

ORDINANCE #2007-9
AN ORDINANCE GRANTING A NON-EXCLUSIVE FRANCHISE TO
FERRELLGAS, L.P.

WHEREAS, the Town of Poncha Springs, Colorado, having determined that the financial, legal and technical ability of Ferrellgas, L.P. is sufficient to provide propane distribution services, facilities and equipment necessary to meet the future propane distribution needs of the community, does hereby ordain as follows:

1. The Town hereby grants to Ferrellgas, L.P. the right to use the streets within the Town to furnish, sell, transmit, transport and distribute propane gas within and through the town and to all residents of the Town. The Town also hereby grants to Ferrellgas, L.P. the right to acquire, construct, install, locate, maintain, operate and extend into within and through the Town all facilities reasonably necessary to furnish, sell, transmit, transport and distribute propane gas within and through the town. These rights shall extend to the area of the Town known as Little River Ranch subdivision and to additional areas as the Town may increase in size by annexation or otherwise.

2. If the boundaries of the service are extended during the terms of this franchise, Ferrellgas, L.P. shall extend service to residents in the expanded area at the earliest practicable time in accordance with the Company's extension policy. Service to the expanded area shall be in accordance with the requirements of the Colorado Public Utilities Commission and the terms of this franchise including payment of franchise fees.

3. The rights granted by this franchise are not, and will not be deemed to be, granted exclusively to Ferrellgas, L.P. and the Town reserves the right to make or grant a similar franchise to any other person, firm or corporation.

4. Except as otherwise specifically provided herein, the Town retains the right through the exercise of its police power to use, control and regulate the use of the streets and the space above and beneath said streets. The Town retains the right to impose such other regulations as may be determined by the Town to be necessary in the reasonable exercise of its police power to protect the health, safety and welfare of the public.

5. This franchise shall take effect upon the passage of this ordinance by a majority vote of all the members of the governing body of the Town of Poncha Springs and the expiration of the publication period required by statute. The term of this franchise shall be 20 years.

6. As consideration for the franchise rights granted herein and in recognition of the fact that the grant to Ferrellgas, L.P. of the right to use town streets is a valuable right, Ferrellgas, L.P. shall pay the Town a sum equal to five per cent of all revenues received from the sale and transportation of gas within the Town, excluding revenues received from the Town for the sale of natural gas to the Town.

7. The other terms and conditions governing the operations of Ferrellgas, L.P. pursuant to the franchise granted by this ordinance are set forth in the accompanying Franchise Agreement which is attached hereto and incorporated herein by reference as if fully set forth in this ordinance.

Passed and Approved this **10th** day of **September, 2007**, by the Board of Trustees of Poncha Springs, Colorado.

TOWN OF PONCHA SPRINGS

/s/ _____
Mayor

ATTEST:

/s/ _____
Town Clerk
Diana K. Heeney

ACCEPTED:

FERRELLGAS, L.P.

By:/s/ _____

Print Name & Title

ATTEST:

/s/ _____