

Village of The Hills

ORDINANCE NO. 45-08

AN ORDINANCE GRANTING TO PEDERNALES ELECTRIC COOPERATIVE, INC., ITS SUCCESSORS AND ASSIGNS, AN ELECTRIC LIGHT, HEAT AND POWER FRANCHISE, AND REPEALING ALL PREVIOUS ORDINANCES OF THE VILLAGE OF THE HILLS, TEXAS, GRANTING A FRANCHISE FOR SUCH PURPOSE

BE IT ORDAINED BY THE CITY COUNCIL OF VILLAGE OF THE HILLS, TEXAS:

Section 1: That there is hereby granted to Pedernales Electric Cooperative, Inc., its successors and assigns (hereinafter referred to as PEC), the right, privilege and franchise until March 2, 2018, to construct, maintain and operate in the present and future streets, alleys, and public places of the Village of The Hills (hereinafter referred to as the "CITY"), Texas and its successors, electric light and power lines, with all necessary or desirable appurtenances (including underground conduits, poles, wires, transmission lines and other structures and telephone wires), for the purpose of supplying electricity to the said City, the inhabitants thereof, and persons and corporations beyond the limits thereof, for light, heat, power and other purposes.

Section 2: Poles, structures and other appurtenances shall be so erected and maintained as not to interfere unreasonably with traffic over streets and alleys.

Section 3: In addition to the rates charged for electric service, PEC may make and enforce reasonable charges, rules, and regulations for service rendered in the conduct of its business. The City recognizes and acknowledges that the members of PEC agree to abide by all rules and regulations of PEC as members/customers and nothing in this ordinance should be construed to relieve any member of its obligations to PEC or to abridge its rights of membership in PEC. PEC agrees to apply its policies, rules, regulations, and tariffs in a fair and uniform manner when providing electric service to its members who reside within the limits of the City.

Section 4: In the event of injury to any person or damage to any property by reason of PEC's construction, operation, maintenance, or replacement of PEC's electric distribution system within public rights-of-way, PEC shall indemnify and keep harmless the City from liability in connection therewith, except to the extent such injury or damage is attributable to the City's negligent act or omission. PEC has the sole right to control the defense and settlement of any claim or legal proceeding that gives rise to a right of indemnity under the immediately preceding sentence. In the event of injury to any person or damage to any property by reason of the City's construction, operation, or maintenance of the public rights-of-way and facilities of the City within the public rights-of-way, the City shall indemnify and keep harmless PEC from liability in connection therewith, except to the extent such injury or damage is attributable to PEC's negligent act or omission.

Section 5: If the City abandons any public rights-of-way in which PEC has facilities, such abandonment shall be conditioned on PEC's right to maintain its use of the former public rights-of-way and on the obligation of the party to whom the public rights-of-way are abandoned to reimburse PEC for all removal and relocation expenses if PEC agrees to the removal or relocation of its facilities following abandonment of the public rights-of-way.

Until PEC implements customer choice, two percent of the gross receipts of PEC for the retail sale of electricity within the City for the calendar year.

On and after the date PEC implements customer choice, a rate consistent with the Texas Utilities Code, § 33.008, Franchise Charges, as it may be amended, for each kilowatt hour of electricity delivered by PEC to retail customers within the City for the calendar year.

Section 9: PEC shall file its written acceptance of this franchise within sixty (60) days after its passage and approval.

Section 10: This franchise is not exclusive, and nothing herein shall be construed so as to prevent the City from granting other like or similar rights and privileges to any other person, firm or corporation consistent with applicable state law.

Section 11: When this franchise ordinance shall have become effective, all previous ordinances of the City granting a franchise to PEC for electric light, heat and power purposes, shall be automatically canceled and annulled, and the same, together with any existing street rental agreement between the City and PEC, shall be of no further force and effect.

PASSED AND APPROVED this 14th day of February, 2008.

Virginia W. Jones
Mayor

ATTEST:

Joe B. McPhane
Secretary

