

OFFICE OF THE CITY ATTORNEY



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NORTH LITTLE ROCK, ARKANSAS 72114
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JIM HAMILTON
City Attorney

JOHN DAVID MYERS
Chief Assistant City Attorney

MICHAEL D. MUNNS
Assistant City Attorney

December 21, 1982

*Docket
file*

Honorable Dana Daniels Nixon
Administrative Law Judge
Arkansas Public Service Commission
P. O. Box C-400
Little Rock, Arkansas

Re: PSC Docket No. 82-296-U

FILED

DEC 21 1982

ARKANSAS PUBLIC SERVICE
COMMISSION

[Signature]
Cheryl Dyke
Secretary of Commission

Dear Judge Nixon:

Attached hereto please find the Ordinance setting out our Franchise Agreement with AP&L which you requested at the December 14 hearing. If this instrument is going to be an integral part of your decision, the City would appreciate the opportunity to brief and argue the effects of its application.

Also attached please find a copy of a map detailing the areas of our service to the area in which you expressed interest at the hearing. If I can be of any further service, please do not hesitate to contact me.

Very truly yours,

[Signature]
John David Myers
Chief Assistant City Attorney

JDM/rab


Enclosure

cc: Mr. Jeff Broadwater
Arkansas Public Service Commission
P. O. Box C-400
Little Rock, Arkansas

Mr. Stephen Rowell
Attorney at Law
P. O. Box 551
Little Rock, AR

CERTIFICATE OF SERVICE

I hereby certify that the above named individuals have been served with the foregoing correspondence on this 21st day of December, 1982.


John David Myers

AN ORDINANCE GRANTING TO THE ARKANSAS POWER & LIGHT COMPANY, 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 PARTS OF THE CITY OF NORTH LITTLE ROCK, ARKANSAS AND THE INHABITANTS AND ALL OTHER CONSUMERS THEREOF, AND TO USE THE STREETS, ALLEYS, BRIDGES AND OTHER PUBLIC GROUNDS OF THE CITY IN CONNECTION THEREWITH; FIXING THE TERMS THEREOF, AND FOR OTHER PURPOSES.

WHEREAS, Arkansas Power & Light Company owns certain electric facilities within the City of North Little Rock and was and is providing electric service under Certificates of Convenience and Necessity from the Arkansas Public Service Commission to some of the inhabitants of the City of North Little Rock; and

WHEREAS, the inhabitants and portions of the City of North Little Rock served by Arkansas Power & Light Company, must have an adequate and dependable supply of electric power and energy for carrying on business, industrial and other activities of the community; and

WHEREAS, it is in the public interest that there be no duplication of electric facilities on the streets; and

WHEREAS, the Arkansas Power & Light Company, 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 consumers for electric power and energy in those areas of the City of North Little Rock in which Arkansas Power & Light Company is authorized to serve;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of North Little Rock, Arkansas, as follows:

Section 1. The City of North Little Rock, Arkansas (hereinafter called Grantor) hereby grants to the Arkansas Power & Light Company, its successors and assigns, (hereinafter called Grantee), the exclusive right, privilege and authority within the corporate

imits of the City of North Little Rock, Arkansas, in those areas
esently served by Grantee, pursuant to authority granted by the
rkansas Public Service Commission, and in such other areas which
y hereafter be lawfully annexed to the City of North Little Rock,
and within Grantees service area as approved by the Arkansas Public
ervice Commission, or its successor Agency (1) to sell, furnish, transmit,
and distribute electric power and energy to all inhabitants and
consumers within said areas, 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 within said
areas 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). HOWEVER, nothing in this Or-
dinance shall be construed so as to grant to the Grantee any
legal rights to sell electricity at retail in any area within
the City of North Little Rock in which the Grantee was not providing
service prior to the passage of this Ordinance, excepting those
areas now served by Grantee, pursuant to authority from the
Arkansas Public Service Commission, which may hereafter be
lawfully annexed as a part of the City of North Little Rock.

Section 2. Grantee shall, and does by acceptance hereof,
agree to provide to the inhabitants and consumers within said
areas, 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, consents to the
construction of such facilities in all such areas.

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 excavations, 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 Arkansas, as presently enacted or hereafter amended.

Section 6. The rates which are to be charged by Grantee for electric service to retail customers 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 in 1976, and thereafter during the life of this Franchise, the Grantee shall pay to Grantor each year, a Franchise Tax in an amount equal to "Four and twenty-five hundredths percent (4.25%) or such higher percentage as from time to time may be authorized by the Arkansas Public Service Commission or any other regulatory body having such authority for the inclusion in the Grantees unallocated cost of service without specific adjustments under Arkansas Public Service Commission Municipal Adjustment Rider M-16 as it exist now, or as it may be amended, altered or modified for retail customers of Grantee located within the corporate limits of the Grantor. Such percentage shall be applied to the preceding calendar years gross residential and commercial electric revenues as paid to the Grantee by residential and commercial customers located..." within the above described areas in the corporate limits of the City of North Little Rock served by Grantee. Payments shall thereafter be made by the Grantee to the Grantor in approximately equal quarterly installments beginning in January, 1976. 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 Tax 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 City of North Little Rock upon which

said tax is due, such controversy 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 payments 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, general ad valorem taxes and other general taxes applicable to all citizens, taxpayers, and business enterprises,) 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 in Section 9 hereof, shall immediately terminate.

"Provided, nothing herein shall be construed in fact or in law as an abandonment, relinquishment, or waiver of the taxing authority of the City of North Little Rock under or by virtue of the laws of the State of Arkansas."

Section 10. Upon written acceptance by Grantee, this Ordinance shall constitute a contract between Grantor and the Grantee, and its successors and assigns.

Section 11. 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 or 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 12. It has been found, and is hereby declared by the City Council of the City of North Little Rock that there is an urgent need to agree upon the terms and provisions of the

Franchise under which electric service is provided in certain areas of the City, to agree upon an adequate Franchise Tax by the utility furnishing such service and to fix terms and conditions for the use of City 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 City 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.

APPROVED this _____ day of January, 1976.

PASSED:

APPROVED:

January 26, 1976

Mayor

ATTEST:

City Clerk - Recorder

ACCEPTED:

ARKANSAS POWER & LIGHT COMPANY

By _____

SPONSOR:

APPROVED AS TO FORM:

DATE: _____


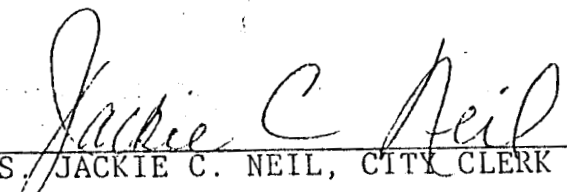
[Signature]
City Attorney

1/26/76 2:30
City Clerk's Office
North Little Rock, Ark.
Rec'd by _____

STATE OF ARKANSAS)
COUNTY OF PULASKI) SS

I, Mrs. Jackie C . Neil, City Clerk of the City of North Little Rock, Arkansas, do hereby certify that the foregoing is a true, correct and compared copy of Ordinance No. 4601 passed by the City Council of the City of North Little Rock, Arkansas, on the 26th day of January, 1976 and that same now appears of record in my office in Ordinance Book No. 24.

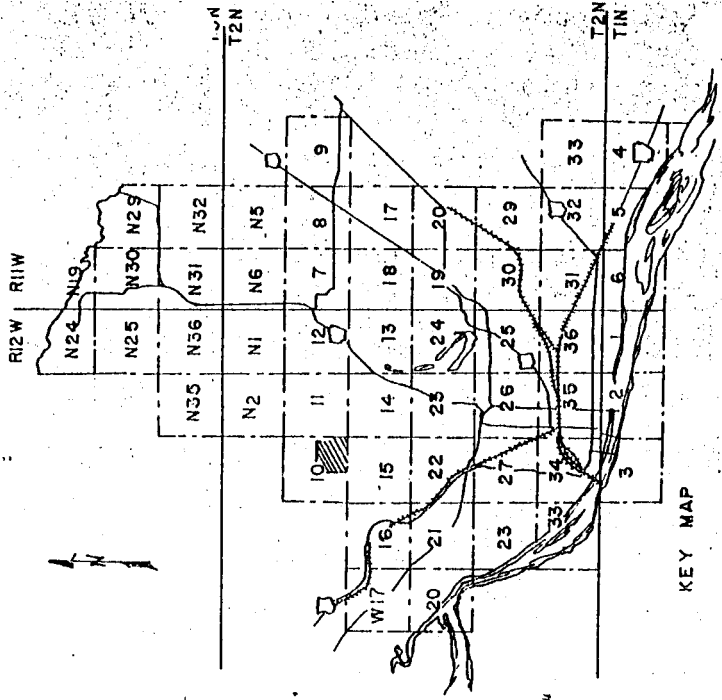
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the City of North Little Rock, Arkansas, this the 14th day of December, 1982.



MRS. JACKIE C. NEIL, CITY CLERK

SEAL

This is a technical site plan of a military installation. The plan includes the following details:

- Buildings:** Labeled A through H. Building A is identified as the "Club House". Building B is labeled "Post Service". Buildings C, D, E, F, G, and H are associated with power generation or distribution, specifically "167 KVA".
- Utility Infrastructure:** Extensive power lines are depicted, including a "2.2 AC SR 76 KV" line running horizontally across the middle. Other lines are labeled "167 KVA". There are also lines for "Cable TV", "Water Main", "Sewer Main", and "Gas Main".
- Orientation and Scale:** A compass rose in the upper left corner shows North (N) and South (S). A scale bar in the lower right corner indicates distances from 0 to 100 feet.
- Other Features:** Various smaller structures and areas are labeled, such as "Club House", "Post Service", and "167 KVA". There are also handwritten notes like "Cable TV" and "Water Main".



SCALE 1"=100'

SCALE 1"=100'
DATE 4-29-82

DRAWN BY: M.W.W

ELECTRIC DEPARTMENT

NORTH LITTLE ROCK ARKANSAS

SECONDARY DISTRIBUTION

T2N RI2W

SW¹/₄ SECTION 10

ENGINEERING DEPT.