

ORDINANCE NO. 2001.03

AN ORDINANCE GRANTING TO TXU ELECTRIC COMPANY, ITS SUCCESSORS AND ASSIGNS, AN ELECTRIC LIGHT, HEAT AND POWER FRANCHISE TO USE THE PRESENT AND FUTURE STREETS, ALLEYS, HIGHWAYS AND PUBLIC GROUNDS AND WAYS OF THE VILLAGE OF SALADO, TEXAS, PROVIDING FOR COMPENSATION THEREFOR, PROVIDING FOR AN EFFECTIVE DATE AND A TERM OF SAID FRANCHISE, PROVIDING FOR WRITTEN ACCEPTANCE OF THIS FRANCHISE, PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES, AND FINDING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC.

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE VILLAGE OF SALADO, TEXAS:

SECTION 1. That there is hereby granted to TXU Electric Company, its successors and assigns (herein called "TXU Electric"), the right, privilege and franchise to construct, extend, maintain and operate in, along, under and across the present and future streets, alleys, highways, and public grounds and ways of the Village of Salado, Texas (herein called "Village") electric light and power lines, with all necessary or desirable appurtenances (including underground conduits, poles, towers, wires, transmission lines and other structures, and telephone and communication lines for its own use), for the purpose of supplying electricity to the Village, the inhabitants thereof, and persons, firms and corporations beyond the corporate limits thereof, for light, heat, power and other purposes.

SECTION 2. Poles, towers and other structures shall be so erected as not to unreasonably interfere with traffic over streets, alleys and highways.

SECTION 3. TXU Electric's property and operations within the corporate limits of the Village shall be subject to such reasonable rules and regulations of the Village as may be authorized by applicable law from time to time for the protection of the general public. Grantee shall construct its facilities in conformance with the applicable provisions of the National Electric Safety Code or such comparable standards as may be adopted. TXU Electric may require a reasonable security deposit for payment of bills rendered its customers within the Village, but in no event shall it be inconsistent with the standards for such deposits set by the Public Utility Commission of Texas.

SECTION 4. TXU Electric shall hold the Village harmless from all expense or liability for any act or neglect of TXU Electric hereunder.

SECTION 5. This franchise is not exclusive, and nothing herein contained shall be construed so as to prevent the Village from granting other like or similar rights, privileges

and franchises to any other person, firm, or corporation.

SECTION 6. In consideration of the grant of said right, privilege and franchise by the Village and as full payment for the right, privilege and franchise of using and occupying the said streets, alleys, highways and public grounds and ways, and in lieu of any and all occupation taxes, assessments, municipal charges, fees, easement taxes, franchise taxes, license and inspection fees or charges, street taxes, street or alley rentals, certain regulatory expenses under Section 33.023 of the Public Utility Regulatory Act, Title 2, Texas Utilities Code ("PURA"), as amended, or any similar or successor law, and all other taxes, charges, levies, fees and rentals of whatsoever kind and character which the Village may impose or hereafter be authorized or empowered to levy and collect, excepting only the usual general or special ad valorem taxes which the Village is authorized to levy and impose upon real and personal property, sales and use taxes, and special assessments for public improvements, TXU Electric shall pay to the Village the following:

(a) A one-time payment of SEVENTEEN THOUSAND DOLLARS AND NO/100s (\$17,000.00) in consideration of the use and occupancy of the streets, alleys, highways and public grounds and ways during the year ended December 31, 2000.

(b) For the period beginning on the effective date of this Ordinance and ending December 31, 2001, a sum equal to four percent (4%) of the gross receipts received by TXU Electric from the retail sale of electric power and energy within the corporate limits of the Village. It is expressly agreed that gross receipts exclude:

- (1) taxes imposed by law on customers that the Company is obligated to collect and which the Company passes on, in full, to the applicable tax authority or authorities;
- (2) any investment income earned by the Company;
- (3) other revenue of the Company derived from:
 - (1) sales for resale,
 - (2) miscellaneous service revenues, consisting of fees and/or charges for account history reports, additional load reports, account initiations, collection letters, new connects after office hours, auto meter readings, electrical pulse, field collections, meter tests, special meter readings, reconnects, return check charges, special bill forms, transfer of services, temporary services, and tamperings:
 - (3) sales of water and water power,
 - (4) rent from electric property,
 - (5) other electric revenues, consisting of over/under collected fuel revenues, unbilled fuel power cost recovery, gain on sale of fuel, transmission facility charges tariffs and non-tariffs,

wheeling charges, management fees, unbilled revenues, and undefined electrical revenues.

The first payment hereunder shall be due and payable on or before March 15, 2001, and shall be based upon TXU Electric's said gross receipts during the twelve-month period ending the preceding December 31 for the rights and privileges granted hereunder during the twelve-month period ended December 31, 2001. Subsequent payments hereunder shall be due and payable annually thereafter on or before March 15 of each succeeding year during the term hereof and shall be based on TXU Electric's said gross receipts during the twelve-month period ending the preceding December 31 and shall be payment for the rights and privileges granted hereunder for the twelve-month period ending December 31 of the year in which the payment is made.

(c) Beginning on January 1, 2002, a charge, and on an annual basis thereafter, as authorized by Section 33.008(b) of PURA. The first payment hereunder shall be due and payable on or before March 15, 2003 for the rights and privileges granted hereunder during the twelve-month period ended December 31, 2002. Each such payment shall be accompanied with a report showing the gross receipts or basis as aforesaid for the said preceding year period upon which the payment is based.

(d) Notwithstanding anything to the contrary in Sections 6(b) and 6(c) hereof, if TXU Electric files general rate cases and the Village incurs cumulative expenses, otherwise reimbursable by TXU Electric under Section 33.023 of PURA, as amended, or similar or successor law, in excess of \$4 million, then in such event, TXU Electric shall reimburse all of the expenses incurred by the Village in connection with all general rate cases filed during the period beginning June 1, 1993, and ending September 30, 2008, in excess of said \$4 million. The term "general rate case" as used in this Ordinance means a rate case initiated by TXU Electric in which it seeks to increase its rates charged to a substantial number of its customer classes in the Village and elsewhere in its system and in which TXU Electric's overall revenues are determined in setting such rates. The Village agrees to exercise reasonable best efforts, considering the facts and circumstances, to keep its expenses on average to under \$1,000,000 per general rate case.

(e) Notwithstanding the provisions of Section 6(d) hereof, in the event that the largest city, by population, served by TXU Electric incurs cumulative expenses in connection with general rate cases filed by TXU Electric during the period beginning June 1, 1993, and ending September 30, 2008, in excess of \$4 million and TXU Electric reimburses said city such excess, then, in that event, TXU Electric will reimburse the Village its reasonable expenses actually incurred that are otherwise reimbursable under Section 33.023 of PURA, as amended, limited, however, to an amount calculated in accordance with the following formula:

$$A = [(B - \$4,000,000) \div B] \times C,$$

where:

A = The amount reimbursable to the Village under this franchise;

B = The total amount of expenses incurred by the largest city, by population, served by TXU Electric during the period beginning June 1, 1993, and ending September 30, 2008, in connection with general rate cases filed by TXU Electric, which expenses would be reimbursable under Section 33.023 of PURA except for the terms of said city's franchise, but excluding all such expenses incurred in connection with Public Utility Commission of Texas Dockets Nos. 9300 and 11735; and

C = The total amount of expenses incurred by the Village during the period beginning June 1, 1993, and ending September 30, 2008, in connection with general rate cases filed by TXU Electric, which expenses would be reimbursable under Section 33.023 of PURA except for the terms of this franchise, but excluding all such expenses incurred in connection with Public Utility Commission of Texas Dockets Nos. 9300 and 11735.

(f) Notwithstanding the provisions of Section 6(e) hereof, TXU Electric will continue to reimburse the Village's ratemaking expenses, if any, in connection with the appeal and any remand of Public Utility Commission of Texas Docket No. 9300 that are otherwise reimbursable under Section 33.023 of PURA, as amended, and will continue to reimburse the Village's ratemaking expenses, if any, in connection with Public Utility Commission of Texas Docket No. 11735 that are otherwise reimbursable under Section 33.023 of PURA, as amended, to the extent that said ratemaking expenses are incurred through the entry of the last action by the Public Utility Commission of Texas (i.e., the said Commission's order overruling the last motion for rehearing) in said Docket No. 11735; the Village hereby agrees that any ratemaking expenses incurred in connection with said Docket No. 11735 that the Village incurs on appeal of said order will be the Village's sole responsibility and further agrees -- in the event that the Village is a participant in the joint intervention of cities managed by the Steering Committee of TXU Electric Service Area Cities intervening in Docket No. 11735, that the Village decides to continue to participate with the Steering Committee in such appeal of said order, and TXU Electric is required to reimburse said Steering Committee for ratemaking expenses under Section 33.023 of PURA, as amended, that are incurred on appeal of said order in Docket No. 11735 -- to reimburse TXU Electric the Village's share of reimbursable expenses related to said appeal and owed by TXU Electric to said Steering Committee determined by the methodology chosen by the said Steering Committee (the Village to notify TXU Electric of the method so chosen by the Steering Committee prior to the submission of an invoice by the Steering Committee for the payment by TXU Electric of said reimbursable expenses related to said appeal).

SECTION 7. This Ordinance shall become effective upon TXU Electric's written acceptance hereof, said written acceptance to be filed by TXU Electric with the Village within thirty (30) days after final passage and approval hereof, and the right, privilege and franchise granted hereby shall continue thereafter for a term expiring on December 31, 2025.


SECTION 8. This Ordinance shall be cumulative of any and all other permits and franchises granted by the Village to TXU Electric provided, however, that all ordinances or parts of ordinances that conflict herewith are hereby repealed upon the effective date of this Ordinance.

SECTION 9. In order to accept this franchise, Company must file with the Village Secretary its written acceptance of this franchise ordinance within thirty (30) days after its final passage and approval by Village.

SECTION 10. It is hereby officially found that the meeting at which this Ordinance is passed is open to the public and that due notice of this meeting was posted, all as required by law.

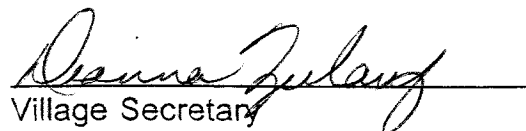
SECTION 11. If Company accepts this ordinance, by the filing of its written acceptance, this ordinance shall become effective as of January 1, 2001.

PASSED AND APPROVED at a regular meeting of the Board of Aldermen of the Village of Salado, Texas, on this the 22 day of February, 2001.



Mayor
Village of Salado

ATTEST:



Village Secretary

STATE OF TEXAS §
COUNTY OF BELL §
VILLAGE OF SALADO §

I, Dianna Zulauf, Village Secretary of the Village of Salado, Bell County, Texas, do hereby certify that the above and foregoing is a true and correct copy of an ordinance passed and approved by the Board of Aldermen of the Village of Salado, Texas, at a board meeting session, held on the 22 day of February, 2001, at a _____ session as it appears of record in the Minutes in Book _____, page _____.

WITNESS MY HAND AND ~~SEAL~~ OF SAID VILLAGE, this the 22 day of February, A. D. 2001.

Dianna Zulauf
Village Secretary
Village of Salado, Texas

EXTRACT FROM THE MINUTES OF
THE BOARD OF ALDERMEN OF THE VILLAGE OF SALADO, TEXAS

The Board of Aldermen of the Village of Salado, Bell County, Texas, convened in board meeting session on the 22 day of February, 2001, at 6:30 P.M., with the following persons present:

Mayor: Charlotte Douglass

Board of Aldermen Members: Vic Means

Raymond Carver

Jackie Mills

Michael Cooper

Alan Rogers - Marshal

Absent: Rick Ashe

A quorum being present, came on to be read on first reading and considered Ordinance No. 2001.03 granting to TXU Electric Company, a franchise to furnish and supply electricity to the Village, the inhabitants thereof, and persons, firms and corporations in the Village of Salado, Texas, for the transporting, delivery, sale and distribution of electricity in, out of, and through said municipality for all purposes. On motion made by Raymond Carver and seconded by Vic Means which carried unanimously, the Board of Aldermen voted the passage of the Ordinance and to record same at length in these minutes.

STATE OF TEXAS §
COUNTY OF BELL §
VILLAGE OF SALADO §

I, Dianna Zulauf, Village Secretary of the Village of Salado, Texas, do hereby certify that the above and foregoing is a true and correct copy of the proceedings of the Board of Aldermen of the Village of Salado, Texas, at a board meeting session, held on the 22 day of February, 2001 in connection with the passage and adoption of Ordinance No. 2001.03 granting a franchise to TXU Electric Company and that the same is of record in Book _____, page _____ of the Minutes of the Board of Aldermen.

WITNESS MY HAND AND ~~SEAL~~ OF SAID VILLAGE, this the 22 day of February, A.D. 2001.

Dianna Zulauf
Village Secretary
Village of Salado, Texas

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

*Letter
accepting
Ordinance
w/ TXU*

WHEREAS, there was finally passed and approved on February 22, 2001, Ordinance No. 2001.03 granting to TXU Electric Company, its successors and assigns, a franchise to furnish and supply electricity to the general public in the Village of Salado, Bell County, Texas, for the transporting, delivery, sale and distribution of electricity in, out of and through said municipality for all purposes, which is recorded in the Minutes of the Board of Aldermen of said Village; and

WHEREAS, Section 9 of said ordinance provides as follows:

"SECTION 9: In order to accept this franchise, Company must file with the Village Secretary its written acceptance of this franchise ordinance within thirty (30) days after its final passage and approval by Village."

AND, WHEREAS, it is the desire of TXU Electric, the holder of the rights, privileges and grants under the aforesaid franchise ordinance, to comply with the above-quoted provisions of Section 9 thereof.

NOW, THEREFORE, premises considered, TXU Electric, acting by and through its duly authorized officers, and within the time prescribed by Section 9 quoted above, does hereby agree to and accept the franchise granted to it by the above-described ordinance, in accordance with its terms, provisions, conditions and requirements and subject to the stipulations and agreements therein contained.

WITNESS THE EXECUTION HEREOF, on this the 6th day
of March, 2001.

TXU ELECTRIC



Senior Vice President

STATE OF TEXAS
COUNTY OF BELL
VILLAGE OF SALADO

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I, Dianna Zulauf Village Secretary of the Village of Salado, Texas, do hereby certify that the above and foregoing is a true and correct copy of a formal acceptance of a franchise ordinance finally passed and approved by said Village on February 22, 2001, and of record in the Minutes of the Village; and I do further certify that said acceptance has been duly presented to the Board of Aldermen and filed in connection with and as a part of said franchise ordinance.

OF WHICH, witness my official signature and the seal of said Village on this the 7 day of March, 2001.

Dianna Zulauf
Village Secretary
Village of Salado, Texas