

ORDINANCE NO. 724

"AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE CITY OF EUREKA SPRINGS, CARROLL COUNTY, ARKANSAS, GRANTING TO THE ARKANSAS WESTERN GAS COMPANY, A CORPORATION, THE EXCLUSIVE RIGHT AND PRIVILEGE AND FRANCHISE TO LAY GAS MAINS ALONG THE STREETS, AVENUES, ALLEYS, ROADS AND HIGHWAYS AND OTHER PUBLIC PLACES OF THE CITY FOR THE PURPOSE OF DISTRIBUTING AND SELLING NATURAL GAS TO THE INHABITANTS OF SAID CITY AND TO OTHERS, AND ALSO THE EXCLUSIVE RIGHT TO LAY PIPE LINES IN THE STREETS, ALLEYS, AVENUES, HIGHWAYS, ROADS AND OTHER PUBLIC PLACES AND GROUNDS OF SAID CITY FOR THE PURPOSE OF CONVEYING NATURAL GAS THROUGH AND OF SAID CITY FOR DISTRIBUTION OF NATURAL GAS TO THE INHABITANTS OF SAID CITY, AND TO OTHERS BEYOND THE LIMITS OF SAID CITY, FOR DOMESTIC, COMMERCIAL AND INDUSTRIAL PURPOSES, AND PROVIDING THE REGULATION FOR THE CONDUCT OF SAID GAS DISTRIBUTION SYSTEM, AND OTHER PURPOSES."

SECTION 1. That the City of EUREKA SPRINGS, subject to the terms, conditions and stipulations mentioned in this ordinance, consents and the exclusive right, permission and franchise is hereby given to the Arkansas Western Gas Company, a corporation organized and existing pursuant to the laws of the State of Arkansas, Grantee, and of gas mains, pipes, conduits, and feeders for the purpose of supplying and distributing natural gas for light, fuel, power, and heat and for any other purpose, to the residents or inhabitants of the said City, as rapidly as the said Company, Grantee herein, shall find it practicable to do so; and further, the exclusive right to lay, construct, operate and maintain a system of gas mains, pipe lines, pipe conduits and feeders and the necessary attachments, connections, fixtures and appurtenances for the purpose of conveying, conducting or distributing natural gas from any point beyond said City limits in order to enable the said Grantee to distribute and sell to the said City and to the residents or inhabitants thereof, and to others.

SECTION 2. The Grantee herein is expressly given the exclusive permit (Subject to the proviso hereinafter contained) to use the streets, avenues, roads, highways, alleys, sidewalks and other public places, as now laid out, or hereafter to be established, for the purpose of laying gas mains, pipe lines, conduits and feeders, and the necessary attachments, fixtures, connections and appurtenances for the purpose of conveying or conducting natural gas from any point within the said City or to any point beyond the city limits of the said City or to any other point, through and beyond the city limits of said City, and to operate and maintain a system of pipe lines, pipes, conduits, feeders and the necessary attachments, connections, fixtures and appurtenances for the distribution of natural gas within said City to serve the said City and the residents and inhabitants thereof, and others; provided, however, that where alleys are accessible for laying mains and pipes, the City shall have the right to require that the mains and pipes shall be laid in the alleys instead of the streets, and plans for laying mains must be submitted to the Commission or specially appointed representatives before final designation is made.

SECTION 3. Subject to the proviso in Section 2 hereof, the main pipes of the Grantee may be laid in the highways, roads, streets, avenues, alleys and other public places as now laid out or as the same shall hereafter be established, and when laid in highways, roads, avenues, streets, alleys, and other public places, same shall be laid in accordance with the lines and grades now established or hereafter to be established by the City, provided that such main pipes and service pipes be laid at the minimum depth of eighteen inches below the grade of streets, alleys or ditches.

SECTION 4. In the opening and refilling of all openings made by the Grantee, it shall relay the pavements and do all other work necessary to complete restoration of streets, sidewalks or grounds to condition equally as good as when disturbed; and when the Grantee shall open any ground in said City for the purpose of laying any gas pipe or for any other purpose whatsoever, the Grantee shall open no more space at any one time or at any one place, nor keep the same open any longer than is necessary to properly execute the work for which same shall have been opened; and it is especially required that in all cases where work requires the exercise of skill, as the laying or relaying of pavements or sidewalks, the Grantee shall employ skilled workmen familiar with the execution of such work. Whenever deemed necessary by the proper authorities it shall have the right to designate its engineer or other person to superintend and supervise the refilling of the highways, streets, avenues, roads, alleys or other public places and the relaying or refilling of the sidewalks and pavements, all of the repair and replacement of pavement, sidewalks and other grounds disturbed for the laying of the said pipes, shall be at the expense of the Grantee.

SECTION 5. No fees or charges of any kind shall be imposed upon the Grantee or upon any successors or upon any consumer of natural gas for the breaking or opening of any highway, street, road, avenue, alley, or other public places, or for the laying of any main, service pipe or other connections therein, except as provided herein.

Nothing in this franchise shall be construed in such manner as to in any manner abridge the right of the City to pass and enforce the necessary police regulations for the purpose of protecting the citizens of said City and their property and the property of the Grantee.

Grantee shall at all times keep and display the necessary danger signals and proper guards around all excavations and obstructions and shall keep sufficient space in good condition for the travel of vehicles on at least one side of all excavations and obstructions, and shall as soon as practicable restore all openings on the highway, road, street, avenue, alley and other public places to condition equally as good as before said openings or obstructions were made.

SECTION 6. The Grantee shall do no injury to any highway, road, street, avenue, alley, lane, bridge, stream or water course, park or public place, nor in any manner disturb or interfere unnecessarily with electric lines, nor with any public or private sewer or drainage system, or water lines now or hereafter laid or constructed by the said City or by any authorized persons or corporation, but no electric conduits or sewer or water pipes shall be so laid as to interfere unnecessarily with any gas main or pipes which shall have been laid prior to the time of laying such electric conduits, sewer or water pipes. The Grantee shall fully indemnify and save harmless the City from any and all claims for damages for which said City shall or might be made or become liable by reason of the granting of this franchise, or any negligence or carelessness on the part of said Grantee, or because of any act or omission of the Grantee in the construction and operation of the system of mains and pipes.

SECTION 7. The Grantee shall supply natural gas under the terms and conditions herein specified to all applicants not in arrears for any bills for natural gas, service, pipes, appliances, or other things, owning or occupying premises on or abutting the streets, avenues, or other public places in which such gas mains or conduits are laid.

The Grantee shall have the right to make and enforce a written agreement with all applicants for natural gas; and rate to be charged for natural gas, according to Section 12 hereof, the fixing of the minimum monthly bill and service meter moving charge, and specifying an immediate deposit, and fixing the terms and conditions upon which natural gas is to be served the individual applicant, shall be determined by such contract. Such contracts are to conform with the state laws and regulations governing same.

SECTION 8. The Grantee shall lay its service pipes from its main pipes to the curb line and/or the consumers' outer property line at its own expense, where necessary curb boxes and meters shall be furnished and installed by the Grantee without expense to the consumer; from the meter on, the consumer shall have the right to select his own gas fitter to lay his pipes and install his fixtures, at the consumers' risk and expense.

The Grantee shall have the right to make and enforce as a part of the conditions under which it will supply natural gas for heat, power, light, fuel or other purposes as herein provided, all needful rules and regulations not inconsistent with law and the provisions of this franchise.

SECTION 9. The Grantee shall furnish promptly to the proper authorities any and all information which may be asked for by them in regard to the size, location or depths of any of the pipes, mains, conduits or service pipes, in any form whatsoever, and any other information in regard to its occupation of roads, highways, streets, avenues or public grounds of said City, which they may demand. Whenever the word Grantee occurs in this ordinance, it shall mean and it shall be understood to be the Arkansas Western Gas Company, its successors, lessees or assigns, and whenever the words "authorities" or "proper authorities" occur in this franchise they shall mean and shall be understood to mean the authorized officer or officers, committee or board representing the City of EUREKA SPRINGS, Arkansas, or Grantor.

SECTION 10. This franchise shall take effect and continue and remain in force perpetually as provided in Section 44 of "Public Utilities Act of 1935," Acts of the State of Arkansas, as same may be amended from time to time, and upon the written acceptance by the Grantee of the terms and conditions of this franchise.

SECTION 11. Be it further ordained that the Arkansas Western Gas Company, Grantee, its successors, lessees and assigns shall have 12 months from the final passage, approval and publication of this ordinance, and not longer, in which to begin the actual laying of pipe lines and laterals for the distribution of natural gas in said City, a failure on the part of the Arkansas Western Gas Company. Grantee, its successors, lessees, or assigns, to comply with the foregoing provisions of this section as to the time in which to begin the work shall render null and void this ordinance; it is further provided however, that upon a showing by the Grantee, that the actual laying of pipe lines and laterals for the distribution of natural gas in said City has been delayed due to the Grantee's inability to secure necessary pipe or other materials, or due to acts of God, the period allowed above shall be automatically extended for an additional period of six (6) months.

SECTION 12. Be it further ordained that the maximum rate charges as per Section 7 for domestic, commercial and industrial consumption of natural gas shall be as follows:

DOMESTIC RATE

First 1,000 cubic feet or less \$1.50 per MCF
Next 4,000 cubic feet .65 per MCF
Next 10,000 cubic feet .50 per MCF
Next 35,000 cubic feet .35 per MCF
All over 50,000 cubic feet .30 per MCF
Minimum Monthly Charge - \$1.50
Penalty of twenty-five cents on all bills less than \$5.00 and a penalty of five percent of the amount of the bill on all bills of \$5.00 or more, for bills not paid within ten days.

SPECIAL CONDITIONS: Customer must have made the necessary meter deposit and signed Customer's Contract and have one appliance connected, in order that service test can be rendered by Gas Company.

TERMS OF CONTRACT: No minimum period of service required.

COMMERCIAL RATE

A commercial rate with a maximum rate of :

First 25,000 cubic feet \$.40 per MCF
Next 75,000 cubic feet .35 per MCF
Next 400,000 cubic feet .30 per MCF
Over 500,000 cubic feet .25 per MCF
Delayed Payment Charge - 10%

MINIMUM CHARGE: Minimum monthly charge of \$15.00 or customer has option of being billed on regular domestic rate, if domestic billing would be less than the \$15.00 minimum.

SPECIAL CONDITIONS: Customer required to make the necessary meter deposit and sign customer's commercial contract.

TERM OF CONTRACT: No minimum period of service required.

INDUSTRIAL RATE

Industrial rate a maximum of: \$.30 per MCF. Minimum Rate - \$.15 per MCF. Net - Subject to individual contract.

SPECIAL CONDITIONS: Make necessary meter deposit to secure payment of bill, and sign regular industrial contract, to be filed as provided by Utilities Act of 1935.

TERM OF CONTRACT: No minimum period required, unless agreed upon jointly by consumer and Gas Company.

All gas sold under this franchise shall be measured on a 4 oz. basis, and shall not be less than 950 B. T. U. per MCF at 8 oz. basis and 60 degrees Fahrenheit.

SECTION 13. If any section, paragraph, subdivision, clause, phrase or provision of this ordinance shall be adjudged invalid or unconstitutional, the same shall not affect the validity of this ordinance as a whole, or any part or provision, other than the part so decided to be invalid or unconstitutional.

SECTION 14. It is ascertained and hereby declared that by reason of there being no gas for either domestic, commercial or industrial uses now in this City, that the domestic, commercial and industrial enterprises within said city demand adequate supply of gas for their various uses, and that it is necessary to begin construction of pipe lines and gas system for said City in order that same may be available for use as soon as possible, an emergency is hereby declared to exist; and this Ordinance being

necessary for the preservation of the public peace, health and safety shall take effect and be in full force and effect from and after it's passage, approval and publication.

Passed the 1 day of April, 1946
Approved the 1 day of April, 1946

A. J. Russell,
Commissioner and Ex-Officio Mayor

ATTEST:

Ray Freeman,
City Recorder

Approved by me this the 1 day of April, 1946

A. J. Russell,
Commissioner and Ex-Officio Mayor
of the City of Eureka Springs, Arkansas

The Arkansas Western Gas Company, a corporation, Grantee, hereby accepts the above franchise subject to the terms and conditions contained therein.

Dated this 1 day of April, 1946.

Arkansas Western Gas Company, a Corporation, Grantee

By: L. L. Saxtler, President