

Ordinance No. 96-51

**AN ORDINANCE APPROVING AN AMENDED AGREEMENT
BETWEEN THE VILLAGE OF CHATHAM, ILLINOIS AND
RURAL ELECTRIC CONVENIENCE COOPERATIVE**

WHEREAS, pursuant to Ordinance No. 95-48, the Village of Chatham approved an agreement with the Rural Electric Convenience Cooperative ("RECC");

WHEREAS, the parties have negotiated further amendments to the agreement and desire to submit the agreement, as amended to the Illinois Commerce Commission for approval;

WHEREAS, on February 26, 1996, the amended agreement was approved by the Board of Directors of RECC;

WHEREAS, the map to be attached to the Agreement is in the process of being redrawn.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF CHATHAM, SANGAMON COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1: The amended Agreement between the Village of Chatham and Rural Electric Convenience Cooperative, attached hereto as Exhibit A is hereby approved, subject to final revision of the map, Exhibit A to the agreement.

SECTION 2: The President is hereby authorized and directed to execute said agreement on behalf of the Village, and the proper officers of the Village are authorized and directed to carry out said agreement according to its terms; and the Village Attorney is directed to file the agreement, together with the revised map, with the Illinois Commerce Commission for approval.

SECTION 3: This Ordinance is effective immediately.

PASSED 27th day of February, 1996.

Linde Kuster

VILLAGE PRESIDENT

ATTEST:

Penny Mooney

Village Clerk

AYES: McGuire, Jaswanti, Miller, Buliva, Williamsen, Krueger
NAYS: 0

PASSED: 2/27/96

APPROVED: 2/27/96

ABSENT: 0

ORDINANCE CERTIFICATE

STATE OF ILLINOIS)
) SS.
COUNTY OF SANGAMON)

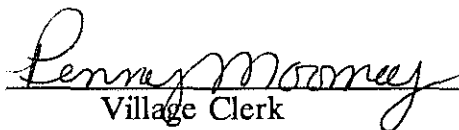
I, the undersigned, do hereby certify that I am the duly qualified and acting Village Clerk of the Village of Chatham, Sangamon County, Illinois.

I do further certify that the ordinance attached hereto is a full, true, and exact copy of Ordinance No. 96-_____ adopted by the President and Board of Trustees of said Village on the 27th day of February, 1996, said Ordinance being entitled:

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I do further certify that prior to the making of this certificate, the said Ordinance was spread at length upon the permanent records of said Village, where it now appears and remains.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said Village this 27th day of February, 1996.



Village Clerk

SERVICE AREA AGREEMENT

THIS AGREEMENT is by and between the Village of Chatham, Illinois, an Illinois municipal corporation, ("Village") and Rural Electric Convenience Cooperative, an Illinois not-for-profit corporation, ("RECC") and is effective as of the date established by Paragraph 12 hereof.

WHEREAS, Village owns and operates an electric distribution system within its corporate boundaries and to certain customers located outside of its corporate boundaries.

WHEREAS, RECC owns and operates an electric retail distribution system in certain areas located adjacent to the corporate boundaries of the Village and within the anticipated future corporate boundaries of the Village.

WHEREAS, pursuant to Section 11-117-1.1 of the Illinois Municipal Code, 65 ILCS 5/11-117-1.1, municipalities and electric cooperatives may enter into agreements defining the geographic areas in which each party shall provide retail electric service.

WHEREAS, the General Assembly has found that it is in the public interest to allow municipalities and electric cooperatives to enter into agreements defining geographic areas in which each party may provide retail electric service in order to avoid duplication of facilities for the protection, transmission, sale, delivery or furnishing of electricity; to minimize disputes between municipalities and electric cooperatives; to provide for orderly and controlled growth of municipalities in surrounding areas; and to recognize and protect the investment and commitments of municipalities and cooperatives to provide electric service within their respective service areas.

WHEREAS, to effectuate the policies of the General Assembly as set forth in Section 11-117-1.1 of the Illinois Municipal Code, the Village and RECC desire to enter into this Agreement to delineate their respective service areas.

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING AND OF THE MUTUAL COVENANTS CONTAINED HEREIN, THE PARTIES AGREE AS FOLLOWS:

1. **Definitions.**

As used herein, the following terms have the following definitions:

a. "Village Service Area" refers to that area within the line denoted as "geographic boundary line" as depicted on the map, Exhibit A hereto.

b. "RECC Service Area" refers to the area outside the line denoted as "geographic boundary line" on the map, Exhibit A hereto.

c. "Franchise Area" means the area between the "geographic boundary line" and the "franchise boundary line" denoted on the map, Exhibit A hereto.

d. "Location" is a physical area which, except for any intervening public or private rights-of-way or easements, constitutes a single parcel owned or used by an electric customer.

e. "Electric Supplier" means either of the parties to this Agreement.

2. a. During the term hereof, Village shall have the exclusive right to provide all retail electricity used within the Village Service Area. RECC shall have the exclusive right to provide all retail electricity used within the Franchise Area.

b. If either party believes it will be unable to provide retail electricity to any portion of its exclusive service area in accordance with this agreement, it shall notify the

other party, and the other party may provide retail electricity to such portion of such service area.

c. At no time shall RECC's rate for retail electric energy used in any portion of the Franchise Area which is (i) within the Village corporate limits; or (ii) subject to a valid, binding, enforceable and recorded annexation agreement between a RECC member and the Village, which provides for an annexation of that portion of the Franchise Area into the Village; exceed the Village's then current published rates for similarly situated customers within the corporate limits of the Village by more than two cents per kilowatt hour beginning on the first day of the month following receipt by RECC of an annexation ordinance or annexation agreement as described above.

3. During the term of this Agreement, each Electric Supplier shall have the right to continue service to any Location served by it on October 1, 1995, subject to the rate restriction in paragraph 2(c).

4. The initial term of this Agreement shall be 15 years. This Agreement shall be automatically renewed for successive renewal periods of five years each, unless at least eighteen months prior to the expiration of the original term hereof or of any extension hereof, one party gives written notice to the other that this Agreement shall not be renewed. This agreement may be terminated only by nonrenewal in accordance with this section.

5. Upon termination of this Agreement, if RECC is serving any customer within the then corporate limits of the Village, such customers shall be treated as though they were annexed or otherwise located within the Village as of the date of termination, and Section 11-117-7.1 of the Illinois Municipal Code shall control the rights of the parties.

6. Either party hereto may at any time request renegotiation of this Agreement or of the service areas herein provided, and the other party shall make a good faith effort to renegotiate this Agreement. However, this Agreement may be modified only by a writing signed by both parties, approved by their respective boards, and approved by the Illinois Commerce Commission. To the extent permitted by law, either party may, however, waive any provision of this Agreement with respect to any geographic area by a written waiver approved by its Board and without approval of the Illinois Commerce Commission.

7. If either party to this Agreement reasonably requires easements or rights-of-way across property or rights-of way owned by the other in order to serve customers in accordance with this Agreement, such easements or rights-of-way shall be granted free of charge. Within the Franchise Area, and to the extent permitted by law, the Village grants RECC the right to use (including property along, over and under) the Village's streets and property, subject to the Village's right of reasonable regulation and control of such use. Village shall impose no franchise fee upon RECC during the term of this agreement. RECC shall provide street lighting free of charge in any portion of the Franchise Area, served by it within the corporate limits of the Village, or subject to an annexation agreement with the Village as of October 1, 1995.

8. This Agreement is shall be binding on the successors and assigns of the parties.

9. This is the entire agreement between the parties with respect to its subject matter.

10. This Agreement shall be governed by Illinois law and enforced only in a court of competent jurisdiction in Sangamon County, Illinois.

11. The unenforceability of any of the terms of this Agreement shall not effect the enforceability of any other term.

12. This Agreement shall be effective upon its approval by the respective boards of the parties and entry of a final, unappealable order by the Illinois Commerce Commission approving this Agreement.

VILLAGE OF CHATHAM, ILLINOIS, an Illinois municipal corporation,

Dated 2/27/96

By: Linda Koster
Its President

ATTEST:

Penny Moomay
Village Clerk

RURAL ELECTRIC CONVENIENCE COOPERATIVE, INC., an Illinois not-for-profit corporation,

Dated _____

By: _____
Its President

ATTEST:

Its Secretary

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