

ORDINANCE NO. 79

AN ORDINANCE GRANTING ARKANSAS LOUISIANA GAS COMPANY THE RIGHT TO CONSTRUCT, MAINTAIN AND OPERATE A NATURAL GAS DISTRIBUTION SYSTEM AND TO USE THE PUBLIC STREETS AND PUBLIC GROUNDS FOR THAT PURPOSE, AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLINTON, ARKANSAS:

That Arkansas Louisiana Gas Company, its successors and assigns, hereinafter called "Grantee", are hereby granted the right to construct, maintain and operate in this Municipality a system for the transportation, distribution and sale of natural gas and to use, and excavate in, the public streets, sidewalks, alleys and grounds for that purpose, for the period provided by law.

The system shall be installed and operated in a workmanlike manner, and this Municipality shall be held harmless from any damages caused by the negligence of Grantee's employees in the course of their employment. Grantee shall tunnel beneath paved streets, sidewalks and alleys wherever practical in laying and replacing mains. Grantee shall refill its excavations and restore sidewalks and pavements promptly, and if this is not done within a reasonable time then it may be done by this Municipality at Grantee's expense. Grantee's lines shall be laid so as not to interfere with the present sewer system, and if a new sewer line crosses Grantee's pipeline at the same level, then this Municipality may, if Grantee has not done so after the reasonable notice, raise or lower Grantee's line at Grantee's expense but only under Grantee's supervision. This Municipality may inspect Grantee's construction work at any time, or have said work inspected by a qualified engineer.

Grantee shall deliver gas to the consumer at the curb line, or within 10 feet of the property line where no curb line has been determined, and all service pipes and facilities necessary

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to receive and utilize the gas at that point shall be furnished and maintained by the consumer, except that Grantee shall furnish and connect the gas meter. Title to all equipment installed by Grantee shall remain in Grantee. Grantee shall extend its mains to serve new customers where reasonably assured of enough new customers and revenues therefrom to justify the capital expenditure necessary to establish the service. Grantee may promulgate and enforce reasonable rules, regulations and requirements governing the sale, deliver, receipt and use of gas furnished by Grantee and the commencement and discontinuance of gas service.

The applicable rates set forth in the attached schedules, which are made part hereof by this reference, shall be charged for gas service by Grantee until said rates are raised or lowered in the manner provided by law.

It is contemplated that the City of Clinton will construct a natural gas distribution system and other facilities to make natural gas service available to the City and that the Grantee will take over the operation of the system under a 20-year lease with option to purchase. It is recognized that, considering various business factors including the present and anticipated circumstances with respect to Grantee's gas rates in the City of Clinton in relation to competing fuels in the area, the operation of the City's system by Grantee under said lease purchase agreement can only be justified from a business standpoint if there is some assurance that there will not be an increase in City Taxes over the presently existing taxes, if any, which Grantee will consider in reaching its decision whether to proceed with the project. Accordingly, to induce Grantee to enter into the lease purchase agreement, the City of Clinton is agreeable to releasing, and does hereby release and exempt for 20 years from the date of this franchise, Grantee, its successors and assigns, from payment of all municipal, occupation, license, franchise and excise taxes and any other character of municipal tax or fee whatsoever which during said

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period might otherwise be due by Grantee to the extent that same exceed the amount levied as of the date of this franchise.

The provisions hereof are intended to be separate and severable and the holding of any portion hereof to be invalid shall not affect the other portion.

This Ordinance shall be not effective unless accepted by Grantee by written notice to the Mayor within ninety (90) days after either the date of its passage or the date all approvals necessary to enable Grantee to serve this Municipality have been granted by federal and state authorities with jurisdiction, whichever is later.

That it is ascertained and declared that the lack of a distribution system for natural gas to serve the inhabitants of the City of Clinton subjects the City to greater fire hazards and greatly endangers the life, health and property of the inhabitants thereof, and that it is necessary that the City of Clinton, Arkansas immediately construct a distribution system for natural gas to protect and preserve the life, health and property of its inhabitants, and that only by this ordinance can said system be immediately constructed and put into operation. It is, therefore, declared that an emergency exists and this Ordinance being necessary for the immediate preservation of the public peace, health and safety, shall take effect and be in force from and after its passage.

PASSED: December 29, 1965

APPROVED: D. PATRICK ELLIS

ATTEST: FLOY BERKOWITZ, Recorder

(Seal)