

## ORDINANCE NO. 38

AN ORDINANCE, Granting to the Kansas Power Company, a Kansas corporation operating a system for the transmission of electric current between two or more incorporated cities in the State of Kansas, its successors and assigns, hereinafter called the GRANTEE, the right to furnish electric service to the City and the inhabitants thereof, of Hunter, Mitchell County, Kansas, hereinafter called the CITY, and to persons, firms and corporation beyond the limits of said City, and to transmit electric current into and through and beyond said City; and the right to erect, construct, install, maintain and operate poles, wires, conduits, tunnels and other fixtures in, upon, over, across and along the streets, avenues, alleys, bridges and public places of said City of Hunter, for the purpose of furnishing electric energy for light, heat, power and other uses for said City of Hunter and its inhabitants; and prescribing the terms and conditions of this GRANT; contracting with said Grantee for the furnishing of electric energy for street lighting and municipal water pumping; and repealing all ordinances and parts of ordinances in conflict herewith.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HUNTER, MITCHELL COUNTY, KANSAS:

SECTION 1. That in consideration of the benefits to be derived by the City of Hunter, and the inhabitants thereof, from the operation of an electric lighting, heating and power system in said City by the hereinafter named Grantee, there is hereby granted to The Kansas Power Company a corporation duly incorporated under the laws of the State of Kansas and operating a system for the transmission of electric current between two or more incorporated cities in the State of Kansas, its successors and assigns, the right, privilege and authority to erect, construct, install, maintain and operate an electric lighting, heating and power system within the limits of said City as the same now exist or may hereafter be extended, for a period of twenty (20) years from and after the date of the passage of this ordinance; and for that purpose there is hereby granted the right, privilege and authority, during said period, to erect, construct, install, maintain and operate in, upon, over, across or along the several streets, avenues, alleys, bridges and public places of said City as now, or hereafter during the term hereof, may be opened, laid out or established, all conduits, tunnels, poles, wires, cables, lamps, pipes, fixtures and appliances necessary, convenient or proper to carry on the business of furnishing and supplying electricity for lighting, heating, power and other uses to the City of Hunter and its inhabitants, and through said City and beyond the limits thereof, and to obtain said current over a transmission line of Grantee, its successors or assigns.

SECTION 2. That all conduits, poles, pipes, wires and fixtures installed by virtue of this ordinance shall be so erected and maintained as to interfere as little as possible with traffic over the streets, avenues, alleys and public grounds of said City. The location and relocation of all poles and towers shall be fixed and remain under the supervision of the governing body of said City, or its authorized representative; but such supervision shall not be such as to unreasonably interfere with the proper installation, operation and maintenance of said lines.

The said Grantee, so far as the law permits, is hereby given the right under the supervision of the governing body of said City, within the city limits of Hunter, Kansas, to trim and cut such trees and foliage as may be reasonably necessary to prevent the same from interfering with the safe and efficient operation and maintenance of its transmission lines, distribution system and street lighting equipment.

SECTION 3. That in case any person desires to move a building along the streets, avenues or alleys crossed by the wires of said Company, and shall have secured suitable permission therefor from the City, and it becomes necessary to have said wires temporarily raised or removed for the purpose of the passage of such building, written notice shall be given to that effect by the City Clerk, directed to the managing officer of the Company at its office at Downs, Kansas which notice shall be served forty-eight (48) hours in advance of the date upon which such person shall desire to move such building, and the Company shall in such case, within forty-eight (48) hours, so raise or remove such wires to permit the passage of such building, provided that payment shall be first made to the Company of the reasonable cost or damage resulting from the removal or change of said wires and the replacing of the same.

SECTION 4. That in consideration of the rights and privileges hereby granted, said Grantee hereby undertakes and agrees to use reasonable effort to maintain good and adequate service to the City hereunder but it is understood that the Company does not guarantee that the supply of electrical energy will at all times be continuous and it is agreed that temporary cessation of Company's service hereunder, occasioned by fire, explosion, flood, strike, insurrection, mob violence, governmental interference, breakdown or injury to machinery or transmission or distribution lines, or from other accidents or causes not reasonably within its control, shall not constitute a breach of this ordinance or of any obligation arising hereunder on the part of Company, and that Company shall not be liable to Municipality or to any other person, firm or corporation for any damages resulting from such temporary cessation of service. That Grantee shall furnish electric service and make extensions when necessary to serve all of the inhabitants within the present corporate limits of the City of Hunter desiring service hereunder; provided that the Grantee shall not be required to serve customers located more than three hundred (300) feet from an existing pole or wire line, where the revenue to be derived from such service will be insufficient to yield an adequate return upon the investment required to serve such customers, except at customer's cost and expense.

SECTION 5. The Grantee, its successors and assigns, shall furnish and install for its patrons, reliable meters; and shall keep the same in repair without cost to the patrons.

SECTION 6. The Grantee, its successors and assigns, as a further consideration for the granting of this franchise, agrees to furnish sufficient electric current to said City and its inhabitants at the rates and under the conditions set out in schedules this day filed by the Grantee with the City Clerk of the City of Hunter, Kansas, or at such lawful changed rates as may from time to time be lawfully established by the Public Service Commission of the State of Kansas, or such other lawfully constituted governmental body as may from time to time be

constituted by the Legislature of the State of Kansas having jurisdiction over the rates of Grantee.

SECTION 7. The Grantee, its successors and assigns, shall have the right to make such reasonable rules and regulations for the protection of its property, for the prevention of loss and waste in the conduct and management of its business, and for the sale and distribution of electricity, as may from time to time by it be deemed necessary. Copies of all such rules and regulations shall be furnished to the City of Hunter, and shall be subject to review by the Public Service Commission of the State of Kansas.

SECTION 8. The Grantee, its successors and assigns, in the construction, maintenance and operation of its street lighting and distribution systems shall use all reasonable and proper precautions to avoid damage or injury to persons or property, and shall hold and save harmless the City of Hunter from any and all damage, injury and expense caused by the sole negligence of said Grantee, its successors or assigns, or its or their agents or servants.

SECTION 9. The City shall, for a period of twenty (20) years from the passage and approval of this ordinance, purchase from the Company, its successors and assigns, and the Company shall supply at the rates and subject to the conditions as set forth in the "Municipal Street Lighting Schedule" of rates this day filed with the City Clerk of the City of Hunter, Kansas, by the Company, all lights and renewals used in ordinary street lighting service, and such ornamental street lighting as may be hereafter installed, and all energy for lighting the streets of said City during the above period.

SECTION 10. The City shall purchase and pay for, and the Company shall furnish and supply according to the "Municipal Street Lighting Schedule" of rates this day filed with the City Clerk of Hunter by the Company, the entire electrical energy requirements of the City for use in furnishing power for pumping water for the use of said City and its inhabitants for a period of twenty (20) years from and after the passage and approval of this ordinance, and the City shall not, during said period, purchase or receive electric energy for water pumping, from any person, firm or corporation, except the Company, its successors and assigns. Energy delivered by the Company for water pumping service will be delivered to the City and accepted by the City at its switchboard in the City water pumping plant at a pressure of \_\_\_\_ volts. The City shall install and maintain all electric apparatus and pumping equipment and shall conduct the same with its own employees.

The Company and the City shall each be solely responsible for injuries to persons or damage to property occurring on their respective sides of the point of delivery.

SECTION 11. That all ordinances or parts of ordinances in conflict with or inconsistent with this ordinance are hereby repealed.

SECTION 12. Within thirty (30) days from and after the passage and approval of this ordinance said Grantee shall file with the City Clerk of the City of Hunter, Kansas its acceptance in writing

of the provisions, terms and conditions of this ordinance, and unless such acceptance shall be filed, this ordinance shall be null and void.

SECTION 13. This ordinance shall become effective and be in force, and shall become a binding contract between the parties hereto, their successors and assigns, from and after its passage, approval and publication as required by law, and after its acceptance as above provided.

Passed and approved this 31st day of December, 1928

APPROVED: E. E. Bilger, Mayor of the City of Hunter, Mitchell County, Kansas

ATTEST: R.M. Rees, City Clerk

