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3 **BERNALILLO COUNTY**
4 **BOARD OF COUNTY COMMISSONERS**
5 **RESOLUTION NO. AR 2012- 95**

6 **A RESOLUTION TO PROVIDE PROTECTION FOR BERNALILLO COUNTY RATE**
7 **PAYERS**

8
9 **WHEREAS**, Bernalillo County a political subdivision of the State of New Mexico has
10 purchased and maintains public right-of-ways on behalf of the public; and

11 **WHEREAS**, Bernalillo County taxpayers provided the necessary funds to purchase and
12 maintain said right-of-ways; and

13 **WHEREAS**, public and private utilities use county right-of-ways to provide services that
14 are critical to the health, safety, and welfare of Bernalillo County citizens; and

15 **WHEREAS**, state law authorizes counties to impose charges only for reasonable actual
16 expenses incurred in the granting of any franchise; and

17 **WHEREAS**, any fee charged by the county will ultimately be passed on to the utility's
18 rate payers located in the county; and

19 **WHEREAS**, utility rate payers and county taxpayers are one and the same;

20
21 **NOW, THEREFORE BE IT RESOLVED:**

- 22 1. Bernalillo County shall be prohibited from charging public and private utilities who
23 provide basic necessity services that include but are not limited to electric power,
24 natural gas, water, waste water, and telecommunications providers who hold a
25 certificate of public convenience and necessity from the New Mexico Public
26 Regulation Commission under either N.M.S.A. §62-9-1 or §63-9-3 any kind of
27 franchise fee or fee for use of any County owned right-of-way.
- 28 2. The County shall charge a reasonable design review fee not to exceed \$250 for design
29 review of construction drawings, inspection, and other processes and approvals of

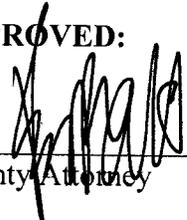
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RATE PAYER PROTECTION RESOLUTION**

1 construction in the County right-of-way, prior to commencement of construction in
2 any county right-of-way. Design review fees shall be charged to defray Bernalillo
3 County Public Works Division costs for design review of construction drawings,
4 inspection, and other expenses incidental to the process and approval of construction
5 in the county right-of-way.

- 6 3. The County shall maintain reasonable permitting fees consistent with fees charged for
7 permits county-wide, pursuant to state law, to recover reasonable costs and shall not
8 establish a separate fee schedule for access to or use of county right-of-ways.
- 9 4. All fees authorized by this resolution shall be approved by the Board of County
10 Commissioners annually and be an amount no more than necessary to recover
11 reasonable costs associated with design review and permitting, as defined in this
12 resolution, and shall not be based on a percentage of utility revenues or the amount of
13 plant being placed in the county right-of-way.

14 **DONE** this ___ day of October 2012, Bernalillo County, State of New Mexico.

15
16 **APPROVED:**

17 
18 _____
19 County Attorney

10/2/12
Date

BOARD OF COUNTY COMMISSIONERS

VOTED 'NO'

Art De La Cruz, Chair
VOTED 'NO'

Maggie Hart Stebbins, Vice Chair

Simon A. Kubiak, Member

Michael C. Wiener, Member

Wayne A. Johnson, Member

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TTEST:

M. Paul Oliver for
Maggie Toulouse Oliver, County Clerk

Date: 10-9-2012

