

CHAPTER 9

FRANCHISES

Ordinance No. 5 of 2008

An Ordinance requiring a permit for use of municipal property for business operations in the Town of Blanchard; requiring the provision of certain information prior to issuance of such permit; and otherwise providing with respect thereto.

WHEREAS, pursuant to the provisions of La. R. S. 33:4401, La. R. S. 45:1361, et seq, this municipality's police powers, and in order to protect the health, safety, and welfare of the public, the Town of Blanchard ("Town") recognizes its right, duty, and obligation to regulate and maintain the integrity and safety of the Town's property and rights-of-way;

WHEREAS, there are persons or entities which utilize and desire to utilize the Town's property and rights-of-way to conduct business operations, including but not limited to the provision of telecommunication, internet, electrical, cable, water, gas or other services or products (hereinafter referred to as "Business Operations");

WHEREAS, the Town makes and adopts the following findings and purposes:

- (1) The Town recognizes that it holds its property and the rights-of-way within its geographical boundaries as an asset in trust for its citizens. The Town and other public entities have invested millions of dollars in public funds to acquire, build, and maintain the rights-of-way. It also recognizes that some persons, by placing their equipment in the rights-of-way and charging the citizens of the Town for goods and services delivered thereby, profit from their use of this property held by the Town for the public good;
- (2) The Town's rights-of-way are owned or held by the Town primarily for the purpose of pedestrian and vehicular passage and for the provision by the Town and other public agencies of essential public safety services, including police, fire, and emergency medical response services; and public health services, including sanitary sewer, water, and storm drainage services (together, "Public Uses");
- (3) Public Uses should in all cases be considered and treated as the dominant and preeminent uses of public property and rights-of-way;
- (4) All other uses of public rights-of-way, including use for the provision of Business Operations, must be subordinate to Public Uses;
- (5) In order to provide for the health, safety and well-being of its citizens, as well as to ensure the structural integrity of its rights-of-way and the Town-owned facilities located therein, the Town strives to keep its rights-of-way in a state of good repair and free from unnecessary encumbrances;
- (6) Right-of-way obstructions and deterioration disrupt the flow of vehicular and pedestrian traffic and are a source of frustration for merchants, business owners and the general population;
- (7) The Louisiana legislature enacted Act 433 of 2008, codified as La. R. S. 45:1361-1378, as the "Consumer Choice for Television Act," which provides for a state-issued certificate of franchise authority for cable and video services. In La. R. S. 45:1374, the legislature reserved to local government certain authority to regulate the holder of a state-issued certificate of franchise authority including the Town's lawful exercise of its police powers; and

- (8) In order for the Town to properly protect the health, safety and welfare of its citizens, to enhance the Public Uses, and manage and maintain its property, it is appropriate and necessary that the Town obtain and maintain current, accurate information concerning the any System for Business Operations. As used herein, the term “System” means the location, construction, installation and maintenance of structures, facilities, and equipment occupying Town Property.
- (9) Some entities conduct Business Operations utilizing Town property and rights of way authorized by a fully executed, valid franchise agreement or ordinance with the Town which addresses, among other matters, maintenance and use of Town property and rights of way. The Town has determined that it is in the public’s best interest to honor such franchise agreements or ordinances and exempt from the application of this Ordinance the Business Operations specifically authorized by such agreements or ordinances.

BE IT THEREFORE ordained by the Town Council of the Town of Blanchard, State of Louisiana, that no person or entity may enter upon, traverse, either above ground or below, or otherwise utilize any property, servitude, or other property right, owned, leased, possessed, or controlled by the Town (herein referred to as “Town Property”) for the conduct of Business Operations without first being issued a permit to enter Town Property for Business Operations as more fully set forth hereafter.

1. Location of any System for Business Operations within Town Property without a valid permit from the Town pursuant to this Ordinance presents a threat to the health, safety, and welfare of the Town’s citizens and their property and is expressly forbidden.
2. The Town recognizes and reserves any and all rights available to it to regulate use of any Town Property.
3. The granting of any Town license, permit, or other requirement for doing business within the Town shall not be construed as authorizing any such person or entity the right to utilize Town Property for the conduct of Business Operations.
4. Any person or entity desiring to operate a System occupying Town Property “(Applicant)” shall make a written request to the Town for a permit, which shall include the following information:
 - a) Name, address, telephone number, and contact person of the person or entity making the request;
 - b) Necessary corporate information, if applicable;
 - c) Name, address, email address, and home, office and mobile (cellular or other) telephone numbers of a person with authority to act on behalf of the Applicant in case of emergency;
 - d) Description of the proposed activity;
 - e) Identification of the Town Property which Applicant’s System will occupy. Said identification shall include the following:
 - i) Map drawn to scale of the location of all of Applicant’s System presently occupying Town Property;
 - ii) Inventory of all equipment, structures, and facilities comprising

Applicant's System occupying Town Property; and

- iii) Description of all anticipated construction, major maintenance, and major installation activities which shall include the specific locations and the beginning and ending dates of all projects to be commenced during the next calendar year; and the tentative locations and beginning and ending dates for all projects contemplated for the two year period following the next calendar year.
 - f) Proof of comprehensive general liability insurance in such amounts and with such carriers as set forth in one or more resolutions of the Town setting forth the Town's policy for such insurance, covering and affecting the Applicant's Business Operations occupying Town Property. Applicant shall notify the Town of cancellation of such policy(ies) at least 30 days in advance of such cancellation; and
 - g) Name of all contractors acting or working on behalf of Applicant within Town Property along with the name and home, office, and mobile (cellular or other) telephone numbers of a person with authority to act on behalf of the contractor in case of emergency.
5. Upon provision of all of the information required by Section 4, the Town shall issue a permit allowing the Applicant/Permittee to enter Town Property to conduct Business Operations in accordance with the specific information provided to the Town by the Applicant/Permittee.
6. Standard provisions of each permit granted pursuant to this Ordinance shall include the following:
- a) Conditions of Occupancy. The System shall be located so as to cause minimum interference with the Public Uses of Town Property and with the rights and reasonable convenience of property owners who own property that adjoins Town Property.
 - b) Restoration of Public Ways. If, during the course of the Permittee's construction, installation, or maintenance of the System, there occurs a disturbance of any Town Property by the Permittee, the Permittee shall replace and restore such Town Property to a condition reasonably comparable to the condition of the Town Property existing immediately prior to such disturbance.
 - c) Relocation at Request of the Town. If the Town shall lawfully elect to vacate, relocate, abandon, alter, reconstruct or change any Town Property, the Permittee, upon thirty (30) days written notice by the Town via certified mail to the Permittee, shall remove, re-lay and relocate its structure, equipment, and facilities at its own expense. Should the Permittee refuse or fail to remove System within thirty (30) days after written notification, the Town shall have the right to remove the component parts of the System and charge the Permittee for the costs of removal.
 - d) Relocation at Request of Third Party. The Permittee shall, on the request of any person holding a lawful building moving permit, protect, support, raise, lower, temporarily disconnect, relocate in or remove from any Town Property, as necessary, any property of the Permittee provided: (i) the expense of such is paid by said person benefiting from the relocation, including, if required by the

Permittee, making such payment in advance; and (ii) the Permittee is given reasonable advance written notice to prepare for such changes. For purposes of this Section, “reasonable advance written notice” shall be no less than thirty (30) days in the event of a temporary relocation, and no less than one hundred twenty (120) days for a permanent relocation.

e) Interference with Use of right-of-way. When working within Town Property, Permittee shall not unreasonably interfere with Public Uses of Town Property and the safety, health, and convenience of the public in the public’s use thereof for ordinary travel.

7. No less than three (3) business days prior to commencement of construction, installation or maintenance activities within Town Property, the Permittee shall notify the Town of the specific locations and beginning and ending dates of said construction, installation, or maintenance project and shall provide current, accurate contact information for both the Permittee and the contractor as outlined in Section 4. Upon receipt of this notification, the Town shall determine whether the proposed construction, installation, or maintenance activities shall pose an unreasonable inference with Public Uses. If the Town determines the proposed activity presents no such unreasonable interference, it shall issue the permittee a notice to proceed. If the permittee receives no written notification from the Town within twenty-four hours of the proposed commencement of activities, the proposed activities may be deemed approved. This Section shall not apply to emergency repair projects or utility service extension projects which the Permittee could not have anticipated. If the Town notifies the Permittee that the proposed activity does present an unreasonable interference, the Permittee shall not undertake the construction, installation or maintenance activities until such time as such activities may be undertaken without unreasonable interference.
8. The Permittee shall keep all of the information required by Section 4 current at all times by immediately providing the Town written notice of changes.
9. Any person or entity (1) whose System occupies Town Property for Business Operations without obtaining the permit required in this Ordinance; (2) who fails to provide the 72-hour notice prior to commencement of construction, installation, or maintenance activities as required in Section 7; or who fails to maintain current, accurate information required by Section 4 concerning any System occupying Town Property may have any permit granted pursuant to this Ordinance revoked and may be denied future authorization for construction, installation, or maintenance activities for a period of two years.
10. Any violation of this Ordinance shall afford the Town the full range of remedies available under any applicable law or regulation including the levying of fines. The election of one or more remedies shall not be construed as a waiver of any other legal and/or equitable remedy including, but not limited to the Town’s right to seek injunctive relief, damages, and attorney’s fees as the law might allow.
11. Business Operations specifically authorized by a fully executed, valid franchise agreement or ordinance between a franchisee and the Town shall not be subject to the provisions of this Ordinance and the provisions of said franchise agreement or ordinance shall continue to govern.

(Adopted 10/14/08 – Ordinance 5 of 2008)

ARTICLE A.

SECTION 9.1 ELECTRIC

All of the provisions of Ordinance No. 1 of 2016 granting unto Southwestern Electric Power Company, are incorporated herein as if set forth here in extenso and such provisions shall be henceforth a part of this code, and said terms and provisions of said Ordinance No. 1 of 2016, shall remain in full force and effect.

AN ORDINANCE, GRANTING UNTO SOUTHWESTERN ELECTRIC POWER COMPANY, THE RIGHT, PRIVILEGE AND FRANCHISE TO ACQUIRE, CONSTRUCT, ERECT, MAINTAIN, REPAIR, RECONSTRUCT, REMOVE AND OPERATE A SYSTEM OF ELECTRIC POWER LINES, WIRES, TRANSFORMERS, COMMUNICATION CABLES AND OTHER RELATED AND NECESSARY OR DESIRABLE APPURTENANCES IN, UNDER, OVER, ACROSS, THROUGH AND ALONG ANY AND ALL OF THE PRESENT AND FUTURE STREETS, AVENUES, ALLEYS, THOROUGHFARES, ROADS, HIGHWAYS, SIDEWALKS, BRIDGES AND PUBLIC GROUNDS AND PUBLIC PLACES OF THE TOWN OF BLANCHARD, LOUISIANA, FOR THE PURPOSE OF TRANSMITTING AND DISTRIBUTING ELECTRIC POWER TO THE TOWN AND ITS INHABITANTS AND ANY OTHER PERSON OR PERSONS, FIRMS AND CORPORATIONS FOR A TERM OF TEN YEARS; REGULATING THE USE OF STREETS BY THE COMPANY AND REPAIR AND RESTORATION OF THE STREETS DISTURBED BY CONSTRUCTION; PROVIDING FOR COMPENSATION TO BE PAID TO THE TOWN; PROVIDING THAT THIS FRANCHISE SHALL NOT BE EXCLUSIVE; PROVIDING THE COMPANY'S OBLIGATIONS TO FURNISH EFFICIENT SERVICE; PROVIDING FOR INDEMNITY BY THE COMPANY TO THE TOWN; PROVIDING FOR CONDITIONAL FORFEITURE IN EVENT OF DEFAULT BY THE COMPANY; MAKING MISCELLANEOUS PROVISIONS RELATIVE TO THIS GRANT OF FRANCHISE; PROVIDING FOR ACCEPTANCE BY COMPANY; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

SOUTHWESTERN ELECTRIC POWER COMPANY FRANCHISE AGREEMENT

BE IT ORDAINED by the Town Council of the Town of Blanchard, Louisiana, in due, regular and legal session convened:

ARTICLE I

That, as used in this Ordinance, the following terms shall be defined, to-wit:

- (a) The word "Town" as used in this Ordinance shall mean the incorporated Town of Blanchard, Caddo Parish, Louisiana.
- (b) The word "Grantee" as used in this Ordinance shall mean Southwestern Electric Power Company, a corporation, its successors and assigns.
- (c) The word "Town Council" as used in this Ordinance shall mean the present Town Council of the Town of Blanchard, Louisiana and its successors elected as provided by the Town Charter of the Town of Blanchard, Louisiana.

- (d) The word “Public Right(s) of Way” as used in this Ordinance shall mean the streets, roads, alleys, avenues, sidewalks, bridges, public grounds and public places of the Town of Blanchard Louisiana.

ARTICLE II

Subject to the terms, conditions and stipulations set forth in this Ordinance, a franchise is hereby granted wherein Grantee shall have the right to sell, distribute and transmit electric energy in, through and beyond the Town of Blanchard, Caddo Parish, Louisiana (within the limits thereof, as same may now or hereafter lawfully exist), including the right to erect, maintain, operate, repair, remove and replace poles, wires, conduits, transformers, communication facilities and cables and other related equipment and necessary or desirable appurtenances and to license or lease space on or within Grantee’s poles, conduits and appurtenant facilities for the attachment of third party facilities required or authorized under applicable law in, over, under and through any Public Rights of Way.

ARTICLE III

This Ordinance and rights granted herein shall take effect and continue in full force and effect for a period of ten (10) years, commencing March 1, 2016. Grantee shall file its written acceptance of the terms and conditions hereof within ten (10) days after the final passage of this Ordinance. If this franchise is not renewed, extended, modified, or if a new franchise is not granted before the end of such term, the rights and obligations of this franchise and ordinance nonetheless shall continue thereafter until either party shall notify the other of the termination of such franchise and ordinance by giving the other party written notice at least one year prior to the termination; provided, however, that nothing shall extend the term of this franchise beyond 60 years after March 1, 2016.

ARTICLE IV

In consideration for the rights and privileges herein granted, Grantee shall pay to the Town an annual amount of money equal to five percent (5%) of the gross receipts of Grantee derived by it from the distribution and sale of all electricity and electric current to residential, commercial and industrial customers within the corporate limits of the Town, during the term of this franchise, to be paid quarterly by or before the first day of February, the first day of May, the first day of August and the first day of November of each year for the three-month periods ending respectively on December 31, March 31, June 30 and September 30, next preceding. The compensation set forth in this paragraph shall be paid in lieu of any license, charge, fee, street or alley rental Town shall notify Grantee in writing of newly annexed and de-annexed areas. The notice shall include the ordinance number authorizing the action and an appropriate map identifying the areas affected by such annexation or de-annexation. Grantee shall have no responsibility for commencing payments to the Town for revenue collected in newly annexed areas until it shall have received the Town’s notification. Upon the Town’s notification and starting the 91st day after receipt of such notice, Grantee will commence payments to the Town for revenue collected in each newly annexed area and will make any appropriate adjustments in payments made for revenues collected in such de-annexed areas after de-annexation. Payments for revenues collected in newly annexed areas and adjustments for over payments in de-annexed areas shall be made effective back to the date of the authorizing ordinance.

ARTICLE V

During the period of the franchise herein granted, the Grantee shall furnish to the Town a report generated by Grantee along with the payments as herein set out showing the gross receipts of Grantee derived by it from the distribution and sale of electricity to residential, commercial and industrial customers within the corporate limits of the Town for the three-month period ending respectively on December 31, March 31, June 30 and September 30, next preceding. At the Town’s request, the Grantee shall submit, within 60 days of the Grantee’s receipt of such request, a statement to the Town certifying the correctness of the payments made by the Grantee for the preceding calendar year.

ARTICLE VI

Upon request of the Town, Grantee shall make available at Grantee's offices any and all records, accounts and books for inspection relative to the gross receipts of Grantee within the corporate limits of the Town of Blanchard, Louisiana, subject to privacy laws and the rules, regulations and jurisdiction of the Louisiana Public Service Commission. Grantee agrees to maintain all records supporting and relative to such payments for a period of not less than three (3) years following payment.

ARTICLE VII

All poles, wires, conduits and other equipment and appurtenances shall be erected and placed in accord with appropriate industry standards and specifications and in such places and in such manner as not to unreasonably interfere with public travel and other public uses of Public Rights of Way.

ARTICLE VIII

To the extent authorized by applicable law, the Town hereby grants to Grantee permission to cut, trim, treat and dispose of trees and other vegetation upon and overhanging Public Rights of Way in the vicinity of Grantee's electric facilities where such trees and other vegetation, in Grantee's reasonable opinion, constitute a hazard to Grantee's personnel or facilities or the provision of continuous electric service.

ARTICLE IX

Unless otherwise provided for herein, all notices or other communications required or permitted hereunder shall be made in writing and may be delivered by: (i) hand delivery; (ii) United States overnight registered or certified mail; (iii) overnight carrier service; or (iv) facsimile to the last facsimile number provided by the party to be notified. Notice by facsimile or hand delivery shall be effective at the close of business on the day actually received, if received during business hours on a business day and, otherwise, shall be effective at the close of business on the next business day. Notice by overnight United States mail or courier shall be effective on the next business day after it was sent. Notice by United States registered or certified mail (other than overnight mail) shall be effective upon delivery or refusal to accept delivery. A party may change its address or any contact information upon written notice to the other party pursuant to the terms hereof.

If to Town	:	<u>Mayor's Office</u> <u>Town of Blanchard</u> <u>P.O. Box 428</u> <u>Blanchard, Louisiana 71009</u>
If to Grantee	:	<u>External Affairs Manager</u> <u>Southwestern Electric Power Company</u> <u>428 Travis Street</u> <u>Shreveport, LA 71101</u>
With Copy to	:	<u>Senior Counsel</u> <u>American Electric Power Service Corporation</u> <u>1201 Elm Street, Suite 800 (75270)</u> <u>P.O. Box 660164</u> <u>Dallas, TX 75266</u>

ARTICLE X

The Town and Grantee are entering into this franchise solely for their own benefit and nothing herein shall be considered to confer any rights, privilege or benefit on any person or entity other than the Town and Grantee. No action may be commenced or presented against any party by any third party claiming as a third party beneficiary of this franchise agreement. The franchise agreement shall not release or discharge any obligation or liability of any third party to either party.

ARTICLE XI

The Town agrees to maintain the confidentiality of any information provided by the Grantee on a confidential basis or marked as confidential, as required by the Federal Critical Infrastructure Information Act and subject to the rules, regulations and jurisdiction of the Louisiana Public Service Commission. The Town shall not be liable to Grantee for the release of any information the Town is required by law to release.

ARTICLE XII

All the construction and other work, including reconstruction, maintenance, repair or removal of Grantee's system shall be subject to and in conformity with the ordinances, rules, laws and regulations now in force or that may hereafter be approved or adopted by the Town, provided that such ordinances, rules, laws and regulations shall not be in conflict or inconsistent with the express terms and conditions of this franchise and shall not conflict with the laws of the State of Louisiana or the laws of the United States of America.

ARTICLE XIII

Grantee, in laying, constructing, adjusting and repairing its electric lines, shall not unreasonably interfere with any water lines, sewer lines, conduits, or other pipe lines or supply lines, or with any public or private drain in any street or alley, except with the consent and under the direction of the Mayor or his duly authorized agent(s). This provision shall not apply when emergency conditions exist, with those conditions to include natural disasters, equipment failures or outages and similar circumstances. Whenever the Town or other governmental agency, including but not limited to the Parish of Caddo or the State of Louisiana, shall conclude to make any street or other improvements in which the electric lines of the Grantee exist, the Grantee shall, at its expense, be required to relocate such electric lines and another location shall be provided by the Town so that the Grantee can provide the services set forth herein. The Grantee shall be given reasonable notice of the intention of the Town or other agency to pave or make such improvements, and if the Grantee fails to comply with the requirements of the Town or other agency after such notice, and such street or alley is thereupon paved or improved, the Grantee shall restore and repair any pavement which is damaged as a result of the Grantee's relocation of its facilities.

ARTICLE XIV

Grantee shall indemnify, save and hold harmless the Town from any and all claims, demands or causes of action for injuries and damages to persons and property, occasioned by or arising out of the construction, renewing, maintenance, operation, removal, adjustment or repair of said Grantee's electrical system, or by virtue of Grantee conducting such business in Public Rights of Way. This duty to hold harmless and indemnify shall run in favor of the Town, its officials, officers, agents and employees. It shall include the duty to investigate any claim, to defend any lawsuit including actions for injunctive relief and to reimburse the Town, its officials, officers, agents and employees under the terms of this Article on indemnification for any sums of money that it or they are or might become legally obligated to pay to others. This indemnity does not extend to claims arising from the gross negligence or intentional conduct of the Town, its officials, officers, agents and employees.

ARTICLE XV

Grantee, in the construction, reconstruction or adjustment of its system, shall not take up or excavate any pavement or street, alley or other public place at any time without first securing permission

and approval from the Town; and providing further that, in every case where possible, Grantee shall, in the construction, reconstruction or adjustment of its system, bore beneath paved streets, curbs and sidewalks instead of cutting them; and where any such cutting or excavation of streets, alleys or public ways shall be necessary, Grantee shall, at Grantee's own expense, repair and replace same according to standards and specifications of the Town; and provided that, when practicable, lines shall be placed in alleys instead of streets and that, should Grantee fail or refuse, as required above, to properly restore and replace such pavements, sidewalks and excavations within a reasonable time after the completion of such work, then the same may be replaced and restored by the Town at the expense of said Grantee, and including reasonable attorney's fees and court costs that the Town may incur in securing a judgment for breach thereof.

The Grantee shall, on request of any person holding a moving permit issued by the Town, subject to applicable regulatory requirements and system operating conditions, temporarily move its wires or fixtures to permit the moving of buildings with the expense of such temporary removal to be paid, in advance, by the person requesting same, and the Grantee shall be given reasonable advanced written notice to arrange for such temporary relocation.

ARTICLE XVI

Nothing herein contained shall ever be held or considered as conferring upon Grantee, or its successors and assigns, any exclusive rights or privileges of any nature whatsoever.

ARTICLE XVII

Grantee shall not at any time sell or assign its rights and privileges under this Ordinance to any other person, firm or corporation or surrender management control without the prior approval of the Town, which approval shall not be unreasonably withheld, conditioned or delayed. Approval shall be deemed granted in the event Grantee provides written notice and the Town fails to respond and provide written notice as provided in Article IX above. Further, the Grantee may, without consent of the Town, assign, sell and transfer the franchise to its parent, affiliates, or subsidiaries of its parent. Grantee (or its assign) may, also without Town's consent, assign, pledge, mortgage or transfer the rights and privileges under this franchise to any lender of Grantee (or such assign).

ARTICLE XVIII

The Town may at any time declare a conditional forfeiture of this grant for a continuing violation by Grantee of any of the substantial terms hereof. In such event, the Town shall give written notice, specifying all grounds on which forfeiture is claimed, by registered mail, addressed and delivered to Grantee, to the attention of its president. The Grantee shall have sixty (60) days after receipt of such notice within which to discontinue said alleged violation, or to file suit in a court of competent jurisdiction for adjudication or declaration of the rights of the parties with respect to the forfeiture of the franchise. No forfeitures shall be effective until and unless, (1) the Grantee shall have continued such violation or violations for more than sixty (60) days after receipt of such written notice from the Town without filing suit; or (2) Grantee shall have continued such violation or violations for more than sixty (60) days (or such longer period as the court in its discretion shall allow) after the entry or affirmation in a court of last resort of a final judgment finding and establishing the existence of such violation or violations, and that such violation or violations are sufficiently substantial to warrant forfeiture, and decreeing forfeiture as a consequence thereof. The Grantee shall not in any event be deemed to be in default of performance of any provisions of this grant, nor shall any forfeiture be invoked for violation or violations for failure to perform any provision hereunder when due to shortages of materials, supplies and equipment beyond the control of the Grantee, or to fires, strikes, riots, storms, floods, wars or other casualties, or to governmental regulations, limitations or restrictions as to the use or availability of materials, supplies or equipment or as to the use of the service, or to unforeseen or unusual demands for service, or for any other cause not reasonably or practicably within the control of the Grantee.

ARTICLE XIX

Grantee shall provide, upon reasonable notice, on a project-by-project basis, such available maps, plats and/or drawings as the Town may request which depict the location of all electric power lines, poles and other facilities used for the generation and distribution of electricity within the Public Rights of Way. As to any such maps, plats and drawings so provided, Grantee does not warrant the accuracy thereof and to the extent the locations of the facilities are shown, such facilities are shown in their approximate locations. Any such information with respect to the location of Grantee's facilities shall be used by the Town solely for management of the Public Rights of Way. The Town shall take all prudent steps required by applicable law to prevent disclosure, reproduction or dissemination of such maps, plats, drawings and/or any other information specifically marked as confidential to any unauthorized third party, without the prior express written consent of Grantee.

ARTICLE XX

Grantee shall not in its service facilities, rules, regulations or in any other respect, make or grant preference or advantages to any user or potential user of its system, nor subject any person to any prejudice or disadvantage, subject to the applicable regulations of the Louisiana Public Service Commission.

ARTICLE XXI

The Town and the Grantee mutually consent and agree that Franchise Agreement between the parties, which expired on December 31, 2015, as set forth in Ordinance 4 of 2005, shall continue in force and effect under the terms and conditions set forth therein until February 29, 2016, being the day before the effective date of this franchise of March 1, 2016.

BE IT FURTHER ORDAINED that all ordinances, resolutions and parts of ordinances and resolutions in conflict herewith are hereby repealed as of February 29, 2016.

BE IT FURTHER ORDAINED that if any provision or item of this ordinance or the application thereof is held invalid, such invalidity shall not affect other provisions, items or applications of this ordinance which can be given effect without the invalid provisions, items or applications and to this end, the provisions of this ordinance are hereby declared severable.

BE IT FURTHER ORDAINED that the Mayor of the Town of Blanchard be and he is hereby authorized to execute on behalf of the Town of Blanchard this franchise agreement ordinance.

This ordinance supersedes and replaces the prior existing franchise awarded to Southwestern Electric Power Company by Ordinance No. 4 of 2005.

(Ordinance 1 of 2016 – Adopted February 9, 2016 – Effective March 1, 2016)

ARTICLE B:

SECTION 9.2 GAS

ORDINANCE 5 of 2013

AN ORDINANCE GRANTING CENTERPOINT ENERGY RESOURCES CORP., D/B/ A CENTERPOINT ENERGY LOUISIANA GAS, THE RIGHT TO CONSTRUCT, INSTALL, OPERATE, AND MAINTAIN FACILITIES FOR THE TRANSPORTATION, DISTRIBUTION, AND SALE OF GAS IN THE MUNICIPALITY AND, FOR SUCH PURPOSES, TO USE AND EXCAVATE IN THE PUBLIC HIGHWAYS, STREETS, SIDEWALKS, ALLEYS, SQUARES, COMMONS, GROUNDS, AND OTHER PUBLICLY OWNED AREAS AND LEVYING A FRANCHISE (PRIVILEGE) TAX FOR THAT PURPOSE, AND AN ORDINANCE SUPERSEDING ORDINANCE 14 OF 2012 OF DECEMBER 11, 2012.

BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERPERSONS OF THE TOWN OF BLANCHARD, LOUISIANA THAT THIS ORDINANCE SUPERSEDES ORDINANCE 14 OF 2012 OF DECEMBER 11, 2012 IN ITS ENTIRETY; AND

BE IT FURTHER ORDAINED BY THE MAYOR AND BOARD OF ALDERPERSONS OF THE TOWN OF BLANCHARD, LOUISIANA:

**ARTICLE I.
GRANT OF NON-EXCLUSIVE FRANCHISE & TERM**

CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Louisiana Gas, its successors and assigns, hereinafter called "Grantee," is hereby granted a nonexclusive right to construct, install, operate, and maintain in the Town of Blanchard, as now and hereafter constituted (hereinafter, the "Municipality"), pipelines and related facilities for the transportation, distribution, delivery, and sale of gas and for such purposes to use, and excavate in, the public highways, bridges, streets, sidewalks, alleys, squares, commons, grounds, and other publicly owned areas for a period of twenty-five (25) years. Following the first twenty-five (25) year term, the term shall annually automatically renew for one-year periods unless either party gives notice of termination at least ninety (90) days prior to the expiration of the then-current term.

**ARTICLE II.
STANDARD FOR INSTALLATION & MAINTENANCE; RELOCATION**

Grantee's facilities shall be installed and operated in a workman-like manner. Grantee, in the construction, reconstruction, or adjustment of its pipelines or any related facilities, shall not take up or excavate any pavement or street, alley, or other public place without first providing reasonable notice of same and the method to be used to the Mayor or his duly authorized agent(s), except in the case of an emergency, in which case Grantee shall provide notice to Municipality at the same time and manner as Grantee notifies local law enforcement authorities and any other emergency response entity. Emergency shall mean any crisis situation which poses an imminent threat or danger to life, health, or property, and which requires immediate action.

Grantee shall tunnel beneath paved streets, sidewalks, and alleys wherever practical in laying and replacing mains. Grantee shall refill its excavations and restore sidewalks and pavements promptly, and if such refill or restoration is not commenced within a reasonable time, then it may be done by the Municipality at Grantee's expense.

Grantee's lines shall be laid so as not to interfere with the present sewer and/or water system. Additionally, Grantee's lines shall be located so as to cause minimum interference with any and all other public use systems in the Municipality and with the rights and reasonable convenience of property owners who own property that adjoins property of Municipality. If, during the course of Grantee's construction, installation, or maintenance of its gas system or related facilities, there occurs a disturbance of any property of Municipality by Grantee, Grantee shall replace and restore such property to a condition reasonably comparable to the condition of the property existing immediately prior to such disturbance.

If Municipality shall lawfully elect to vacate, relocate, abandon, alter, reconstruct, or change any of Municipality's property, Grantee, upon reasonable advance written notice by Municipality via certified mail to Grantee, shall remove, re-lay and relocate its structure, equipment, and facilities at its own expense. Should Grantee refuse or fail to remove any such structure, equipment, or facilities within sixty (60) days after such written notice, Municipality shall have the right to seek injunctive relief without the necessity of posting bond, with Grantee to reimburse Municipality for court costs and reasonable attorney's fees. On the request of any third person holding a lawful building moving permit, Grantee shall protect, support, raise, lower, temporarily disconnect, relocate in or remove from any of Municipality's

property, as necessary, any property of the Grantee provided: (i) the expense of such is paid by such third person benefiting from the relocation; and (ii) Grantee is given reasonable advance written notice to prepare for such changes (such reasonable advance written notice shall be no less than sixty (60) days in the event of a temporary relocation and no less than one hundred twenty (120) days for a permanent relocation). However, if any relocation of Grantee's pipelines and/or related facilities is required as a result of any project of the United States federal government or any project financed in whole or in part by the United States federal government, then the Municipality shall pay Grantee the costs and expenses incurred by Grantee in relocating Grantee's pipelines and/or related facilities up to but not greater than the total finances provided in connection with any such project by the United States federal government.

This Municipality may inspect Grantee's construction work at any time, or have said work inspected by a qualified engineer.

ARTICLE III. INDEMNIFICATION & HOLD HARMLESS

Grantee shall indemnify, save, and hold harmless the Municipality from any and all acts, omissions, claims, demands, or causes of action for injuries and damages to persons or property caused by or arising out of Grantee's construction, renewing, maintenance, operation, removal, adjustment, or repair of Grantee's gas delivery or transmission system, or by virtue of Grantee conducting such business in the Municipality; provided, however, that nothing herein shall be construed to require Grantee to indemnify the Municipality or any person from or against any liability attributable to Municipality or its employees, agents, or representatives.

Grantee shall maintain throughout the term of this franchise, comprehensive general liability insurance in such amounts and with such carriers as set forth in one or more resolutions of Municipality setting forth the Municipality's policy for such insurance, covering and affecting Grantee's operations in the Municipality. Grantee shall notify the Town of cancellation of such policy(ies) at least 30 days in advance of such cancellation.

ARTICLE IV. MAPS & INVENTORY OF FACILITIES

Grantee shall provide Municipality, upon reasonable advance notice, the opportunity to inspect at Grantee's local offices: (1) such maps, plats, and/or drawings as the Municipality may request which depict the location of all gas pipelines and other related facilities used for the transmission and distribution of gas within the corporate limits of the Municipality, costs for any reproduction of such to be borne by the Municipality; (2) an inventory of all equipment, structures, and facilities comprising Grantee's gas system within the corporate limits of the Municipality; (3) a description of any and all anticipated construction, major maintenance, and installation activities which shall include the specific locations and the beginning and ending dates of all projects to be commenced during the next calendar year, and the tentative locations and beginning and ending dates for all projects contemplated for the two-year period following the next calendar year; and (4) names of all contractors acting or working on behalf of Grantee within the Municipality along with the name and home, office, and mobile (cellular or other) telephone numbers of a person with authority to act on behalf of such contractor(s) in case of emergency.

Grantee shall keep all of the information required by this Article IV current at all times by providing Municipality written notice of any and all changes.

ARTICLE V. CONNECTION POINT AND SERVICE STANDARDS

The point of delivery of gas to the consumer shall be at the inlet to the consumer's meter, and service pipe and facilities necessary to safely receive and utilize the gas at and beyond that point of delivery shall be

furnished and maintained by the consumer, except that Grantee shall furnish and connect the gas meter. Title to all equipment installed by Grantee shall remain in Grantee, and Grantee shall have the unqualified right to use, extend, repair, replace, change, abandon, or remove facilities installed under the authority of this grant or any other facilities as it may determine to be necessary or desirable from time to time in the ordinary course of its business. Grantee will not be obligated to commence, extend or continue any particular gas service by means of facilities installed under the authority of this grant or any other facilities except as Grantee may determine the prudent management and use of its present and future gas supply and facilities to permit and in accordance with Grantee's applicable rates, rules, regulations, policies, and procedures, including curtailment procedures, as the same may exist and be changed from time to time. Grantee may promulgate and enforce reasonable rules, regulations, and requirements governing the sale, delivery, receipt, and use of gas furnished by Grantee and the commencement and discontinuance of gas service, all in accordance with applicable law.

ARTICLE VI. RATES

Grantee's rates currently effective in this Municipality for gas service shall continue in effect until raised or lowered in the manner provided by law. In consideration of this grant, beginning on the date Grantee files its written acceptance of this ordinance, as provided for in Article VII hereinbelow, and thereafter for as long as this ordinance remains in effect in accordance with its terms, Grantee shall pay to the Municipality, four percent (4 %) of Grantee's gross receipts from gas sales to residential and commercial customers located inside the city limits ("Gross Receipts"). If the total amount of all such taxes, fees, levies, or charges for which Grantee is liable exceeds the 4% percent gross proceeds of such revenues, the amount in excess of such 4% percent shall be paid to the Municipality by the Grantee. Amounts due hereunder shall be computed quarterly, for the periods ending March 31, June 30, September 30, and December 31, and payments shall be made within thirty (30) days after the expiration of the quarter with respect to which payment is due.

During the period of the franchise herein granted and upon Grantee's payment of amounts due and payable as set forth in this Article VI, Grantee shall furnish to Municipality with such payment a statement certified as to accuracy by Grantee showing the Gross Receipts derived by Grantee from the distribution and sale of gas to residential, commercial, and industrial customers within the corporate limits of Municipality.

ARTICLE VII. ACCEPTANCE AND CONTINUANCE FOR TERM

This franchise ordinance will not be effective unless it is accepted by Grantee by written notice delivered or mailed to the Mayor within ninety (90) days after the date of its passage and publication as required by law. Upon its timely acceptance, this ordinance shall continue in effect for a period of twenty-five (25) years from the date of its passage and approval as indicated below. This term shall automatically renew for one-year periods unless either party gives notice of termination at least ninety (90) days prior to the expiration of the then-current term.

ARTICLE VIII. FORFEITURE

The Municipality may at any time declare a conditional forfeiture of this grant for a continuing violation by Grantee of any of the terms hereof. In such event, the Municipality shall give written notice, specifying all grounds on which forfeiture is claimed, by certified mail addressed, and delivered to Grantee, to the attention of its President. The Grantee shall have sixty (60) days after receipt of such notice within which to discontinue the violation, or to file suit in a court of competent jurisdiction for an adjudication or declaration of the rights of the parties with respect to the forfeiture of the franchise. No forfeitures shall be effective unless and until (1) the Grantee shall have continued such violation or violations for more

than sixty (60) days after receipt of such written notice from the Municipality without filing such suit, or (2) Grantee shall have continued such violation or violations for more than sixty (60) days (or such other longer period as the court in its discretion shall allow) after the entry or affirmance in a court of last resort of a final judgment finding and establishing the existence of such violation or violations, and that such violation or violations are sufficiently substantial to warrant forfeiture, and decreeing forfeiture as a consequence thereof.

ARTICLE IX. SEVERABILITY

The provisions hereof are intended to be separate and severable, and the holding of any portion hereof to be invalid shall not affect the other portions.

(Adopted June 11, 2013 – Ordinance 5 of 2013)

ARTICLE C.

SECTION 9.3 TELEPHONE

All of the provisions of Ordinance No 3 of 1965, granting unto Southern Bell Telephone and Telegraph Company a franchise within the Village of Blanchard are incorporated herein in extenso and such provisions shall be henceforth a part of this code and said terms and provisions of the said Ordinance No. 3 of 1965 shall remain in full force and effect.

Effective May 18, 1988, this section was amended by Ordinance 3 of 1988, which is labeled a Privilege Fee in lieu of a Franchise.

(Effective Aug. 14, 1990 ORDINANCE 5 of 1990 deleted Ordinance 3 of 1988 in its entirety.)

ARTICLE D.

SECTION 9.4 CABLEVISION

Etan Industries, Inc. d/b/a CMA Communications

SECTION 1. DEFINITIONS

When used in this Chapter:

(1) "Cable service" means the one-way transmission to subscribers of video programming or other programming service and any subscriber interaction required for the selection or use of such video programming or other programming service, but shall not include any video programming provided by a commercial mobile service provider.

(2) "Cable service provider" means any person or entity that provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system, or who otherwise controls or is responsible for, through any arrangement, the management and operation of such system.

(3) "Cable system" means a facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community but does not include the following facilities or systems:

(a) A facility that serves only to retransmit the television signals of one or more television broadcast stations.

(b) A facility that serves subscribers without using any public right of way.

(c) A facility of a common carrier which is subject, in whole or in part, to common carrier regulation, except that such facility shall be considered a cable system to the extent the facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services.

(d) An open video system to the extent the system is deemed under federal law not to be a cable system.

(e) Any facilities of an electric utility used solely for operating its electric system.

(4) "Certificate" means the certificate of franchise authority issued by the secretary of state to a person or entity to provide cable service or video service in this state.

(5) "Commercial mobile service provider" means an interconnected radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, provided for profit and to the public or to a substantial portion of the public.

(6) "Franchise" means an initial authorization, or renewal of an authorization, issued by a franchising authority regardless of whether the authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, that authorizes the construction and operation of a cable system, or other wireline facilities used to distribute video programming services, in the public rights of way.

(7) "Franchise authority" means any governmental entity empowered by federal, state, or local law to grant a franchise for cable service or video service.

(8) "Gross revenues" means all revenues received from subscribers for the provision of cable service or video service, including franchise fees and all revenues received from non-subscribers for advertising disseminated through cable service or video service and home shopping services. Gross revenues shall not include all of the following items:

(a) Amounts billed and collected from subscribers to recover any tax, surcharge, or governmental fee.

(b) Any revenue not actually received, even if billed, such as bad debt.

(c) Any revenue received by any affiliate or any other person in exchange for supplying goods or services to the cable service provider or video service provider.

(d) Any amounts attributable to refunds, rebates, or discounts.

(e) Any revenues from late fees, returned check fees, or interest.

(f) Any revenues from sales or rental of property, except such property the subscriber is required to buy or rent exclusively from the cable service provider or video service provider to receive cable service or video service.

(g) Any revenues from services provided over the cable system or other wireline facilities used to distribute video programming services that are not classified as cable services or video services including without limitation revenue received from telecommunications services, information services but not excluding cable services or video services, Internet access services, and directory or Internet advertising revenues, including but not limited to yellow pages, white pages, banner advertisements, and electronic publishing advertising. Where the sale of any non-cable service or non-video service is bundled with the sale of one or more cable services or video services and sold for a single non itemized price, the term "gross revenues" shall include only those revenues that are attributable to cable services or video services based on the provider's books and records.

(h) Any revenues from sales for resale with respect to which the purchaser is required to pay a franchise fee, provided the purchaser certifies in writing that it will resell the service and pay a franchise fee with respect thereto.

(i) Any amounts attributable to a reimbursement of costs, including but not limited to the reimbursements by programmers of marketing costs incurred for the promotion or introduction of video programming.

(j) Any revenues from providing or maintaining inside wiring.

(9) "Incumbent service provider" means any cable service provider or video service provider providing cable service or video service in a particular municipality or unincorporated area of a parish on August 15, 2008.

(10) "Local governmental subdivision" means any parish or municipality.

(11) "Predecessor" shall include but not be limited to any entity that directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with a person receiving, obtaining, or operating under a municipal or parish cable franchise through merger, sale, assignment, restructuring, or any other type of transaction.

(12) "Public right of way" means the area on, below, or above a public roadway, highway, street, public sidewalk, alley, or waterway.

(13) "Town" refers to the Town of Blanchard.

(14) "Video programming" means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

(15) "Video service" means video programming services provided through wireline facilities located at least in part in the public rights of way without regard to delivery technology, including Internet protocol technology. "Video service" shall not include any video programming provided by a commercial mobile service provider as defined in this Section or video programming provided as part of a service that enables users to access content, information, e-mail, or other services offered over the public Internet.

(16) "Video service provider" means any entity providing video service. "Video service provider" shall not include a cable service provider or any affiliate, successor, or assign of a cable service provider operating under a franchise agreement with a local governmental subdivision in this state on August 15, 2008.

SECTION 2. CERTIFICATE ISSUED BY THE STATE; ELIGIBILITY.

A. Any person or entity seeking to provide cable service or video service in this state after August 15, 2008, shall file an application for a state franchise with the secretary of state as required by this Section and shall provide a copy of such application simultaneously to each local governmental subdivision listed in Paragraph (B)(2) of this Section.

B. The secretary of state shall issue a certificate authorizing the applicant to offer cable service or video service in this state within thirty days of receipt of an application, which shall consist of an affidavit submitted by the applicant and signed by an officer or general partner of the applicant affirming all of the following items:

(1) The applicant agrees to comply with all applicable federal and state laws and regulations.

(2) A list of municipalities and parishes to be served, in whole or part, by the applicant, which list shall be updated by the applicant prior to the provision of cable service or video service to an area within a previously undesignated local governmental subdivision.

(3) The location of the principal place of business and the names of the principal executive officers of the applicant.

(4) The applicant agrees to maintain insurance in an amount not less than one million dollars either through a policy of public liability insurance or through self-insurance.

C. The certificate issued by the secretary of state shall be effective thirty days after issuance and shall contain all of the following:

(1) A grant of authority to provide cable service or video service as requested in the application.

(2)(a) A grant of authority to construct facilities along and over the public roads or public works or public rights of way and along and parallel to any of the railroads and waters in the state whether owned, maintained, or provided by a local governmental subdivision or the state in the delivery of that service, subject to the laws of this state, including the lawful exercise of police powers of the local governmental subdivisions in which the service is delivered.

(b) With respect to any area that is privately owned, the grant in this Chapter provides the holder of a state-issued certificate of franchise authority with the same, but no greater, rights for the placement of facilities pursuant to this Chapter as those rights currently existing pursuant to Louisiana Revised Statutes for the placement of facilities for any company formed for the purpose of transmitting intelligence by telephone or telegraph or other system of transmitting intelligence.

(3) A statement that the franchise is for a term of fifteen years, is renewable, and is nonexclusive.

D. The certificate issued by the secretary of state is fully transferable to any successor in interest to the applicant to which it is initially granted. A notice of transfer shall be promptly filed with the secretary of state within ten days of the completion of the transfer.

E. The certificate issued pursuant to this Chapter may be terminated by the cable service provider or video service provider by submitting written notice of the termination to the secretary of state.

F. A holder of a certificate who seeks to amend its current certificate to include additional areas to be served shall file an amended application which reflects the new service area to be served and shall provide a copy of such amended application simultaneously to any affected local governmental subdivision within the new service area.

G. The failure of the secretary of state to notify the applicant of the incompleteness of the applicant's affidavit or issue a certificate before the thirtieth day after receipt of a completed affidavit shall constitute issuance of the certificate applied for without further action on behalf of the applicant.

H. A cable service provider is deemed to have or have had a franchise to provide cable service in a specific local governmental subdivision on August 15, 2008, if any predecessor of the cable service provider had a cable franchise agreement granted by that specific local governmental subdivision on that date.

I. Notwithstanding any other provision of law to the contrary, the secretary of state shall have no regulatory authority over any cable service provider or video service provider.

SECTION 3. STATE FRANCHISE; EFFECT ON EXISTING LOCAL FRANCHISE AGREEMENT.

A. Any incumbent service provider providing cable service or video service in this state on August 15, 2008, under a franchise previously granted by a local governmental subdivision is not subject to nor may it avail itself of the state-issued certificate of franchise authority provisions of this Chapter with respect to that local governmental subdivision until such franchise expires or as provided in this Section. Notwithstanding any other provision of law to the contrary, any such cable service provider or

video service provider may offer cable service or video service under a state-issued certificate of franchise authority in accordance with the provisions of this Chapter upon meeting one of the following circumstances:

(1) Offering service in local governmental subdivisions where it currently does not have an existing franchise.

(2) The filing of a statement of termination in the form of an affidavit with the secretary of state setting forth a mutually agreed upon date to terminate the existing franchise set by both the local governmental subdivision issuing the existing franchise and the incumbent service provider subject to the existing franchise.

(3) The expiration, prior to renewal or extension, of its existing franchise.

(4) Termination of its existing franchise, as provided in Subsection B of this Section.

B. Any incumbent service provider shall have the option to terminate an existing franchise previously issued by a local governmental subdivision and may instead offer cable service or video service in such local governmental subdivision under a certificate of state franchise issued by the secretary of state in accordance with the provisions of R.S. 45:1364, provided the following requirements are satisfied by any such incumbent service provider:

(1) An incumbent service provider exercising its termination option shall file a statement of termination with the secretary of state in the form of an affidavit containing the information required by R.S. 45:1364(B) and submit copies of such filing with any affected local governmental subdivision. Termination of existing franchises is effective immediately upon the effective date of the certificate of state franchise issued by the secretary of state.

(2) An incumbent service provider shall remain, under the terms and conditions of the terminated franchise, subject to and obligated for any indebtedness, liability, or obligation that is accrued, due, and owing to a local governmental subdivision at the time the incumbent service provider terminates the existing franchise previously issued by said local governmental subdivision. Nothing in this Chapter shall be construed to release an incumbent service provider exercising the option to terminate from any such accrued, due and owing indebtedness, liability, or obligation.

(3) An incumbent service provider that elects to terminate its existing franchise for a local governmental subdivision shall remain subject to the contractual rights, duties, and obligations incurred by the incumbent service provider under the terms and conditions of the terminated local franchise that are owed to any private person, including a subscriber.

SECTION 4. FRANCHISE FEE.

A. The holder of a certificate may be required, pursuant to an ordinance adopted by the local governmental subdivision, to pay a franchise fee equal to a specified percentage of such holder's gross revenues received from the provision of cable service or video service to subscribers located within the municipality or unincorporated areas of the parish and from advertising disseminated through cable service or video service and home shopping services as allocated under Subsection D of this Section. The fee shall not exceed five percent of the holder's gross revenues. The fee shall be uniformly applied to all holders of a state-issued certificate of franchise authority within the local governmental subdivision. The local governmental subdivision shall provide a copy of the enabling ordinance to the holder of a certificate as a condition to receiving any franchise fee payments. As a condition precedent to a certificate holder's obligation to pay a franchise fee established or changed pursuant to this Section, the

local governmental subdivision shall provide each certificate holder with a copy of each rate change notification at least forty-five days in advance of the effective date of the rate change.

B. The holder of a certificate shall pay to the local governmental subdivision quarterly the aggregate amount of the franchise fees payable under this Section. Each payment shall be made within forty-five days after the end of the preceding quarter for which payment is being made and shall be accompanied by a statement showing the certificate holder's gross revenues attributable to the local governmental subdivision for that quarter.

C. Any supporting statements shall be confidential and exempt from disclosure as proprietary and trade secret information under any provision of state law.

D. The amount of a cable service provider's or video service provider's non-subscriber revenues from advertising disseminated through cable service or video service and home shopping services that is allocable to a local governmental subdivision is equal to the total amount of the cable service provider's or video service provider's revenue received from such advertising and home shopping services multiplied by the ratio of the number of subscribers in such municipality or in the unincorporated area of such parish on the preceding January first to the total number of subscribers receiving cable service or video service from the cable service provider or video service provider on that date.

E. The holder of a certificate may designate that portion of a subscriber's bill attributable to any franchise fee imposed pursuant to this Chapter and recover such amount from the subscriber as a separate line item on the bill.

F. No local governmental subdivision shall levy any tax, license, fee, or other assessment on a cable service provider or video service provider for or in connection with the use of public rights of way other than the franchise fee authorized by this Section or fee authorized by R.S. 45:1370 or a cable franchise fee or other fee imposed upon a cable service provider or video service provider in an existing franchise prior to August 15, 2008. No local governmental subdivision shall levy any other tax, license, fee, or other assessment on a cable service provider or video service provider or its subscribers, which is not generally imposed and applicable to a majority of all other businesses. Nothing in this Subsection shall restrict the right of any local governmental subdivision to impose ad valorem taxes, service fees, sales taxes, or other taxes and fees lawfully imposed on other businesses within such local governmental subdivision.

G. The certificate franchise fee authorized by this Section shall be in lieu of any permit fee, encroachment fee, degradation fee, inspection fee, or other fee assessed by a local governmental subdivision on a certificate holder for occupation of or work within its public rights of way.

SECTION 5. FRANCHISE FEE AUDITS AND DISPUTE RESOLUTION.

A. The Town, upon reasonable written request, may review the business records of a cable service provider or video service provider to the extent necessary to ensure payment of the franchise fee in accordance with R.S. 45:1366.

B. Any suit with respect to a dispute arising out of or relating to the amount of the franchise fee due to a local governmental subdivision under R.S. 45:1366 shall be filed either by the local governmental subdivision seeking to recover an additional amount alleged to be due, or by the certificate holder seeking a refund of an alleged overpayment, in a state or federal court of competent jurisdiction within three years following the end of the month to which the disputed amount relates; however, this time period may be extended by written agreement between the certificate holder and the local governmental subdivision.

C. Prior to filing suit, the local governmental subdivision or certificate holder shall give the other party written notice of any dispute not resolved in the normal course of business. Representatives of both parties, with authority to settle the dispute, shall meet within thirty calendar days after receipt of the notice, and thereafter as often as reasonably deemed necessary, to exchange relevant information and attempt to resolve the dispute. If the dispute is not resolved within sixty calendar days after receipt of the notice, either the local governmental subdivision or certificate holder may initiate nonbinding mediation. Good faith participation in and completion of the negotiation and mediation procedures set forth in this Subsection shall be a condition precedent to proceeding with the suit beyond its filing to interrupt the prescriptive period set forth in this Section.

D. A local governmental subdivision may contract with a third-party administrator for the collection of the franchise fees and enforcement of the provisions of this Chapter.

E. Each party shall bear its own costs and attorney fees incurred in connection with any and all of the activities and procedures set forth in this Section.

SECTION 6. PROHIBITION AGAINST BUILD-OUT REQUIREMENTS

No franchising authority, state agency, or political subdivision of the state shall impose any build-out requirements for construction of a cable system or wireline facilities used to distribute video programming services or for cable service or video service deployment on a holder of a certificate, subject to the provisions of Title 48 of the Louisiana Revised Statutes of 1950.

SECTION 7. PUBLIC, EDUCATIONAL, AND GOVERNMENTAL ACCESS PROGRAMMING STREAMS OR CHANNELS.

A. Not later than one hundred twenty days after a request by a local governmental subdivision, the holder of a certificate shall provide the local governmental subdivision in which it provides cable service or video service with capacity in its network to allow public, educational, and governmental (PEG) access programming streams or channels for noncommercial programming consistent with this Section.

B. 1) The holder of a certificate shall designate a sufficient amount of capability on its cable system or wireline facilities used to distribute video programming services to allow for the provision of a comparable number of PEG access programming streams or channels a local governmental subdivision has activated under the franchise agreement of the incumbent service provider with the most subscribers in such local governmental subdivision as of August 15, 2008.

(2) If a local governmental subdivision did not have PEG access programming streams or channels as of August 15, 2008, the cable service provider or video service provider shall furnish, upon written request, capability sufficient to support up to three PEG access programming streams or channels for a local governmental subdivision with a population of at least fifty thousand and up to two PEG access programming streams or channels for a local governmental subdivision with a population of less than fifty thousand. However, the holder may require all local governmental subdivisions served by a single headend or similar facility and requesting PEG access programming streams or channels under this Subsection to jointly use the PEG access programming streams or channels provided in this Subsection. For the purpose of applying the limits in this Subsection, the populations of all such local governmental subdivisions shall be aggregated.

(3) The holder of a certificate may be required by a local governmental subdivision to provide one PEG access programming stream or channel in the basic subscription service package or tier offered by the provider. All other PEG access programming streams or channels required by this Section may be located in any subscription package or tier subscribed to by fifty percent or more of customers of a cable service provider or video service provider. The holder may provide any PEG access programming stream required by this Section in either digital or analog format.

C. A local governmental subdivision may use one PEG access programming stream or channel without restrictions relating to repeat programming provided in this Section. To qualify for any additional PEG accessing programming stream or channel authorized by this Section, a local governmental subdivision shall certify that the additional PEG access programming stream or channel, upon activation, will be utilized for at least eight continuous hours of non-repeating content per day. If a local governmental subdivision fails to utilize any additional PEG access programming stream or channel for at least eight continuous hours of non-repeating content per day, such PEG access programming stream or channel shall no longer be made available to the local governmental subdivision and may be programmed at the discretion of the cable service provider or video service provider. At such time as the local governmental subdivision can certify to the cable service provider or video service provider a schedule for at least eight continuous hours of non-repeating daily programming, the cable service provider or video service provider shall restore the previously lost programming stream or channel on any tier of service at the certificate holder's sole discretion.

D. The operation of any PEG access programming stream or channel provided pursuant to this Section shall be the responsibility of the municipality or the parish receiving the benefit of such programming stream or channel and holder of a certificate bears only the responsibility for the transmission of such programming stream or channel.

E. The local governmental subdivision shall ensure that all transmissions of content and programming provided by or arranged by them to be transmitted over a PEG access programming stream or channel by a holder of a certificate are provided and submitted to the cable service provider or video service provider in a manner or form that is capable of being accepted and transmitted by the provider over its network without further alteration or change in the content or transmission signal and which is compatible with the technology or protocol utilized by the cable service provider or video service provider to deliver its cable service or video service.

F. Where technically feasible, the incumbent service provider shall, upon receipt of a written request of a holder of a certificate, negotiate in good faith to interconnect its cable system or wireline facilities used to distribute video programming services with the cable system or wireline facilities used to distribute video programming services of such certificate holder on mutually acceptable and reasonable terms in order to enable such certificate holder to gain access to PEG programming. Interconnection may be accomplished by direct cable microwave link, satellite, or other reasonable method of connection. No incumbent service provider shall withhold interconnection with another cable service provider or video service provider.

G. A holder of a certificate is not required to interconnect for, or otherwise to transmit, PEG content that is branded with the logo, name, or other identifying marks of another cable service provider or video service provider, and a municipality or parish may require a cable service provider or video service provider to remove its logo, name, or other identifying marks from PEG content that is to be made available to another provider.

SECTION 8. IN-KIND CONTRIBUTIONS; PEG ACCESS SUPPORT.

A. Local governmental subdivisions are prohibited from imposing in-kind compensations and grants.

B. Notwithstanding any other provision of law to the contrary, a local governmental subdivision may require all holders of a state-issued certificate of franchise authority, pursuant to an ordinance adopted by the local governmental subdivision, to pay PEG access support in an amount up to one-half percent of gross revenues. No payments shall be due pursuant to this Section until the local governmental subdivision notifies the holder of a state-issued certificate of franchise authority, in writing, of the amount owed. The fee shall be uniformly applied to all holders of a state-issued certificate of franchise authority within the local governmental subdivision.

C. Payments under this Section shall be made in the same manner as a part of the certificate holder's payment of franchise fees pursuant to R.S. 45:1366, and all definitions, exemptions, and administrative provisions applicable to franchise fees shall apply to such payments.

D. The holder of a state-issued certificate of franchise authority may designate that portion of a subscriber's bill attributable to any payments required by this Section and recover the amount from the subscriber as a separate line-item on the bill.

E. All payments made to a local governmental subdivision under this Section are paid in accordance with 47 U.S.C. 531, 541(a)(4)(B), and 542(g)(2)(C) and shall be used by the local governmental subdivision as allowed by federal law only to support the capital costs incurred for the construction and operation of PEG access programming stream or channel content and facilities.

F. No franchise fees as required in R.S. 45:1366 shall apply to payments made pursuant to this Section.

SECTION 9. CUSTOMER SERVICE STANDARDS.

Any holder of a state-issued certificate of franchise authority shall comply with 47 CFR 76.309(c). No franchising authority or local governmental subdivision shall have the power to require a holder of a state-issued certificate of franchise authority to comply with any customer service standards other than those set forth in this Section.

SECTION 10. EMERGENCY ALERT SERVICES.

A holder of a state-issued certificate of franchise authority shall comply with the federal Emergency Alert System regulations, as applied by the Federal Communications Commission.

SECTION 11. INDEMNIFICATION.

A holder of a certificate of statewide franchise authority shall indemnify, defend and hold harmless a local governmental subdivision, its officers, agents, and employees from and against any liability for damages and for any liability or claims resulting from tangible property damage or bodily injury, including accidental death, to the extent proximately caused by the holder's negligent construction, operation, or maintenance of its cable system or wireline facilities used to distribute video programming services, provided that the local governmental subdivision shall give the holder written notice of its obligation to indemnify the local governmental subdivision within one hundred eighty days of receipt of a claim or action pursuant to this Section and provided that the holder shall have the right to select counsel

of the holder's choice to defend the claim. Notwithstanding the foregoing, the holder shall not indemnify the local governmental subdivision for any damages, liability, or claims resulting from the negligence or willful misconduct of the local governmental subdivision, its officers, agents, employees, attorneys, consultants, independent contractors or third parties or for any activity or function conducted by any person or entity other than the holder in connection with PEG programming.

SECTION 12. LOCAL GOVERNMENTAL AUTHORITY

A. A local governmental subdivision's authority to regulate the holder of a certificate is limited to the following items:

(1) A requirement that the holder of a certificate which is providing cable service or video service within the local governmental subdivision register with the local governmental subdivision and maintain a current point of contact.

(2) The establishment of reasonable guidelines regarding the use of PEG access programming streams or channels.

B. A local governmental subdivision shall allow the holder of a certificate to install, construct, and maintain a network within public rights of way and shall provide the holder of a certificate with open, comparable, nondiscriminatory, and competitively neutral access to the public rights of way. If during the installation, construction, or maintenance of said network, the holder disturbs any public right of way, the holder shall replace and restore the public right of way to a condition reasonably comparable to the condition of the public right of way existing immediately prior to such disturbance. All use of public rights of way by the holder of a certificate is nonexclusive, and a local governmental subdivision may not discriminate against the holder of a certificate regarding any of the following items:

(1) The authorization or placement of a network in public rights of way.

(2) Access to a building or other property.

(3) Utility pole attachment terms.

C. Nothing contained in this Chapter shall impair the lawful exercise of existing police powers of the local governmental subdivisions in which cable service or video service is delivered, including but not limited to the right to require construction permits and utility pole attachment agreements.

SECTION 13. DISCRIMINATION PROHIBITED.

A. A cable service provider or video service provider that has been granted a certificate shall not deny access to service to any group of potential residential subscribers based on the race or income of the residents in the local area in which such group resides.

B. For purposes of determining whether a cable service provider or video service provider has violated the provisions of Subsection A of this Section, cost, density, distance, and technological or commercial limitations shall be taken into account. The inability to serve an end user because a holder is prohibited from placing its own facilities in a building or property shall not be found to be a violation of Subsection A of this Section. Use of an alternative technology that provides a comparable content, service, and functionality shall not be considered a violation of Subsection A of this Section. This Section may not be construed as authorizing any general construction or deployment requirements on a cable service provider or video service provider in contravention of R.S. 45:1368.

SECTION 14. COMPLIANCE

If the holder of a certificate is found by a court of competent jurisdiction to be in noncompliance with the requirements of this Chapter, the court shall order the holder of the certificate, within a specified reasonable period of time, to cure the noncompliance. If the holder fails to cure in accordance with the court's order, the court may remedy such noncompliance.

SECTION 15. APPLICABILITY OF OTHER LAWS.

A. Nothing in this Chapter shall apply to a local governmental subdivision which has a home rule charter existing or adopted when the Constitution of Louisiana was adopted on April 20, 1974, and which is governed by Article VI, Section 4 of the Constitution of Louisiana. However, a local governmental subdivision operating pursuant to such a home rule charter provision may by ordinance elect to be governed by the provisions of this Chapter.

B. With respect to local governmental subdivisions which have home rule charters adopted after the Constitution of Louisiana was adopted on April 20, 1974, and which are governed by Article VI, Section 5 of the Constitution of Louisiana and with respect to other local governmental subdivisions without home rule charters, such local governmental subdivisions are denied the authority to adopt ordinances that are inconsistent with the provisions of this Chapter.

C. Nothing in this Chapter is intended to alter existing law regarding expropriation of property by a cable service provider or video service provider.

SECTION 16. CONFORMING AMENDMENTS.

Except as provided in Title 48 of the Louisiana Revised Statutes of 1950, the provisions of this Chapter supersede any inconsistent provisions of state law, including but not limited to the following:

- (1) R.S. 9:1253.
- (2) R.S. 33:4361, 4401, and 4405.
- (3) R.S. 38:2869, 3087.37, 3087.57, 3087.97, 3087.117, 3087.227, and 3087.265.
- (4) R.S. 45:781(B).

SECTION 17. If any provision or item of this ordinance or the application thereof is held invalid, such invalidity shall not affect other provisions, items or applications of this ordinance which can be given effect without the invalid provisions, items or applications and to this end the provisions of this ordinance are hereby declared severable.

SECTION 18. All ordinances or resolutions or parts thereof in conflict herewith are hereby replaced.

SECTION 19. This ordinance shall become effective on October 11, 2011.
(Ordinance 9 of 2011 – Adopted October 11, 2011)

Previous revisions:

Ordinance 1 of 1981 – Adopted March 12, 1981
Ordinance 2 of 1989 – Adopted December 12, 1989
Ordinance 3 of 1996 – Adopted July 9, 1996
Ordinance 6 of 2008 – Adopted October 1, 2008