

ORDINANCE NO. 2 OF SEPTEMBER 2017

AN ORDINANCE GRANTING A FRANCHISE TO WASHINGTON ST-TAMMANY ELECTIRC COOPERATIVE, INC.("COOPERATIVE"), ITS SUCCESSORS AND ASSIGNS, FOR A PERIOD OF 30 YEARS FOR THE CONSTRUCTION, MAINTENANCE AND OPERATION OF ELECTRIC UTILITIES, ELECTRIC GENERATNG FACILITIES AND/OR TRANSMISSION AND DISTRIBUTION SYSTEMS IN, THROUGH AND ACROSS THE VILLAGE OF FOLSOM LOUISIANA ("MUNICIPALITY"), AND FOR THE USE OF THE STREETS, ALLEYS AND PUBLIC PLACES OF SAID MUNICIPALITY, IN CONNECTION THEREWITH, FOR THE GENERATION, TRANSMISSION, DISTRIBUTION AND SALE OF ELECTRIC ENERGY, FIXING THE TERMS, CONSIDERATIONS AND LIMITATIONS THEREOF AND PROVIDING FOR PAYMENT BY COOPERATIVE (ITS SUCCESSORS AND ASSIGNS) OF A SUM EQUAL TO FOUR PERCENT (4%) OF THE AMOUNTS RECEIVED BY SAID COOPERATIVE FOR THE SALE AND/OR DELIVERY OF KILOWATT HOURS OF ELECTRIC ENERGY AT RETAIL FOR RESIDENTIAL AND COMMERCIAL PURPOSES BASED ON RESIDENTIAL AND COMMERCIAL NET RATES (UNBUNDLED RATES IN THE EVENT OF DEREGULATON) BILLED FOR SERVICE WITHIN THE LIMITS OF SAID MUNICIPALITY (EXCLUSIVE OF TAXES AND ALL GOVERNMENTAL FEES AND IMPOSITIONS SHOWN ON SUCH BILLS), AS SAID LIMITS MAY NOW OR HEREAFTER LAWFULLY EXIST, AND REPEALING ALL ORDINANCES IN CONFLICT HEREWITH.

BE IT ORDAINED, by the governing body of the VILLAGE OF FOLSOM, Louisiana, hereinafter designated as "Municipality", in regular session duly and legally convened:

SECTION 1. That Washington-St. Tammany Electric Cooperative, Inc., hereinafter designated as the "Cooperative", a Louisiana Corporation, domiciled and doing business in the State of Louisiana, its successors and assigns, be and the said Cooperative is hereby granted the right, privilege and franchise of producing (including the right to construct, maintain and operate electric power plants) and/or otherwise acquiring, transmitting, distributing and selling electricity(for light, heat, power and other purposes) to the Municipality and the inhabitants thereof, which right, privilege and franchise shall be deemed to include the right, authority and privilege to construct, maintain and operate in, along, under and upon the present and future streets, alleys, bridges and public ways and places of said Municipality, lines with all necessary or desirable appurtenances (including poles, wires, conduits and apparatus) for the purpose of supplying and/or selling electricity for light, heat, power and other purposes to the said Municipality and the inhabitants thereof.

SECTION 2. That the Cooperative, its successors and assigns, shall at all times maintain its electric transmission and distribution system in a safe and good condition and shall comply with all necessary and reasonable safety regulations in

the operation thereof, and shall protect and save harmless the Municipality from all claims and damages due to the Cooperative's negligence, or the Cooperative's failure to comply with any obligations of this franchise; and the Cooperative, its successors and assigns, shall extend said electric aerial transmission and distribution systems, from time to time, as may be necessary to the end that the said Municipality and the inhabitants thereof shall be afforded adequate service, commensurate with the demands therefore, whenever the estimated earnings from any extension shall be sufficient to pay the cost of giving aerial service thereon, including depreciation and a fair return on the property used and useful in giving such service.

SECTION 3. That all changes made necessary in the Cooperative's transmission lines in connection with the improvements of streets, roads, bridges, alleys or other public places shall be made by the Cooperative, its successors or assigns, who shall likewise repair all damage to the streets, roads, bridges, alleys or other public places caused by the construction or maintenance of said transmission lines.

SECTION 4. That the Cooperative, its successors and assigns, shall have the right to formulate and publish rules and regulations under which service will be furnished subject to the approval of the legally constituted authorities having jurisdiction over such matters; which regulations may provide for the payment, on or before a specified day each month, for all service furnished for the preceding month, with right to disconnect and discontinue service to all delinquents.

SECTION 5. That this franchise and the rights, authorities and privileges herein granted are not exclusive and are granted for a period of 30 years from and after July 11, 2018.

SECTION 6. In consideration of the grant of this franchise:

- (a) The Cooperative agrees to pay the Municipality during the effective period of this franchise, a sum of money equal to four percent (4%) of the amounts received by the Cooperative for the sale and delivery of Kilowatt hours of electric energy at retail for residential and commercial purposes based on residential and commercial net rates approved by the Louisiana Public Service Commission billed for service within the limits of said Municipality, exclusive of taxes and all governmental fees and impositions shown on such bills. It is understood and agreed that no payment shall be due to the Municipality by the Cooperative on amounts received from the following classifications of sales and service:
 - (1) Sales or distribution of electricity for resale
 - (2) Sales or distribution of electricity to the Municipality and to other public authorities, including, but not limited to, the United States of America, the State of Louisiana and its political subdivisions, including parishes and other municipalities, and all divisions and agencies of any of the foregoing.

(3) Sales or distribution of electricity to industrial customers who are identified as those who engage in the business of working raw materials into wares suitable for use or which gives new shapes, qualities, or combinations to matter which already has gone through some artificial process and who are billed on or the equivalent of rate schedules LP3 or LP4 on file with the Louisiana Public Service Commission or any rate schedules amending or superseding those rate schedules or any rate schedules filed with the Louisiana Public Service Commission having application to industrial use. The period for which the amount payable under this Section shall be computed will commence when this ordinance becomes effective, and the amount shall be paid quarterly, the quarterly periods being fixed on a calendar year basis, and the payments on a quarterly basis shall be made not later than thirty (30) days after the end of each quarter, that is, on or before April 30, July 30, October 30 and January 30 of each calendar year, and on the payment date the Cooperative shall furnish to the Municipality a statement showing the total of such amounts received by the Cooperative for the preceding quarterly period to which payments for four percent (4%) is applicable. The payments herein provided to be made by the Cooperative to the Municipality will be reduced in an amount equal to the sum of any new or increased taxes of any nature whatsoever levied by the Municipality and payable by the Cooperative, subsequent to the date of this ordinance (except uniform ad valorem taxes, that is, any uniform taxes based on property values).

(b) The Cooperative shall be obligated during the term of this franchise to furnish, operate and maintain a system for lighting the streets of the Municipality, and to furnish electric energy for other requirements of the Municipality for facilities owned and operated by the Municipality, all at costs to the Municipality, as agreed upon by the Municipality and the Cooperative under contracts to be entered into hereafter; provided, however, that the validity of this franchise shall not in any way be contingent upon the existence or validity of any such contracts.

SECTION 7. Notwithstanding any other provisions of this Ordinance to the contrary, including without limitation, Section 6 hereof, in the event that all three of the following conditions are met; (1) deregulation of the electric utility industry in Louisiana as the result of any applicable law or any order, rule or regulation of the Louisiana Public Service Commission or any regulatory body having jurisdiction over the Cooperative; and (2) Cooperative, including any subsidiary ceased to generate electric energy as a regulated electric public utility for sale to the public; and (3) Cooperative distributes Kilowatt hours of electric energy to customers in the Municipality which has been generated by Cooperative or others, then the provisions of Sections 6, paragraph (a), subparagraphs (1)-(3) hereof, shall no

longer apply, and in the event, Cooperative shall thereafter pay to Municipality, four percent (4%) of only those amounts received by Cooperative from its customers solely for the distribution of Kilowatt hours of electric energy to its customers located within the Municipality, based on residential and commercial net rates approved by the Louisiana Public Service Commission, exclusive of taxes and all government fees and impositions shown on the bills for such service; and, without limitation of the foregoing, there shall be excluded from those amounts: (a) all charges made to said customers by the party who generated and/or supplied and/or sold said Kilowatt hours of electric energy which was distributed to said customers by Cooperative; (b) all charges made by Cooperative to any customer for Kilowatt hours of electric energy purchased by Cooperative from an electric generator or supplier because such customer had not purchased electric energy from an electric generator or supplier; and (c) all charges and amounts received by Cooperative from customers on behalf of any electric generator or supplier for the sale of Kilowatt hours of electric energy to said customer by said electric generator or supplier; it being the intention of this provision that the four percent (4%) payment provided for in Section 6 shall apply only to amounts received by Cooperative solely for the distribution of Kilowatt hours of electric energy to said customer in the Municipality and not to amounts received by Cooperative from the sale of Kilowatt hours of electric energy to said customers by anyone, including Cooperative; and the paragraph following subparagraph (3) of paragraph (a) of Section 6 shall be considered modified to reflect the foregoing.

SECTION 8. Notwithstanding any other provisions of this Ordinance to the contrary including without limitation, Section 7, in the event that either of the following conditions are met:

Condition One: The Municipality is authorized by statute to enact a tax on the sale of electricity to customers located within the limits of the Municipality (the "Municipality Tax"); or

Condition Two: Cooperative is required, either contractually or through legislation, or the lawful action of any regulatory agency with jurisdiction over Cooperative, to collect from customers located within the Municipality, as a pass-through expense on behalf of another energy provider who has a contract with the Municipality to provide service to residents of the Municipality ("Other Provider"), a fee owed by the Other Provider to the Municipality (the "Other Energy Fee"), and the Other Provider does not bill the customers located within the Municipality for any services;

then even in the instance that all three requirements set out in Section 7 herein are met:

to-wit:

- 1) Deregulation of the electric utility industry in Louisiana as a result of any applicable law or any order, rule or regulation of the Louisiana Public Service Commission or any regulatory body having jurisdiction over the Cooperative;

And

- 2) Cooperative, including any subsidiary, ceases to generate electric energy as a regulated electric public utility for sale to the public; and
- 3) Cooperative distributes Kilowatt hours of electric energy to customers in the Municipality which has been generated by Cooperative or others;

If Condition One is met, the Cooperative shall collect, on behalf of the Municipality, from all of the Cooperative's customers located within the limits of the Municipality and remit to the Municipality those amounts paid by customers as the Municipality Tax; and if Condition Two is met, the Cooperative shall bill to all of Cooperative's customers located within the limits of the Municipality and remit to the Municipality if paid, the Other Energy Fee.

The Municipality shall fully defend, protect, indemnify and hold harmless the Cooperative and its employees from and against each and every claim, demand or cause of action including those arising out of contract or tort and any liability, cost, and expense (including attorneys' fees and other costs incurred in the defense of the Cooperative and/or its employees), for damage or loss in connection therewith, which may be made or asserted by the Municipality, its employees or agents, customers, or any third parties, arising out of the Cooperative's collection of the Municipality Tax or the Other Energy Fee. Additionally, any amounts paid by residents of the Municipality shall first be applied to charges by the Cooperative. In no event will Cooperative be responsible for payment to Municipality of the Other Energy Fee unless the Cooperative receives the Other Energy Fee from its customers. Likewise, in no event will Cooperative be responsible for initiating any collection efforts with respect to the Other Energy Fee.

SECTION 9. That all of the franchise rights and obligations created hereunder shall be applicable to sales and/or distribution of electric energy by the Cooperative within the corporate limits of the Municipality as same may now or hereafter lawfully exist. The Municipality shall provide to the Cooperative in writing a legal description of said corporate limits as of the effective date of this franchise within six months, and shall immediately provide to the Cooperative in writing all changes therein. All obligations of the Cooperative under Sections 6 and 7 of this franchise shall be based upon the last designation of the corporate limits made by the Municipality to the Cooperative pursuant to this Section.

SECTION 10. That all ordinances or parts of ordinances contrary to or in conflict with the provisions of this ordinance are and the same are hereby repealed, and this ordinance shall take effect from and after its promulgation in full and its acceptance in writing by the Cooperative for itself, its successors and assigns.

The foregoing Ordinance was introduced on the 14th day of August 2017.

The foregoing Ordinance was then read and considered, section by section, and as a whole, and thereupon, on motion of Alderman Willie, seconded by Alderwoman Mathies the ordinance was adopted, section by section, and as a whole, by the following vote:

	<u>YEA</u>	<u>NAY</u>	<u>ABSENT</u>	<u>ABSTAIN</u>
Alderwoman Paulette Lee	✓	—	—	—
Alderwoman Jill Mathies	✓	—	—	—
Alderman Lance Willie	✓	—	—	—

The foregoing Ordinance was passed and adopted on this 11th day of September 2017.

Approved by:

Betty M. Boggs

Mayor Betty M. Boggs
Village of Folsom

Andrie Gore
Town Clerk

Betty M. Boggs
Mayor

ACCEPTED:
WASHINGTON-ST. TAMMANY ELECTRIC COOPERATIVE, INC.

By: Charles Hill
Charles Hill
General Manager/CEO

Date: 9-13-17

CERTIFICATE

I, Andree Core, Municipal Clerk of the Village of Folsom, certify that the above and foregoing pages constitutes a true and correct copy of the foregoing Ordinance passed and adopted on the 11th day of September 2017.

In Faith Whereof, witness my official signature on this 11th day of September 2017.



ANDREE CORE
Municipal Clerk
Village of Folsom