ORDINANCE NO. 91- 4

AN ORDINANCE REVISING AND AMENDING CHAPTER 4.08, SECTION 4.08.09 OF THE ATKINS MUNICIPAL CODE PROVIDING FOR A PERCENTAGE INCREASE IN THE FRANCHISE TAX TO BE PAID TO THE CITY OF ATKINS BY ARKANSAS POWER & LIGHT COMPANY, DECLARING AN EMERGENCY AND FOR OTHER PURPOSES.

WHEREAS, pursuant to Chapter 4.08, Section 4.08.09 Arkansas Power & Light Company (hereinafter AP&L or Grantee) pays each year to the City of Atkins (hereinafter City or Grantor) the franchise tax for the privileges stated in Chapter 4.08.

WHEREAS, the City desires to increase the rate of the franchise tax paid by AP&L.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATKINS, ARKANSAS that:

Section 1 : Section 4.08.09 of Chapter 4.08 of the Atkins Municipal Code is hereby amended to read as follows:

Section 4.08.09 Franchise Tax: Beginning the month of January, 1992 and thereafter so long as Arkansas Power & Light Company (AP&L), its successors and assigns, shall operate an electric system within the City, it shall pay to the City a franchise tax in an amount equal to 5.00% of gross residential and commercial electric revenues as paid to AP&L by residential and commercial customers located within the corporate limits of the City. Payments shall be made by AP&L to the City the first month of each quarter based on the preceding quarter's revenues. The first such payment is to be made in April, 1992 for the first quarter of 1992. Residential and commercial electric revenues are those revenues so classified pursuant to Grantee's uniform classification standards. Grantor shall have the right to examine and verify, from the records of the Grantee, any data relating to the gross revenues of Grantee from customers on which said franchise tax is due. In the event of a controversy between the Grantor and Grantee as to the amount of gross revenues received by Grantee in the City of Atkins upon which said tax is due, such controversy shall be referred to

the Arkansas Public Service Commission, or such successor regulatory agency which may have jurisdiction over the Grantee, for final determination, and the decision of said Commission shall be binding upon both parties hereto.

It is expressly agreed and understood by the Grantor and Grantee that the aforesaid payment shall constitute and be considered as complete payment and discharge by the Grantee, its successors and assigns, of all licenses, fees, charges, impositions or taxes of any kind (other than automobile license fees, special millage taxes, and the general ad valorem taxes) which are now or might in the future be imposed by the Grantor under authority conferred upon the Grantor by law. In the event such other tax or taxes are imposed by Grantor, the obligation of the Grantee set forth herein, to pay the City the sum of 5.00% quarterly of the gross residential and commercial electric revenues shall immediately terminate. ~~This ordinance shall not restrict the City from the right to alter the percentage rate of the franchise tax upon agreement with AP&L as to the rate.~~ Bob Sol

Section 2: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3: It has been found, and is hereby declared by the City Council of the City of Atkins, there is an urgent need to clarify and bring up to date the terms and provisions of the franchise under which electric service is provided to the City and other consumers therein, and to agree upon an adequate franchise tax to be paid by the utility furnishing such service to the City. Therefore, an emergency is declared to exist, and this Ordinance being necessary for the preservation and advancement of the public peace, health and safety, shall take effect and be in full force from and after the date of its approval.

DATED this 10 day of December, 1991.

Stephen C. Kent

STEPHEN C. KENT, Mayor

ATTEST:

Brenda Graves

BRENDA GRAVES, City Clerk