

SERIES OF 1984

AN ORDINANCE BY THE TOWN OF FLEMING, COLORADO
ADOPTING "RULES FOR COMPLIANCE WITH FEDERAL
ENERGY REGULATORY COMMISSION ORDER NO. 69, CO-
GENERATION AND SMALL POWER PRODUCTION".

BE IT ORDAINED BY THE MAYOR AND THE BOARD OF TRUSTEES OF THE TOWN
OF FLEMING, COLORADO:

SECTION 1. The Board of Trustees hereby finds and
declares it to be in the public interest and in the interest of
the customers of the Town's electric utility that the Town adopt
"Rules for Compliance with Federal Energy Regulatory Commission
Order No. 69, Cogeneration and Small Power Production".

SECTION 2. Said Rules are as follows:

RULES FOR COMPLIANCE
WITH
FEDERAL ENERGY REGULATORY COMMISSION ORDER NO. 69
COGENERATION AND SMALL POWER PRODUCTION

1. Introduction

- 1.1 The Public Utility Regulatory Policies act of 1978 (PURPA), under Section 210, requires the Federal Energy Regulatory Commission (FERC) to develop rules which encourage cogeneration and small power production. Pursuant to Section 210, regulations have been prepared by FERC and published in the Federal Register (45 FR 12214, February 24, 1980). The Town of Fleming, which is a nonregulated electric utility will implement, to the extent possible, the procedures and requirements of FERC Order No. 69, pursuant to these rules.
- 1.2 These rules apply to all entities willing and able to enter into an agreement with the Utility. Provisions of these rules shall not supersede existing contracts. Entities who have the status of "qualifying small power production facility" and/or "qualifying cogeneration facility" (hereinafter referred to collectively as qualifying facility) pursuant to FERC Order No. 70 (45 FR 17959, March 20, 1980) are eligible to apply for service under these rules.
- 1.3 These rules represent general guidelines since the nature, size, and character of qualifying facilities can vary widely. The Utility reserves the right to evaluate qualifying facilities on a case by case basis.

2. Definitions: Terms as defined in Order No. 69 (18 CFR Part 292) shall have the same meaning for these rules unless further defined.

2.1 Accredited Capacity: The electrical rating given to generating equipment that meets the Utility's criteria for uniform rating of equipment. This criteria includes but is not limited to reliability, availability, type of equipment, and the degree of coordination between the qualifying facility and the Utility.

2.2 Capacity Costs: The costs associated with providing the capability to deliver energy. They consist of the capital costs of facilities used to generate and transmit electricity or the cost to purchase such capacity from other utilities.

2.3 Demand: The average rate in kilowatts at which electric capacity is made available as determined at the point of measurement during any 30 minute period or any other period to be determined by the Utility.

2.4 Energy: Electric energy as measured in kilowatt hours at the point of measurement.

2.5 Energy Costs: The variable costs associated with the production of electric energy. They represent energy related cost only, or the average cost of purchased energy. Identifiable capacity charges included in purchased power agreements shall not be included in the calculation of the cost of purchased energy.

2.6 Point of Measurement: The point or points where energy and/or demand are metered.

2.7 Point of Interconnection: The point or points at which the qualifying facility is to receive and/or deliver energy or capacity and energy under normal operating conditions.

2.8 Present Utility Practice: Any of the practices, methods, and acts engaged in or approved by a significant portion of the electrical utility industry consistent with reliability, safety, and expedition.

3. Conditions of Service: The conditions listed in this paragraph shall apply to all qualifying facilities served under these rules.

3.1 The Utility shall purchase energy or capacity and energy from any qualifying facility who offers to sell energy or capacity and energy.

3.2 The Utility shall sell any capacity and energy that is required by the qualifying facility to the qualifying

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facility. The qualifying facility shall be billed under the applicable residential, general, industrial, or contractual service schedule.

- 3.3 The Utility shall offer to provide maintenance, interruptible, supplementary, and back-up power to the qualifying facility if requested by the qualifying facility.
- 3.4 The qualifying facility shall execute a written agreement with the Utility. The Utility reserves the right to waive this requirement. The waiving of this requirement by the Utility does not relinquish the Utility's right to require the execution of a written agreement in the future.
- 3.5 The qualifying facility shall comply with all requirements of the National Electrical Safety Code, American National Standards Institute, Institute of Electrical and Electronic Engineers, American Society of Mechanical Engineers, and any other applicable local, state, or national code and operate its equipment according to prudent utility practice. In case of any conflict in the foregoing codes or standards, the Utility shall decide which shall govern.
- 3.6 The Utility shall interconnect and operate in parallel with the qualifying facility. The qualifying facility shall, to the point of interconnection, furnish, install, operate, and maintain in good order and repair and without cost to the Utility such relays, locks and seals, breakers, automatic synchronizers, and other control and protective equipment as shall be designated by the Utility as being required as suitable for the operation of the qualifying facility in parallel with the Utility's system. The qualifying facility shall take appropriate steps to insure that operating in parallel will not degrade in any fashion the quality of service that is normally maintained on the Utility's system.
- 3.7 Switching equipment capable of isolating the qualifying facility from the Utility's system shall be accessible to the Utility or its agent at all times.
- 3.8 At its option, the Utility or its agent may choose to operate, without notice or liability, the switching equipment described in 3.6 above if, in the opinion of the Utility or its agent, continued operation of the qualifying facility in connection with the Utility's system may create or contribute to a system emergency or safety hazard. The Utility's obligation to purchase from the qualifying facility ceases when the Utility or its agent operates the switching equipment described in 3.6 above. The Utility shall endeavor to minimize any

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adverse effects of such operation on the qualifying facility.

- 3.9 The qualifying facility shall indemnify and hold harmless the Utility from any and all liability arising from the operation and interconnection of the customer's facilities. The qualifying facility shall bear full responsibility for the installation and safe operation of the equipment required to generate and deliver energy or capacity and energy to the point of interconnection.
- 3.10 The Utility shall provide upon request sufficient data to allow the customer to determine the cost effectiveness of the qualifying facility if it goes into operation pursuant to these rules. The data given will conform to the outline given in Section 292.303 (Order No. 69 - 18 CFR Part 292).
- 3.11 Any costs of interconnection which are over and above the interconnection costs that would be incurred due to the connection of a comparable non-generating customer and which are incurred by the Utility due to the interconnection of the qualifying facility shall be the responsibility of the qualifying facility. Interconnection costs may be amortized over a period of time not greater than the length of the contract between the Utility and the qualifying facility.
- 3.12 The Utility may discontinue purchase from the qualifying facility if the Utility determines that purchase from the qualifying facility would result in costs greater than those which the Utility would incur if it did not make such purchases.
- 3.13 The Utility will give sufficient notice to the qualifying facility when it intends to invoke paragraph 3.12.
- 3.14 The Utility may discontinue sales to the qualifying facility during a system emergency, providing that such discontinuance is on a nondiscriminatory basis.
- 3.15 By mutual agreement between the Utility and the qualifying facility, the Utility will transmit energy or capacity and energy to another utility for purchase by that utility. The Utility shall be fairly compensated for such transmission.
- 3.16 The qualifying facility shall provide an advance payment to the Utility if in the opinion of the Utility the costs of interconnection will be excessive and/or the amount of work that must be done by the Utility to provide the interconnection facilities will be excessive.

4. Rates for Sales

- 4.1 The Utility shall purchase the surplus energy or surplus capacity and energy from qualifying facilities. The rate paid by the Utility to the qualifying facility for such surplus energy or surplus capacity and energy may be a negotiated rate.
- 4.2 Qualifying facilities of 100 kW or less shall be paid a standard rate, except as otherwise stated in 4.1, based on avoided cost as outlined in 4.4 and 4.5. The installation of metering equipment shall be according to utility policy.
- 4.3 For qualifying facilities of 100 kW or more, the qualifying facility may negotiate a contract with the Utility. For qualifying facilities who choose not to negotiate, or in the event of an impasse in negotiations between the Utility and the qualifying facility, avoided costs will be paid. Such avoided costs shall be determined as outlined in 4.4 and 4.5 except as otherwise stated in 4.1.
- 4.4 Avoided energy costs shall be estimated or actual energy costs adjusted for the following items:
- A. The costs or savings to the Utility resulting from variations in line losses from those that would have existed in the absence of purchase from the qualifying facility, if the Utility generated or purchased an equivalent amount of energy.
 - B. Sanctions imposed for noncompliance with these rules and any contract between the Utility and the qualifying facility.
- 4.5 Capacity payments shall be made in any case in which the qualifying facility enters into a legally enforceable contract to provide accredited capacity. The payment for the capacity purchase from the qualifying facility shall take into account the following items:
- A. Length of the contract term.
 - B. Reasonable scheduling of maintenance.
 - C. Willingness and ability of the customer to allow the Utility to dispatch the customer's generation.
 - D. The Utility's ability to defer a purchase from another source or to defer construction of a facility or a portion of a facility.
 - E. Sanctions imposed for noncompliance with these rules and any contract between the Utility and the qualifying facility.
 - F. Availability and reliability of the qualifying facility.

4.6 Any tax or payment in lieu thereof imposed on the Utility by any lawful authority on the production, transmission, sale, or purchase of energy or capacity and energy that would not occur due to a comparable non-generating customer shall be the responsibility of the qualifying facility.

Section 3. This Ordinance shall be in full force and take effect after its passage, approval and publication as provided by law.

INTRODUCED, READ AND ORDERED POSTED IN THE FOLLOWING THREE PLACES BY RESOLUTION ADOPTED UPON FIRST READING THIS 3 rd DAY OF July, 1984.

1. Fleming Town Hall
2. First National Bank
3. Jane's Cafe

POSTED THIS 9 th DAY OF July, 1984

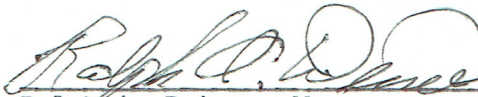
RESOLUTION

BE IT RESOLVED: Pursuant to C.R.S. 1973, 31-16-105, as amended, there being no newspaper of general circulation in the Town of Fleming, the Board of Trustees of the Town of Fleming hereby orders posted copies of Ordinance No. 84 -- 3, Series of 1984, a copy of same in the following three public places which are within the limits of the Town of Fleming, Colorado:

1. Fleming Town Hall
2. First National Bank
3. Jane's Cafe

ADOPTED BY Unanimous VOTE OF THE MEMBERS OF THE BOARD OF TRUSTEES, TOWN OF FLEMING, COLORADO.

Second Reading And Adopted This 7 Day of August, 1984.



Ralph A. Deines, Mayor

Attest: Eileen Caneva
Eileen Caneva, Acting Town Clerk

** The above Resolution should be made a part of the minutes of the meeting at which the First Reading of the said Ordinance is had. **

** The posting of the same must be accomplished ten (10) days before the Second Reading and Adoption of the Ordinance. **