

FILED FOR RECORD 3-1-89 1:34 PM 89-02388

89-02388

*By J. D. Smith*

RECORD OF PUBLIC POWER DISTRICT

AGREEMENT

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28<sup>00</sup>

WHEREAS, NORTHERN NATURAL GAS COMPANY, Division of Enron Corp., a Delaware corporation (hereinafter referred to as "NORTHERN"), owns an easement for the construction, operation, maintenance, and reconstruction of a 16-inch high pressure gas line over and through the following described real estate:

A 100 foot wide easement in the Southwest Quarter of Section 27 and the Northwest Quarter of Section 34, all in Township 14 North, Range 12 East of the 6th P.M., Sarpy County, Nebraska, the centerline being more particularly described as follows: Beginning at a point 887.12 feet East of the West Quarter corner of said Section 27; thence South 06°08'45" West a distance of 268.22 feet; thence South 02°55'40" East a distance of 2,383.25 feet to the South line of Section 27; thence continuing South 02°55'40" East a distance of 1,849.97 feet; thence South 47°32'52" East a distance of 174.75 feet; thence South 01°58'44" East a distance of 10.47 feet to a point on the North right-of-way line of Highway 370, (hereinafter referred to as "NORTHERN Easement").

WHEREAS, OMAHA PUBLIC POWER DISTRICT, a public corporation and political subdivision of the State of Nebraska (hereinafter referred to as "DISTRICT"), desires to install, maintain, and operate an 8000 volt direct-buried underground cable and related equipment (hereinafter referred to as "Underground Facilities") in, under, and across the following described real estate:

Lots One (1) thru Three (3), Twenty-six (26) thru Forty-five (45), One Hundred Fifty (150), and One Hundred Fifty-one (151), Overland Hills IV, an addition to Sarpy County, Nebraska, as surveyed, platted, and recorded (hereinafter referred to as the "Real Estate").

NOW THEREFORE, in consideration of the sum of One Dollar (\$1.00) and other valuable consideration, the receipt of which is hereby acknowledged, NORTHERN and DISTRICT agree as follows:

1. The rights of the DISTRICT with respect to the Real Estate are and shall be subordinate to the NORTHERN Easement, which easement is dated February 19, 1951, and duly recorded in Book 15 of Miscellaneous Records at Page 40 in the office of the Sarpy County Register of Deeds, and further by modification dated March 13, 1972, and duly recorded in Book 45 of Miscellaneous Records at Page 157 in the office of the Sarpy County Register of Deeds.

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2. The DISTRICT shall construct, operate, maintain, inspect, and remove the Underground Facilities in such a manner as not to damage or interfere with the operation of NORTHERN'S pipeline and related facilities.

3. The DISTRICT agrees that no cable shall be placed closer than Twelve feet (12') when installed parallel to NORTHERN'S facilities within the NORTHERN Easement. Undercrossings where needed shall be placed in PVC ducting and shall maintain a minimum of One foot (1') clearance from NORTHERN'S facilities.

4. The DISTRICT shall indemnify and hold harmless NORTHERN from any injury, death, damage, or loss to the person or property of any persons whomsoever, arising from or occurring by reason of the DISTRICT'S construction, operation, maintenance, inspection, or removal of the Underground Facilities, except such injury, death, damage, or loss caused by the negligence, or willful misconduct of NORTHERN.

5. This Agreement, and the terms, covenants, and conditions contained herein, shall inure to the benefit of and be binding upon the parties, and their successors and assigns.

IN WITNESS WHEREOF the parties hereto have signed their names and caused the execution of this instrument this 14<sup>th</sup> day of FEBRUARY, 1989.

"NORTHERN"

NORTHERN NATURAL GAS COMPANY  
Division of Enron Corp.

ATTEST:

By [Signature]

Title Secretary

REC  
By [Signature]

Title Agent and Attorney-in-Fact

"DISTRICT"

OMAHA PUBLIC POWER DISTRICT

ATTEST:

By [Signature]

Title Assistant Secretary

By [Signature]

Title Vice President

89-02388B

STATE OF TEXAS )  
COUNTY OF HARRIS ) SS

On this 14 day of FEBRUARY, 1989, before me a Notary Public duly commissioned and qualified in and for said county and state, personally came R.E. BRADFIELD, the Agent and Attorney-in-Fact of Northern Natural Gas Company, Division of Enron Corp., who is personally known to me to be the identical person whose name is affixed to the above instrument in the capacity stated, and he acknowledged the said instrument to be his free and voluntary act and deed and the free and voluntary act and deed of said corporation.

WITNESS my hand and official seal at HOUSTON, in said county and state, the date aforesaid.



Harold H. Tyler  
Notary Public  
My Commission Expires 8-5-1989

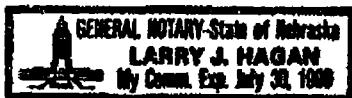
HAROLD H. TYLER  
Notary Public in and for State of Texas  
My Commission Expires Aug. 5, 1989

STATE OF Nebraska )  
COUNTY OF Douglas ) SS

On this 22<sup>nd</sup> day of February, 1989, before me a Notary Public duly commissioned and qualified in and for said county and state, personally came D.D. WITKE, the Vice President of Omaha Public Power District, who is personally known to me to be the identical person whose name is affixed to the above instrument in the capacity stated, and he acknowledged the said instrument to be his free and voluntary act and deed and the free and voluntary act and deed of said corporation.

WITNESS my hand and official seal at Omaha, in said county and state, the date aforesaid.

(S E A L)



Larry J. Hagan  
Notary Public  
My Commission Expires 7-30-90

PHS \_\_\_\_\_ GEN. SERV. SKB LEGAL \_\_\_\_\_ INSUR \_\_\_\_\_ ACCT. \_\_\_\_\_  
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