

**TOWN OF NEW CASTLE, COLORADO
RESOLUTION NO. 2016-09**

A RESOLUTION OF THE TOWN OF NEW CASTLE TOWN COUNCIL REFERRING TO THE VOTERS OF NEW CASTLE ON NOVEMBER 8, 2016 A MEASURE TO APPROVE AN ORDINANCE GRANTING AN ELECTRIC AND GAS FRANCHISE TO PUBLIC SERVICE COMPANY OF COLORADO FOR A PERIOD OF 20 YEARS

WHEREAS, the Town of New Castle ("Town") granted to Public Service Company of Colorado ("Public Service") for a period of twenty-five years an electric and gas franchise; and

WHEREAS, the grant of the franchise became effective on November 10, 1991 and expires by its terms on November 9, 2016; and

WHEREAS, the Town and Public Service have engaged in negotiations for a renewal franchise that would become effective on November 10, 2016; and

WHEREAS, Public Service desires that the renewal franchise be granted for a period of twenty (20) years; and

WHEREAS, Article V of the Town Charter provides that no franchise shall be granted for a period of greater than five (5) years except upon the affirmative vote of a majority of the qualified voters voting thereon at a general election or a special election called for that purpose; and

WHEREAS, Article V of the Town Charter provides that the ordinance granting franchise may be put to voter approval by the initiative or referendum process and that the proposed franchisee shall pay the expense of such election; and

WHEREAS, the Town and Public Service successfully negotiated all terms of a renewal franchise agreement except the twenty (20) year grant of the franchise; and

WHEREAS, Public Service has requested that the franchise be put to voter approval through the referendum process and has agreed to pay the expense of such election:

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF NEW CASTLE, COLORADO:

Recitals. The foregoing recitals are incorporated herein as findings and determinations of the Town Council.

Referral to Voters. The Town Council hereby refers to the voters of New Castle, on November 8, 2016, a measure to approve an ordinance granting an electric and natural gas franchise to Public Service Company of Colorado according to the terms negotiated between the Town and Public Service, entitled:

AN ORDINANCE OF THE NEW CASTLE TOWN COUNCIL GRANTING BY FRANCHISE TO PUBLIC SERVICE COMPANY OF COLORADO, ITS AFFILIATES, SUCCESSORS AND ASSIGNS, FOR A TERM OF TWENTY (20) YEARS, THE RIGHT TO USE THE STREETS WITHIN THE TOWN TO FURNISH, SELL, TRANSMIT, TRANSPORT AND DISTRIBUTE ELECTRICITY AND NATURAL GAS TO THE TOWN AND TO ALL RESIDENTS OF THE TOWN, GRANTING THE RIGHT TO ACQUIRE, CONSTRUCT, INSTALL, LOCATE, MAINTAIN, OPERATE AND EXTEND INTO, WITHIN AND THROUGH THE TOWN ALL FACILITIES REASONABLE NECESSARY TO FURNISH, SELL, TRANSMIT, TRANSPORT AND DISTRIBUTE ELECTRICITY AND NATURAL GAS WITHIN AND THROUGH THE TOWN AND FIXING THE TERMS AND CONDITIONS THEREOF, INCLUDING THE PAYMENT TO THE TOWN OF A FRANCHISE FEE.

The proposed ordinance is attached to this Resolution as Exhibit 1.

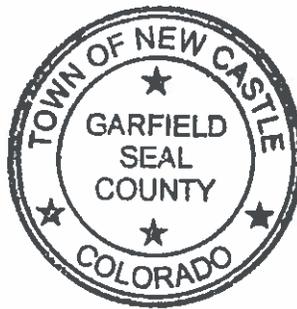
Introduced, read and adopted at a Regular Meeting of the Town Council of the Town of New Castle, Colorado on July 5, 2016.

TOWN OF NEW CASTLE, COLORADO

By: 
Mayor Art Riddile

ATTEST:


Town Clerk Melody Harrison, CMC



**TOWN OF NEW CASTLE, COLORADO
ORDINANCE NO. 2016-03**

AN ORDINANCE OF THE NEW CASTLE TOWN COUNCIL GRANTING BY FRANCHISE TO PUBLIC SERVICE COMPANY OF COLORADO d/b/a XCEL ENERGY, ITS AFFILIATES, SUCCESSORS AND ASSIGNS, FOR A TERM OF TWENTY (20) YEARS, THE RIGHT TO USE THE STREETS WITHIN THE TOWN TO FURNISH, SELL, TRANSMIT, TRANSPORT AND DISTRIBUTE ELECTRICITY AND NATURAL GAS TO THE TOWN AND TO ALL RESIDENTS OF THE TOWN, GRANTING THE RIGHT TO ACQUIRE, CONSTRUCT, INSTALL, LOCATE, MAINTAIN, OPERATE AND EXTEND INTO, WITHIN AND THROUGH THE TOWN ALL FACILITIES REASONABLY NECESSARY TO FURNISH, SELL, TRANSMIT, TRANSPORT AND DISTRIBUTE ELECTRICITY AND NATURAL GAS WITHIN AND THROUGH THE TOWN AND THE RIGHT TO MAKE REASONABLE USE OF ALL STREETS AND OTHER PUBLIC PLACES AND PUBLIC EASEMENTS AS HEREIN DEFINED AS MAY BE NECESSARY, AND FIXING THE TERMS AND CONDITIONS THEREOF, INCLUDING THE PAYMENT TO THE TOWN OF A FRANCHISE FEE.

WHEREAS, the Town of New Castle ("Town") granted to Public Service Company of Colorado ("Public Service" or the "Company") for a period of twenty-five (25) years an electric and gas franchise; and

WHEREAS, the grant of the franchise became effective on November 10, 1991 and expires by its terms on November 9, 2016; and

WHEREAS, the Town and Public Service have successfully negotiated all terms of a proposed renewal Franchise Agreement that will become effective by its terms as of November 10, 2016, and expire on November 9, 2036; and

WHEREAS, a copy of the proposed renewal Franchise Agreement has been presented to the Town Council for its consideration and approval, a copy of which is attached hereto as Exhibit "A" and is on file with the Town Clerk; and

WHEREAS, the Franchise Agreement includes, among other provisions, the following major terms and conditions: (1) a term of twenty (20) years; (2) a requirement that Public Service pay to the Town a franchise fee equal to three percent (3%) of the gross revenues that the Company receives from the sale of electricity and the sale and transportation of natural gas to residents of the Town; and (3) other provisions regarding the provision of utility service, the construction, operation and relocation of Company facilities, and other performance obligations; and

WHEREAS, Article V of the Town Charter provides that no franchise shall be granted for a period of greater than five (5) years except upon the affirmative vote of a majority of the qualified voters of the Town voting thereon at a general election or a special election called for that purpose; and

WHEREAS, Article V of the Town Charter provides that the ordinance granting franchise may be put to voter approval by the initiative or referendum process and that the proposed franchisee

shall pay the expense of such election; and

WHEREAS, the Town Council referred the requested franchise to voter approval at the general election held on November 8, 2016; and

WHEREAS, a majority of the qualified voters of New Castle who voted in the general election on November 8, 2016, approved the grant of a franchise to Public Service for a period of 20 years; and

WHEREAS, pursuant to C.R.S. § 31-32-101, no franchise granting the right or privilege to erect, construct, operate, or maintain an electric light plant or system or a gas works, plant or system in any manner other than by an ordinance adopted by the Council; and

WHEREAS, the Council considered the Franchise Agreement at two duly-noticed, regular public meetings held ____, 2016, and ____, 2016; and

WHEREAS, the Council finds that all notice and publication requirements set forth in C.R.S. §§ 31-32-301, *et seq.*, have been met;

WHEREAS, the Council finds that the Town's grant of a franchise to the Company in accordance with the terms and conditions of the Franchise Agreement is in the best interests of the Town and its citizens, and will serve to meet the needs of the community.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF NEW CASTLE, COLORADO:

Section 1. The Town Council of the Town of New Castle hereby approves the proposed Franchise Agreement by and between the Town and the Company in the form of such Franchise Agreement attached hereto as Exhibit "A," and incorporated herein by this reference, and hereby authorizes the grant of the franchise herein contained subject to and upon the terms and conditions of said Franchise agreement.

Section 2. The Mayor and the Town Clerk are authorized and directed to execute the Franchise Agreement on behalf of the Town, such execution to be on and after the effective date of this Ordinance.

Section 3. This Ordinance shall be effective 14 days after final publication.

Section 4. Each section of this Ordinance is an independent section and a holding of any section or part thereof to be unconstitutional, void, or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other section or part thereof. The Council declares that it would have passed this Ordinance and the Franchise Agreement and each part thereof irrespective of the fact that any one part be declared invalid.

Section 5. All other ordinances or portions thereof inconsistent or conflicting with this Ordinance or any portions hereof are hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ AND PASSED on _____, 2016, at which time copies

were available to the Council and to those persons in attendance at the meeting, read by title, passed on first reading, and ordered published in full and posted in at least two public places within the Town as required by the Charter.

INTRODUCED a second time at a duly-noticed regular meeting of the Council of the Town of New Castle, Colorado, on _____, 2016, read by title and number, passed with amendment as set forth herein , approved, and ordered published as required by the Charter.

TOWN OF NEW CASTLE, COLORADO

By: _____
Mayor Art Riddile

ATTEST:

Town Clerk Melody Harrison, CMC