#### ORDINANCE NO. 99-3

AN ORDINANCE GRANTING TO NORTH ARKANSAS ELECTRIC COOPERATIVE, IT'S SUCCESSORS AND ASSIGNS, THE EXCLUSIVE RIGHT, PRIVILEGE AND AUTHORITY TO SELL, FURNISH AND DISTRIBUTE ELECTRIC POWER AND ENERGY AND ERECT, MAINTAIN, EXTEND AND OPERATE A SYSTEM FOR POWER AND ENERGY TO THE TOWN OF <u>HIGHLAND</u> ARKANSAS, WITHIN THE UTILITY'S ALLOCATED SERVICE TERRITORY, AND THE INHABITANTS AND ALL OTHER CONSUMERS THEREOF, AND TO USE THE STREETS, ALLEYS, BRIDGES AND OTHER PUBLIC GROUNDS OF THE TOWN IN CONNECTION THEREWITH; FIXING THE TERMS THEREOF, AND FOR OTHER PURPOSES.

WHEREAS, the Town must have an adequate and dependable supply of electric power and energy to perform its governmental functions and to promote the peace, health and safety of its inhabitants; and

WHEREAS, electricity has become a household necessity, and an adequate and

dependable supply of electric power and energy is essential for carrying on the business

and industrial activity of this community; and

WHEREAS, it is in the public interest that there be no duplication of electric

facilities on the streets; and

WHEREAS, North Arkansas Electric Cooperative, Inc., by the acceptance of the rights and privileges granted hereunder, is willing to, and does, obligate itself, its successors and assigns, to meet the reasonable requirements of this Town and its inhabitants for electric power and energy within utility's allocated service territory;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF <u>HIGHLAND</u>, ARKANSAS, THAT:

SECTION 1. the Town of <u>Highland</u>, Arkansas (hereinafter called Town or Grantor) hereby grants to North Arkansas Electric Cooperative, Inc., its successors and assigns (hereinafter called North Arkansas Electric Cooperative, Inc., or Grantee), the exclusive right, privilege and authority within the present and all future expansion of the corporate limits of the Town of <u>Highland</u>, Arkansas, within utility's allocated service territory, (1) to sell, furnish, transmit and distribute electric power and energy to Grantor and to all inhabitants and consumers within said limits, and (2) to construct, maintain, operate and extend a system for such purposes and to enter on, under and upon and use any and all of the streets, alleys, avenues, bridges and other public grounds and ways belonging to, or under the control of Grantor, for the purpose of erecting, maintaining, repairing, replacing and operating poles, wires, anchors, stubs, transformers, substations, cables, conduits and other related facilities, appliances and apparatus which are necessary for or useful in, the furnishing, sale, transmission or distribution of said electric service (hereinafter called facilities).

SECTION 2. Grantee shall, and does by acceptance hereof, agree to provide to the Town and its inhabitants adequate and reasonable electric service as a public utility and the facilities necessary to provide such service. Grantor, in recognition of the large and continuing investment necessary for Grantee to perform its obligations hereunder, and the need and duty to promptly construct its facilities, as defined above, required to serve customers, in all areas and zones of the Town, consents to the construction of such facilities as defined in Section 1 in all such areas and zones, and Grantor agrees to protect by ordinance, regulation and otherwise, to the fullest extent permitted by law, and except

as otherwise limited herein, the grants of rights and privileges to Grantee set forth in and subject to Section 1 from interference with, or duplication by, other persons, firms or corporations seeking to engage in the sale or distribution of electric energy.

SECTION 3. All facilities of Grantee which may be located on public ways, places and public property, as authorized herein, shall be located so as to not unreasonably obstruct public use and travel. All of Grantee's facilities shall be constructed, operated and maintained in accordance with standards at least equivalent to the standards prescribed by the National Electrical Safety Code. Grantee, its successors and assigns, shall replace and repair, at its own expense, all exavations, holes or other damage caused or done by it to public streets, ways, places and public property in the construction, operation and maintenance of its facilities.

SECTION 4. The Grantee, its successors and assigns, is hereby given the right to trim, cut or remove trees, shrubbery or growth on or in public ways, places and public property which interfere or offer hazards to the operation of Grantee's facilities used or useful for the rendition of electric service, and, further, Grantee is hereby given the right, authority and permission to trim, cut and remove portions of trees, shrubbery or growth growing on private property but overhanging or encroaching on public ways, places and public property which interfere or offer hazards to the construction, operation and maintenance of Grantee's facilities.

SECTION 5. The rights, privileges and authority hereby granted shall exist and continue from the date of passage of this Ordinance, and thereafter, until terminated in accordance with provisions of Section 44 of Act 324 of the 1935 Acts of the State of  $\frac{3}{2}$ 

Arkansas, as presently enacted or hereafter amended.

SECTION 6. The rates which are to be charged by Grantee for electric service hereunder shall be those which are now lawfully approved or prescribed, and as said rates may, from time to time, be amended by Grantee in accordance with law or by any regulatory authority having jurisdiction thereof.

SECTION 7. In the construction, operation and maintenance of its facilities, said Grantee shall use reasonable and proper precaution to avoid damage or injury to persons or property and shall hold and save harmless the said Grantor from damage, injury, loss or expense caused by the negligence of the Grantee, or its agents, servants or employees, in constructing, operating and maintaining said facilities or in repaving or repairing any streets, avenues, alleys, bridges or other public grounds.

SECTION 8. The Grantee shall endeavor at all times to keep its facilities in a reasonable state of repair, and to conform to such practices and install such appliances and equipment as may be in keeping with the customary usage and practice in cities of similar size in this State during the time this franchise shall remain in force.

SECTION 9. Beginning the month of  $\underline{February}_$ , 1999 North Arkansas Electric Cooperative, Inc., will quarterly determine and pay to the Town a franchise payment in an amount equal to four and one-quarter percent (4.25%) of the preceding quarter's gross residential and commercial electric revenues as paid to North Arkansas Electric Cooperative, Inc., by residential and commercial customers located within the corporate limits of the Town. Thereafter, payments shall be made by North Arkansas Electric Cooperative, Inc., to the Town the first month of each quarter based on the preceding quarter's revenues. The first such payment is to be made

in April July, 1999 for the first quarter of 1999.

Residential and commercial electric revenues are those revenues so classified pursuant to Grantee's uniform classification standards. Grantor shall have the right to examine and verify, from the records of the Grantee, any data relating to the gross revenues of Grantee from customers on which said franchise fee is due. In the event of a controversy between the Grantor and Grantee as to the amount of gross revenues received by Grantee in the Town of <u>Highland</u> upon which said fee is due, such controversly shall be referred to the Arkansas Public Service Commission, or such successor regulatory agency which may have jurisdiction over the Grantee, for final determination, and the decision of said Commission shall be binding upon both parties hereto.

It is expressly agreed and understood by the Grantor and Grantee that the aforesaid payment shall constitute and be considered as complete payment and discharge by the Grantee, its successors and assigns, of all licenses, fees, charges, impositions or taxes of any kind (other than automobile license fees, special millage taxes, and the general ad valorem taxes) which are now or might in the future be imposed by the Grantor under authority conferred upon the Grantor by law. In the event such other tax or taxes are imposed by Grantor, the obligation of the Grantee set forth herein, to pay the Town the sum of four and one-quarter percent (4.25%) quarterly of the gross residential and commercial electric revenues shall immediately terminate.

<u>SECTION 10</u>. Electric service furnished the Grantor for street lighting and other purposes shall be paid for by the grantor in accordance with the applicable rate schedules

of the Grantee now on file and/or as they may in the future be filed by the Grantee and approved by the Arkansas Public Service Commission or other regulatory authority having jurisdiction. The Grantee shall have the privilege of debiting any amount due Grantor with any unpaid balances due said Grantee for electric service rendered to said Grantor.

SECTION 11. Upon written acceptance by Grantee, this Ordinance shall constitute a contract between Grantor and the Grantee, and its successors and assigns.

SECTION 12. If any provision, clause, word, section or grant of this Ordinance, or the application thereof to any person or circumstance, be held invalid, such invalidity shall not affect any other provision, clause, word, section of grant of this Ordinance which can be given effect without the invalid provision or application, and to this end, said provisions, clauses, words, sections and grants are hereby declared to be severable.

SECTION 13. All Ordinances and parts or ordinances in conflict herewith are hereby repealed.

SECTION 14. It had been found, and is hereby declared by the Town Council of the Town of Highland that there is an urgent need to state terms and provisions of the franchise under which electric service is provided to the Town and other consumers therein, to agree upon adequate franchise fee to be paid by the utility furnishing such service to the Town, if any, and to fix terms and conditions for the use of Town streets, alleys, and other public grounds for electric facilities; that it is in the public interest, convenience and necessity that there be no unnecessary duplication of such facilities; and that enactment of this Ordinance will provide these benefits to the Town and its citizens.

Therefore, an emergency is declared to exist, and this Ordinance being necessary for the preservation and advancement of the public peace, health and safety, shall take effect and be in full force from and after the date of its approval.

PASSED this 25 th day of February, 1999 SIGNED: ATTEST: pulp APPROVED AS TO FORM: Attorney

North Arkansas Electric Cooperative, Inc., a corporation, hereby accepts the above franchise subject to the terms and conditions therein this 23 day of 1990

North Arkansas Electric Cooperative, Inc.

By CED

### EXCERPTS FROM THE MINUTES OF A MEETING OF THE TOWN COUNCIL OF THE TOWN OF <u>Highland</u>, ARKANSAS HELD ON <u>February 2.5 + 11</u>, 1999.

Chambers of the Town Council <u>1-g1, Lawel</u>, Arkansas <u>February 25th</u>, 1999-<u>1</u>:00P.M.

The Town Council of the Town of <u>HighLand</u>, Arkansas met in regular session on <u>Tebruary 25th</u>, 1999, at <u>7</u> p.m., due notice of said meeting having previously been given to each of the members of the council. Mayor <u>Beb Vance</u> presided, and <u>Paula Spurleh</u>Town Recorder (Clerk), and the following Council Members were present: <u>Jack Carmen</u>, <u>Darwy Grant</u>, <u>Brandi</u> Hellauay, <u>Marth</u>, <u>H</u>,

Jern Johnson, David Shackellord, Clarence Magurenk

Council Members Duance Sublett were absent.

There being a quorum present and it being so announced, the following proceedings were had:

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There was then presented Ordinance No. (39.3) entitled:

Excerpts <u>February 25th</u>, 1999 Page 2

AN ORDINANCE GRANTING TO NORTH ARKANSAS ELECTRIC COOPERATIVE, INC., ITS SUCCESSORS AND ASSIGNS, THE EXCLUSIVE RIGHT, PRIVILEGE AND AUTHORITY TO SELL, FURNISH AND DISTRIBUTE ELECTRIC POWER AND ENERGY AND ERECT, MAINTAIN, EXTEND AND **OPERATE A SYSTEM FOR THE DISTRIBUTION, TRANSMISSION, FURNISHING** OR SALE OF ELECTRIC POWER AND ENERGY TO THE TOWN OF HighLand, ARKANSAS, AND THE INHABITANTS AND ALL OTHER CONSUMERS THEREOF, AND TO USE THE STREETS, ALLEYS, BRIDGES, AND OTHER PUBLIC GROUNDS OF THE TOWN IN CONNECTION THEREWITH; FIXING THE TERMS THEREOF, AND FOR OTHER PURPOSES; which ordinance was read the first time. Upon question by Mayor Bob Vance, , the Town Recorder (Clerk) stated that the ordinance as read had been on file in the office of the Town Clerk for the required seven days for filing of franchise ordinances. Council member Shackel ford then moved that the rules be suspended and the ordinance as read be placed on second reading. The motion was seconded by Council member <u>*Uncerank*</u>, and adopted by the following role call vote: Ayes - Council Members Carmon, Grant, Hollaway, H. 11, Johnson, Shackelford, UngeraNK -total <u>7</u>; Noes - (none; Absent - Council Members <u>Duane Suble</u>++-\_\_\_\_\_- total \_/\_\_, Said

Excerpts <u>February 25 th</u>, 1999 Page 3

ordinance was then read the second time. Motion was made by Council Member <u>Shackel Pord</u> that the rules again be suspended and the ordinance be placed on third and final reading. This motion was seconded by Council Member <u>UNGERANK</u>, and adopted by the following roll call vote: Ayes - Council Members <u>Carmen</u>, <u>Grant</u>, <u>Hollaway</u>, <u>Holl</u>, <u>Schwson</u>, <u>Shackelford</u>, <u>Ungerank</u> -total <u>7</u>; Noes (none; Absent - Council Members <u>Duane</u> <u>Sublet</u> <u>t</u> - total <u>1</u>. The ordinance was then read the third and last time, and the Aye and No vote taken upon the question, <u>Shackelford</u>, <u>Hollaway</u>, <u>Hollaway</u>, <u>Holl</u>, <u>Schwson</u>, <u>Shackelford</u>, <u>Ungerank</u>, <u>Council Members</u> <u>Carmen</u>, <u>Grant</u>, <u>Hollaway</u>, <u>Holl</u>, <u>Schwson</u>, <u>Shackelford</u>, <u>Ungerank</u>, <u>total 1</u>; Noes -<u>mon</u>; Absent - Council Members <u>Duane</u>, <u>Sublet</u>, <u>total 7</u>; Noes -<u>mon</u>; Absent - Council Members <u>Duane</u>, <u>Sublet</u>, <u>total 7</u>; Noes -<u>mon</u>; Absent - Council Members <u>Duane</u>, <u>Sublet</u>, <u>total 7</u>; Noes -<u>mon</u>; Absent - Council Members <u>Duane</u>, <u>Sublet</u>, <u>total 7</u>; Noes -<u>mon</u>; Absent - Council Members <u>Duane</u>, <u>Sublet</u>, <u>total 7</u>; Noes -<u>mon</u>; Absent - Council Members <u>Duane</u>, <u>Sublet</u>, <u>total 7</u>; Noes -<u>mon</u>; Absent - Council Members <u>Duane</u>, <u>Sublet</u>, <u>total 7</u>; Noes -<u>mon</u>; Absent - Council Members <u>Duane</u>, <u>Sublet</u>, <u>total 7</u>; Noes -<u>mon</u>; Absent - Council Members <u>Duane</u>, <u>Sublet</u>, <u>total 7</u>; Noes -<u>mon</u>; Absent - Council Members <u>Duane</u>, <u>Sublet</u>, <u>total 7</u>; Noes -<u>mon</u>; Absent - Council Members <u>Duane</u>, <u>Sublet</u>, <u>total 7</u>; Noes -<u>mon</u>; Absent - Council Members <u>Duane</u>, <u>Sublet</u>, <u>total 7</u>; Noes -<u>mon</u>; Absent - Council Members <u>Duane</u>, <u>Sublet</u>, <u>total 7</u>; Noes -<u>mon</u>; Absent - <u>Council Members</u>, <u>Duane</u>, <u>Sublet</u>, <u>total 7</u>; Noes -<u>mon</u>; Absent - <u>Council Member</u>; <u>Mon</u>; <u>Mon</u> ٨

total \_\_\_\_. Whereupon, said ordinance was declared passed.

The emergency section, being Section 14 of Ordinance No.  $\underline{99.3}$ , entitled: "AN ORDINANCE GRANTING TO THE NORTH ARKANSAS ELECTRIC COOPERATIVE, INC., ITS SUCCESSORS AND ASSIGNS, THE EXCLUSIVE RIGHT, PRIVILEGE AND AUTHORITY TO SELL, FURNISH AND DISTRIBUTE

### CERTIFICATE

STATE OF ARKANSAS

TOWN OF <u>Highland</u>)

I, Daula Spurlock, Town Recorder (Clerk) within and for the

Town aforesaid, do hereby certify that the foregoing is a true and correct copy of

Ordinance No. <u>19.3</u> of the Ordinances of the Town of <u>Highland</u>,

Arkansas, entitled:

"AN ORDINANCE GRANTING TO THE NORTH ARKANSAS ELECTRIC COOPERATIVE, INC., ITS SUCCESSORS AND ASSIGNS, THE EXCLUSIVE RIGHT, PRIVILEGE AND AUTHORITY TO SELL, FURNISH AND DISTRIBUTE ELECTRIC POWER AND ENERGY AND ERECT, MAINTAIN, EXTEND AND OPERATE A SYSTEM FOR THE DISTRIBUTION, TRANSMISSION, FURNISHING OR SALE OF ELECTRIC POWER AND ENERGY TO THE TOWN OF <u>Highland</u>, ARKANSAS AND THE INHABITANTS AND ALL OTHER CONSUMERS THEREOF, AND TO USE THE STREETS, ALLEYS, BRIDGES AND OTHER PUBLIC GROUNDS OF THE TOWN IN CONNECTION THEREWITH; FIXING THE TERMS THEREOF, AND FOR OTHER PURPOSES;"

passed by the Town Council of said Town on <u>February 25th</u>, 1999, together with

a true and correct copy of excerpts from the minutes of a meeting of the said Town

Council held on said date, as same pertain to the passage thereof, now of record in my

office.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office on this

2544 day of February, A.D., 1999.

Punta Spurtoch TOWN RECORDER (CLERK)

Town of <u>HighLand</u>, Arkansas



Excerpts <u>February</u> 25+4, 1999 Page 4

ELECTRIC POWER AND ENERGY AND ERECT, MAINTAIN, EXTEND AND OPERATE A SYSTEM FOR THE DISTRIBUTION, TRANSMISSION, FURNISHING OR SALE OF ELECTRIC POWER AND ENERGY TO THE TOWN OF <u>Highland</u>, ARKANSAS AND THE INHABITANTS AND ALL OTHER CONSUMERS THEREOF, AND TO USE THE STREETS, ALLEYS, BRIDGES AND OTHER PUBLIC GROUNDS OF THE TOWN IN CONNECTION THEREWITH; FIXING THE TERMS THEREOF, AND FOR OTHER PURPOSES"; was read, and was adopted by the following roll call vote: Ayes - Council Members <u>Carmen</u>, <u>Grant</u>, <u>Hollaway</u>, <u>H.II</u>, <u>Johnson</u>, <u>Shackelford</u>, <u>Ungerank</u> total <u>1</u>; Noes (none) Absent - Council Members <u>Duanc</u> <u>Sublet</u>+  $\wedge$ 

total |\_\_.



P. O. Box 1000 • Salem, AR 72576

This is the list of the accounts that will be in the city limits of Highland.

Bob Coleman



P. O. Box 1000 • Salem, AR 72576

March 16, 1999

Mayor Bob Vance City of Highland P. O. Box 5058 Hardy, AR 72542

RE: Highland City Limits

Dear Mayor Vance,

We received your resolution to begin charging 4.25% franchise tax to the residents of Highland. The franchise tax will appear on the electric bills of those consumers who reside in our territory and be remitted to the city. Before adding this, we are in need of a map or legal description of the town limits to be able to identify those involved.

Our attorney will review the resolution for approval. Thank you.

Sincerely,

Durch

Ronald E. Plumlee CEO

cc: Bob Coleman

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53 7	697 52	1198 51	<b>1198</b> 50	1198 49	NEW RDG INSP DTE SEQ NO	

# Villager Journal

P.O. Box 480 Cherokee Village, AR 72525

PROOF OF PUBLICATION §

## STATE OF ARKANSAS COUNTY OF SHARP

I, David H. Cox, do solemnly swear that I am the Editor of the Villager Journal, a weekly newspaper, having a bona fide and general circulation in said county and published in the Suburban Improvement District of Cherokee Village, in the county and state aforesaid, and that the proof of which the attached is a true copy, was published in the full and complete edition consecutively as follows:

The first insert
The first insertion on the 2 4 Th
12y of MARCH, 1999
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Commission expires 5-15-2006 NOTARY
POBLIO COUNTY APILIA

at AIGHERD ity TO NO COOPERATIVE, INC., IT'S SUCCES RIC SORS AND ASSIGNS. THE EXCLU-SIVE RIGHT, PRIVILEGE AND AUTHORITY TO SELL, FURNISH AND DISTRIBUTE ELECTRIC POW-ER AND ENERGY AND ERECT, MAINTAIN, EXTEND AND OPER-ATE A SYSTEM FOR THE DISTRI-BUTION, TRANSMISSION, FURN-ISHING OR SALE OF ELECTRIC POWER AND ENERGY TO THE TOWN OF HIGHLAND, ARKANSAS, AND THE INHABITANTS AND ALL OTHER CONSUMERS THEREOF, AND TO USE THE STREETS ALLEYS, BRIDGES, AND OTHER PUBLIC GROUNDS OF THE TOWN IN CONNECTION THEREWITH; FIX-ING THE TERMS THEREOF, AND FOR OTHER PURPOSES; which ordinance was read the first time. Upon question by Mayor Bob Vance, the Town Recorder (Clerk) stated that the ordinance as read had been on file in the office of the Town Clerk for the required seven days for filing of franchise ordinances. Council member Shackelford then moved that the rules be suspended and the ordinance as read be placed on second reading. The motion was seconded by Council member Ungerank, and adopted by the following role call vote: Ayes -Council Members Carmon, Grant, Hollaway, Hill, Johnson, Shackelford, Ungerank - total 7; Noes - none; Absent — Council Members Duane Sublett — total 1, Said ordinance was then read the second time. Motion was made by Council Member Shackelford that the rules again be suspended and the ordinance be placed on third and final reading. This motion was seconded by Council Member Ungerank, and adopted by the following roll call vote: Ayes - Council Members Carmon, Grant, Hollaway, Hill, Johnson, Shackelford, Unceraph I 1. The ordinance was then read

al 1. The ordinance was then read the third and last time, and the Aye and the vote taken upon the question. Shall the Ordinance Pass, the most is being as follows: Ayes — Charled Member Carmon, Grant, Hollaway, Hill, John son, Shackelford, Ungerank — total 7 Noes — none; Absent — counc Members Duane Subject — total 1 Whereupon, said ordinance was dec ared passed.

The emergency section, being Section 14 of Continance No. 99-3 emtiled. AN ORDINANCE GRANT ING TO THE NORTH ARKANSAS ELECTRIC COOPERATIVE, INC. ITS SUCCOMBORS AND ASSOCIATION THE MOLLISIVE PRODUCTION

SION, PURINISHING OR SALE OF ELECTRIC POWER AND ENERGY TO THE TOWN OF HIGHLAND, ARKANSAS AND THE INHABIT-ANTS AND ALL OTHER CONSUM-TRANSMIS ERS THEREOF, AND TO USE THE STREETS, ALLEYS, BRIDGES AND OTHER PUBLIC GROUNDS OF THE TOWN IN CONNECTION THERE WITH: FIXING THE TERMS THERE OF, AND FOR OTHER PURPOSES was read, and was adopted by the fol lowing roll call vote: Ayes - Council Members Carmon, Grant, Hollaway, Hill, Johnson, Shackelford, Ungerank - total Z: Noes E Absent Council Members a block tote: 1 (11)