

RESOLUTION 25-36

**GRANTING AN ELECTRICITY SERVICES FRANCHISE TO
ARIZONA PUBLIC SERVICE COMPANY**

KNOW ALL MEN BY THESE PRESENTS, THAT,

WHEREAS, ARIZONA PUBLIC SERVICE COMPANY, an Arizona corporation, was granted a franchise by the Board of Supervisors of Cochise County, Arizona, on September 6, 1967, to erect, construct, install, operate and maintain electric transmission lines across, over and under public roads and highway, and streets, and alleys of unincorporated cities, towns and villages within specified areas of Cochise County for the purpose of generating, transmitting and distributing electric power and energy, which was renewed by the Board of Supervisors on April 25, 1988; and

WHEREAS, reasonable public notice of this Application has been provided in the manner required by A.R.S. § 40-283 of the filing of said Application and of the public hearing on this matter set for Tuesday, December 16, 2025, at the regular meeting place of the Board in the City of Bisbee, Arizona, as the time and place for the consideration of the matter; and

WHEREAS, it appears from the affidavit of publication of the Herald/Review that due and regular notice of said date, time, and place set for the consideration of such action has been published once a week for three (3) consecutive weeks prior to the said date of the hearing, to-wit: in the issues of the 9th day of November, 2025; the 16th day of November, 2025; and the 23rd day of November, 2025, of said newspaper, and the matter being called on December 16th, 2025, at 10:00 o'clock a.m., and it appearing that the Board of Supervisors has not received a petition signed by more than fifty percent (50%) of the qualified electors of said County asking the Board to deny said Application on or before the date set for consideration thereof; and

WHEREAS, said Application came on regularly to be heard on the 16th day of December 2025, before the Board of Supervisors of Cochise County, and the Board considered the Application for the franchise, and there being good cause to grant this Application.

NOW, THEREFORE, it being determined by the Board of Supervisors of Cochise County that the grant of this franchise is regular, proper, authorized by law and in the best interest of Cochise County, and the inhabitants thereof.

NOW, THEREFORE, IT IS HEREBY ORDAINED:

1. That this Board of Supervisors of Cochise County, Arizona, acting for and on behalf of said County (the "County"), does hereby grant unto **ARIZONA PUBLIC SERVICE COMPANY** (hereinafter called "Grantee") a nonexclusive right, privilege, license, and franchise (hereinafter "the franchise") to construct, install, operate, and maintain along, over, under and across the streets, alleys, and highways under the jurisdiction of the County, facilities for the purpose of maintaining and operating an electric system, and all other facilities and improvements necessary for electricity and energy. This grant does not include the authorization to use State highways or lands and those areas within the corporate boundaries of any city or town. This franchise is subject to the terms, conditions, and limitations expressed below or incorporated herein by reference.
2. The County reserves the right to impose future restrictions, limitations, and conditions upon the exercise of the rights granted herein as it deems best for the public safety and welfare. The Grantee is further required to comply with all lawful, applicable ordinances of Cochise County regulating the conduct of work within the public rights of-way; as such ordinances are now enacted or may be amended or adopted from time to time. The Grantee is required to obtain a separate Right-of-Way Use Permit from the County prior to initiating any construction in the right-of-way and to pay the applicable fees for the associated inspections.
3. The franchise granted hereby shall not be exclusive, and nothing herein shall be construed to prevent the County from granting other like or similar franchises to any other person, firm, or corporation.

4. The Grantee shall bear all expenses and costs, including damages and compensation for the alteration of the direction, surface, grade, or alignment of a public roadway or for revenues lost by the Grantee, which may arise in connection with its exercise of the rights granted herein.
5. The Grantee shall erect, construct, and maintain all facilities authorized herein in a good and workmanlike manner and in compliance with all valid laws, ordinances, and regulations, which may be in force from time to time. All such work shall be performed in such a manner as may be necessary to avoid any unreasonable damage, disturbance, or modification to existing public rights-of-way, including roads, streets, highways, bridges, borrow ditches or shoulders thereon.
6. The Grantee shall, immediately upon erecting, constructing, replacing or repairing its facilities, or any part thereof, at its own cost and expense, restore any effected public right-of-way, including any road, street, highway, bridge, borrow ditch or shoulder thereon, to not less than the same condition which existed prior to the Grantee's action.
7. The County does not waive or relinquish any rights it may have to the full and complete use of the public rights-of-way subject to this franchise, whether for road purposes or otherwise. The rights of the County in and to the use of the right-of-way are, and shall be, paramount and superior to the rights of the Grantee. In the event that the location of the Grantee's facilities may interfere or conflict with the County's use, expanded use, alteration, improvement, or maintenance of the County's rights-of-way, the County may require the Grantee to relocate all facilities which give rise to such interference or conflict as provided below.
 - A. If County requires Grantee to relocate Grantee's facilities which are located in private easements obtained by Grantee prior to County's acquisition of said property from which the facilities must be relocated, the entire cost of relocating Grantee's facilities (including the cost of purchasing a new private easement if necessary) shall be borne by County. County shall also bear the entire cost of all subsequent relocations of the relocated facilities required by County, until such time as County condemns or purchases Grantee's private easement.

- B. Except as covered in Paragraph A above, Grantee shall bear the entire cost of relocating its facilities located on public rights-of-way, the relocation of which is necessary for County's carrying out of its governmental functions. Notwithstanding the foregoing, if Grantee is requested to perform work of a temporary nature on a governmental project to relieve construction problems which could be relieved by other means, the cost of said temporary work will be borne by County or County's contractor working on the governmental project. Governmental functions are those duties imposed on County, where the duties involve a general public benefit, not in the nature of a corporate or business undertaking for the corporate benefit and interest of County. Governmental functions include, but are not limited to, the following:
1. Any and all improvements to County's public rights-of-way;
 2. Establishing and maintaining domestic water systems, sanitary sewers, storm drains, and related facilities;
 3. Establishing and maintaining County parks, parking spaces, parkways, pedestrian malls, or grass, shrubs, trees and other vegetation for the purpose of landscaping any street or public property;
 4. Providing fire protection and other public safety functions; and
 5. Collection and disposal of garbage and recyclables.
- C. County will bear the entire cost of relocating any of Grantee's facilities, the relocation of which is necessitated by the construction of improvements by or on behalf of County in furtherance of a proprietary function. All functions of County which are not governmental are proprietary.
- D. If County participates in the cost of relocating Grantee's facilities for any reason, the cost of relocation to County shall not include any upgrade or improvement of Grantee's facilities as they existed prior to relocation.
- E. County will not exercise its right to require Grantee's facilities to be relocated in an unreasonable or arbitrary manner, or to avoid its obligation under the Franchise. County agrees to notify Grantee during the planning and design of County's projects in rights-of-way that may require relocation of Grantee's facilities and to coordinate its construction plans and schedules

with Grantee to determine the most cost-effective design to mitigate Grantee's cost to relocate its facilities.

- F. County agrees it will not require Grantee to relocate its facilities located within the public rights-of-way without providing Grantee adequate space within the rights-of-way to relocate the facilities that must be moved.
 - G. County shall not plant any tree that can normally grow to a height of more than 25 feet under or adjacent to Grantee's overhead power lines in the public rights-of-way. Grantee shall have the authority to prune or remove any trees or shrubs located within or hanging over the limits of the public rights-of-way of County that in the judgment of Grantee may interfere with the construction, or endanger the operation, of the lines and/or facilities of Grantee. Except in cases of emergency posing immediate safety hazards, Grantee shall provide at least ten (10) days of written notice to County prior to commencing vegetation removal and shall coordinate such activities to minimize public disruption. All said vegetation management work is to be done at Grantee's expense and pursuant to A.N.S.I. Standard A300.
8. Subject to any statutory or common law defenses and/or rights of contribution available at law, the Grantee assumes the responsibility for all liability for any injury or damage to any person or property, or to the road and right-of-way itself, caused by or arising out of the exercise of the rights granted herein and attributable to any act or omission of the Grantee, unless such injury or damage is caused by the negligent or willful and wanton acts or omissions by the County, its officers, departments, employees, or agents. The Grantee shall indemnify, defend and hold harmless Cochise County, its officers, departments, employees and agents from and against any and all suits, actions, legal or administrative proceedings, claims, demands or damages of any kind or nature, including all costs of legal defense, arising out of the exercise of these rights which are attributed to any act or omission of the Grantee, its agents, employees, or anyone acting under its direction, control or on its behalf; provided, however, that such claims, expenses, and losses are not the result of the willful misconduct or negligent acts or omissions of the County, its officers, departments, employees, or agents.
 9. The County grants this franchise for a term of twenty-five (25) years from the date of its authorization. This franchise may not be sold, leased, assigned, conveyed or transferred in any manner, in whole or in part, including pursuant

to the sale or merger of the Grantee corporation itself, without the express written consent of the County, which consent shall not be unreasonably withheld.

10. County and Grantee acknowledge that Arizona law does not allow counties to collect franchise fees associated with an electricity services franchise. If, prior to the termination or expiration of this Franchise Agreement, Arizona law changes such that the collection of franchise fees by Arizona counties is expressly authorized by Arizona statute, County and Grantee agree to work in good faith to negotiate a potential amendment to this Franchise Agreement regarding potential application and collection of franchise fees. If this Franchise Agreement is amended to include a franchise fee, any such franchise fee shall not exceed the amount customarily charged by the municipalities in which Grantee provides electric service and shall be administered under the same or substantially similar terms and conditions. Notwithstanding the foregoing, no franchise fee will be charged unless approved by voters through the election process as required by County resolutions and ordinances.
11. The County may terminate this franchise in the event that the Grantee fails to comply with the terms and conditions of this franchise. The Board of Supervisors, or its designee, shall provide the Grantee with written notice of noncompliance and allow the Grantee a period of not less than sixty (60) days to remedy any breach. If the Grantee continues to fail to comply with the terms of this franchise after this notice and remedy period, the Board of Supervisors may, following a public hearing, revoke all rights granted herein and render this franchise null and void.
12. Upon the termination or expiration of this Franchise, if Grantee shall not have acquired and accepted an extension or renewal hereof, it may remove its facilities and system within the Franchise Area or at its option, may continue operating its facilities and system therein, but it shall be required to obtain proper permits each time it makes additional extensions upon, over, along, across, and under the public rights-of-way within County unless or until such time as a new franchise is obtained or the system and facilities are removed or are acquired by County through the exercise of its power of eminent domain.
13. This franchise will not be effective for any purpose until the Grantee has indicated its acceptance in writing below.

14. The rights, privileges, and franchise granted herein are made pursuant to the laws of Arizona, including A.R.S. §§ 40-283 and 9-582, et seq., which are incorporated herein by reference.

IN WITNESS WHEREOF, the Board of Supervisors of the County of Cochise, State of Arizona, has caused these presents to be executed and signed by the Chairman of the Board of Supervisors on this 16th day of December 2025.

COCHISE COUNTY BOARD OF SUPERVISORS:

Frank Antenori, Chairman

ATTEST:

Lara Loewenheim
Clerk of the Board

APPROVED AS TO FORM:



11/5/2025

Dylan Hendel
Civil Deputy County Attorney

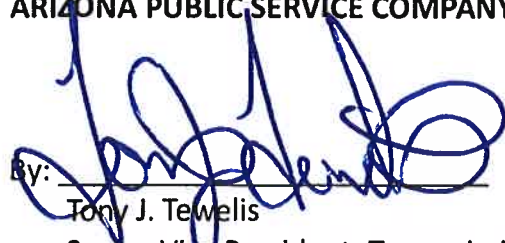
ACCEPTANCE OF FRANCHISE

This is to certify that the Grantee, **ARIZONA PUBLIC SERVICE COMPANY**, has on this 6th day of November, 2025, accepted the foregoing franchise. Grantee agrees that it will be bound by, observe, and carry out the terms and conditions of such franchise.

Dated: 11/6/25

GRANTEE:

ARIZONA PUBLIC SERVICE COMPANY

By: 

Tony J. Tewelis
Senior Vice President, Transmission & Distribution
Operations

CERTIFICATE OF CLERK

I, **Lara Loewenheim**, Clerk of the Board of Supervisors of Cochise County, Arizona, do hereby certify that the foregoing excerpt from the minutes of the meeting of the Board of Supervisors of Cochise County, Arizona, held on December 16, 2025, constitutes a true and correct copy of the said minutes insofar as they relate to the Application of **ARIZONA PUBLIC SERVICE COMPANY**, an Arizona corporation, for a electricity services franchise in the County and to the granting of said franchise pursuant to the resolution hereinabove set out, all as appears in the official records of the Board of Supervisors.

IN WITNESS WHEREOF, I have set my hand and official seal of the Board of Supervisors of Cochise County, Arizona, this ____ day of _____, 2025.

Lara Loewenheim
CLERK, BOARD OF SUPERVISORS
COCHISE COUNTY, ARIZONA