COUNTY OF CURRY, NEW MEXICO
NOTICE OF INTENT TO ADOPT ORDINANCE NO. 05-02

NOTICE IS HEREBY GIVEN that on March 15, 2005, the Curry County Commission will consider adopting and approving its Ordinance No. 05-02 relating to a franchise agreement granting licenses, rights-of-way and privileges on county roads, highways, and other public grounds in Curry County. The title of Ordinance No. 05-02 is:

> AN ORDINANCE GRANTING TO FARMERS ELECTRIC COOPERATIVE, INC. OF NEW MEXICO, ITS LEGAL REPRESENTATIVES, SUCCESSORS, LESSEES AND ASSIGNS, CERTAIN POWERS, LICENSES, RIGHTS-OF-WAY AND PRIVILEGES TO MAINTAIN, ERECT, CONSTRUCT, EQUIP, CONDUCT AND OPERATE WITHIN CURRY COUNTY, NEW MEXICO (OUTSIDE THE LIMITS OF ANY INCORPORATED MUNICIPALITIES), WORKS, SYSTEMS, AND PLANTS TO MANUFACTURE, USE, STORE, SELL, DISTRIBUTE, CONVEY OR OTHERWISE USE, CONDUCT, SERVE, SUPPLY AND FURNISH THE COUNTY AND ITS INHABITANTS (OUTSIDE THE LIMITS OF ANY INCORPORATED MUNICIPALITIES) WITH ELECTRICITY FOR LIGHT, HEAT AND POWER, AND OTHER USEFUL SERVICES, AND TO USE THE ROADS, HIGHWAYS, AND OTHER PUBLIC GROUNDS IN THE COUNTY (OUTSIDE THE LIMITS OF ANY INCORPORATED MUNICIPALITIES) FOR A PERIOD OF TWENTY-FIVE YEARS, AND PRESCRIBING CERTAIN TERMS AND CONDITIONS APPLICABLE TO THE POWERS GRANTED HEREIN.

COMPLETE COPIES OF THE ORDINANCE ARE ON FILE IN THE OFFICE OF THE COUNTY CLERK AT THE CURRY COUNTY COURTHOUSE, 700 NORTH MAIN STREET, CLOVIS, NEW MEXICO, AND ARE AVAILABLE FOR INSPECTION AND/OR PURCHASE DURING REGULAR OFFICE HOURS. THIS NOTICE ALSO CONSTITUTES COMPLIANCE WITH SECTIONS 6-14-4 THROUGH 6-14-7, NMSA 1978.

WITNESS my hand and seal of the County of Curry on this 15th day of Feb., 2005.

(SEAL)

County Clerk

Legal 3105
February 20, 27 2005

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Legal Notices

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WITNESS my hand and seal of the County of Curry on this 15th day of February, 2005.

(SEAL)

/s/ Mario Trujillo
County Clerk

ORDINANCE NO. 2-80

AN ORDINANCE GRANTING TO FARMERS ELECTRIC COOPERATIVE, INC. OF NEW MEXICO, ITS LEGAL REPRESENTATIVES, SUCCESSORS, LESSEES AND ASSIGNS, CERTAIN POWERS, LICENSES, RIGHTS-OF-WAY AND PRIVILEGES TO MAINTAIN, ERECT, CONSTRUCT, EQUIP, CONDUCT AND OPERATE WITHIN CURRY COUNTY, NEW MEXICO (OUTSIDE THE LIMITS OF ANY INCORPORATED MUNICIPALITIES), WORKS, SYSTEMS, AND PLANTS TO MANUFACTURE, USE, STORE, SELL, DISTRIBUTE, CONVEY OR OTHERWISE USE, CONDUCT, SERVE, SUPPLY AND FURNISH THE COUNTY AND ITS INHABITANTS (OUTSIDE THE LIMITS OF ANY INCORPORATED MUNICIPALITIES) WITH ELECTRICITY FOR LIGHT, HEAT AND POWER, AND OTHER USEFUL SERVICES, AND TO USE THE ROADS, HIGHWAYS, AND OTHER PUBLIC GROUNDS IN THE COUNTY (OUTSIDE THE LIMITS OF ANY INCORPORATED MUNICIPALITIES) FOR A PERIOD OF TWENTY-FIVE YEARS; AND PRESCRIBING CERTAIN TERMS AND CONDITIONS APPLICABLE TO THE POWERS GRANTED HEREIN.

BE IT ORDAINED by the governing body, that is, the Board of County Commissioners of the County of Curry, in the State of New Mexico:

Section 1. Grant of Electric Franchise. Curry County, New Mexico (hereinafter designated as "the County"), hereby grants unto and vests in Farmers Electric Cooperative, Inc. of New Mexico, a corporation organized and existing under and by virtue of the laws of the State of New Mexico (hereinafter designated as "the Cooperative"), its legal representatives, successors, lessees and assigns, a franchise with the right:

A. To operate its electric plant, systems and works now installed and in operation in the County, (outside the limits of any incorporated municipalities), and to transmit electricity through and beyond the County.

B. To Maintain, Construct, build, equip, conduct or otherwise establish and operate in the County (outside the limits of any incorporated municipalities), works or systems or plants to manufacture, use, store, sell, distribute, convey or otherwise conduct, serve, supply and furnish to the inhabitants of the county (outside the limits of any incorporated municipalities), and others, and to the County should it desire to contract therefore, with electricity for light, heat, power and other useful services, and elements and materials for the same.

C. To utilize rights of passage, rights-of-way and right to continue the use and occupancy, and to occupy and use in any lawful way during the life of this franchisee all roads, roadways, highways and other public places and public grounds of the County (outside the limits of any incorporated municipalities), both above and beneath the surface of the same, as said roads, highways, and other public places and public grounds of the County now exist or may be hereafter extended, for every and any such service, use, effect, and lawful purpose as is mentioned in this Ordinance.

D. To make all necessary evacuations in the Public roads, highways, or other public thoroughfares; and to cut and trim all trees or shrubbery in the public roads, highways or other public thoroughfares, in so far as may be necessary to keep them clear of any electric lines or appurtenances.

Section 2. Duties Pertaining to the Franchise. As consideration for the granting of this franchise, the Cooperative, its successors, lessees and assigns, hereby agree to:

A. Furnish electric service to the inhabitants of the County (outside the limits of any incorporated municipalities), and to do so on a continuous basis, provided, however, that the Cooperative shall not be held accountable for failure of service which is caused by floods, acts of God, labor disputes, or other causes beyond the control of the Cooperative.

B. Construct, operate and maintain the Cooperative's electric facilities in a proper and workmanlike manner so as to afford reasonable safeguards to the public.

C. Comply with all reasonable rules and regulations of the County, now in effect or which may hereafter be adopted, in so far as they do not conflict with the terms or the purposes of the franchise created by the Ordinance, or with any statutes or regulations of any government agency having jurisdiction to regulate the operation of the Cooperative.

D. Furnish the County with electrical service during the term of the franchise created by this Ordinance, with the charges for electric service to be billed to the County pursuant to the Cooperative's tariff filed with the New Mexico Public Service Commission, as the same may from time to time be amended.

Section 3. Manner of Operation. The Cooperative is hereby authorized, licensed and empowered to do any and all things necessary and proper to be done and performed in executing the powers and utilizing the privileges mentioned herein and created by this franchise, provided that all work done in the roads, highways or other public places or public grounds of the County by the Cooperative, shall be done with the utmost diligence and the least inconvenience to the public or to individuals, and except in the case of an emergency, after consultation and approval of the County Road Superintendent. The Cooperative shall, within a reasonable time, restore such roads, highways, or other public places or public grounds excavated by it so their original condition as nearly as possible, and the work of restoration shall be subject to the approval and supervision of the County Road Superintendent or such person as they may designate. Cooperative shall indemnify and hold the County harmless from any and all damages on account of its actions under this franchise agreement, including the installation or maintenance thereof, and the Cooperative shall assume all liability or risk of damage to persons or property which may arise from the construction or operation of any or all of the Cooperative's plant, property and equipment, and shall save the County, its officers, agents and employees, harmless from any and all liability that may arise or be incurred from the erection, maintenance, construction or operation of the same.

Section 4. Acceptance by the Cooperative. This franchise shall be accepted, by the Cooperative in writing, which acceptance shall be filed with the County clerk within thirty days after the adoption of the Ordinance, and when so accepted, this Ordinance shall be a contract duly executed by and between the County and the Cooperative.

Section 5. Effective Date. This Franchise Ordinance shall take effect and be in force from and after thirty days subsequent to the date of its adoption, during which time said Ordinance, shall be twice published in full, not less than seven days apart, in a newspaper having general circulation within Curry County, New Mexico. The expense of publishing the Franchise Ordinance shall be paid by the Cooperative as required by Section 3-42-1, New Mexico Statutes 1978 Annotated. Said Franchise Ordinance shall continue in full force and effect for a period of twenty-five years from the date of its adoption.

Section 6. Termination. County reserves the right to cancel and rescind this franchise in the event of future legislation which renders all or part of the agreement unenforceable or in the event of an emergency declared by the Curry County Board of Commissioners which directly or indirectly affects this franchise, or the subject matter hereof.

Either party may terminate this franchise for any reason by giving the other party twelve (12) months prior written notice of their intention to do so.

PASSED, APPROVED AND ADOPTED this 15th day of March 2005.

THE COUNTY OF CURRY, NEW MEXICO

By: _____
Chairman, Board of County Commissioners

(SEAL)

ATTEST:

_____
County Clerk

ACCEPTED AND APPROVED this 15th day of March, 2005.

FARMERS ELECTRIC COOPERATIVE, INC.
OF NEW MEXICO

By: _____
Michael B. West, President

(SEAL)

ATTEST:

_____
John Pat Woods, Secretary