORT AND DISTRIBUTE GAS AND ELECTRICITY WITHIN AND THROUGH THE CITY, AND GRANTING THE RIGHT TO PROVIDE STREET LIGHTING SERVICE TO THE CITY; AND FIXING THE TERMS AND CONDITIONS THEREOF.

WHEREAS, the City of Fruita is a Colorado home rule municipality operating under a Charter approved by the electorate pursuant to Article XX of the Colorado Constitution and governed by its elected City Council; and

WHEREAS, the City Council has authority pursuant to the Home Rule Charter to grant a franchise for the use of any street, alley or public place, subject to approval of a majority of the members of the City Council, for a period not to exceed twenty-five (25) years, and

WHEREAS, in the exercise of this authority, the City Council has previously granted a franchise to, and the City is presently served by, Public Service Company of Colorado (“the Company”) for the provision of gas and electric utility service to the City; and

WHEREAS, the Company has filed an application with the City requesting the City grant a non-exclusive gas and electric franchise to it for a period of twenty years; and

WHEREAS, the Company and the City have negotiated a Franchise Agreement that grants the Company a non-exclusive right to provide, sell, and deliver gas and electricity to the City, its residents and occupants through the use of City streets, alleys, and public places as provided in the attached Agreement.

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRUITA, COLORADO, that:

SECTION 1. The franchise agreement with Public Service Company of Colorado, attached hereto as Exhibit A and incorporated herein by this reference, is hereby adopted and the Mayor is hereby authorized to execute, and the City Clerk to attest, the franchise agreement.

SECTION 2. Severability. If any article, section, paragraph, sentence, clause or phrase of this ordinance, or the standards adopted herein is held to be unconstitutional or invalid for any reason, such decision will not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

SECTION 3. Effective Date. This ordinance shall take effect thirty (30) days after final adoption as provided by Section 2.13 of the City Charter.

INTRODUCED, READ, AND ORDERED PUBLISHED THE 20TH DAY OF JUNE, 2022

PASSED, ADOPTED AND APPROVED THIS 19TH DAY OF JULY, 2022

City of Fruita

Mayor Joel Kincaid

ATTEST:

City Clerk Margaret Sell