

ORDINANCE NO. 974

**AN ORDINANCE**

EXTENDING THE AUTHORIZATION TO

Ameren Illinois Company  
d/b/a/ **Ameren Illinois**

ITS SUCCESSORS AND ASSIGNS

TO CONSTRUCT, OPERATE AND MAINTAIN  
A GAS UTILITY SYSTEM

IN THE

**City of Nokomis**

COUNTY OF MONTGOMERY

AND

STATE OF ILLINOIS

PASSED 02/27/2012

EXPIRES 2/27/2032

AN ORDINANCE RENEWING AN EXISTING FRANCHISE AND GRANTING FOR A PERIOD OF 20 YEARS TO AMEREN ILLINOIS, A CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE FRANCHISE, RIGHT, PERMISSION AND AUTHORITY TO CONSTRUCT, RECONSTRUCT, EXCAVATE FOR, PLACE, REMOVE, EXTEND, MAINTAIN, AND OPERATE A GAS UTILITY SYSTEM IN THE CITY OF NOKOMIS, COUNTY OF MONTGOMERY AND STATE OF ILLINOIS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NOKOMIS, COUNTY OF MONTGOMERY, AND THE STATE OF ILLINOIS, AS FOLLOWS:

SECTION 1 It is the intent of the parties by this Ordinance to extend for an additional term, subject to the terms and conditions here stated, the authorization to Ameren Illinois, its successors and assigns, to construct, operate and maintain a gas utility system within the city as originally authorized by an Ordinance No. 501 approved on March 5, 1962. The parties acknowledge that by so doing they are continuing an existing relationship authorizing the services of a utility for the provision of gas energy and other purposes within the city for the benefit of its citizens and residents as well as other consumers of gas energy located within its corporate limits.

SECTION 2. There is hereby given and granted to Ameren Illinois, its successors and assigns (hereinafter referred to as the "Company"), the right, privilege and authority to construct, operate, maintain and/or extend within the corporate limits, as the same now exists or may hereafter be extended, of the City of Nokomis (hereinafter referred to as "Municipality"), a gas utility system for the transmission, distribution and/or sale of gas energy and other purposes (the "System"), together with the right, privilege and authority to lay, erect, construct, install, operate and/or maintain all necessary mains, pipes, valves, equipment and/or other apparatus as may be necessary or convenient for the System, in, upon, along, over, under, through and/or across each and all of the streets, avenues, alleys, bridges, easements, rights of way and/or other public places as agreed upon by both parties.

SECTION 3. All mains, pipes, valves and apparatus shall, so far as practicable, be placed underground and shall be so located and laid as not to interfere with any pipes, conduits, sewers, drains, pavements or other public improvements existing at the time of such location, and said Company shall forthwith repair any damage caused to such improvements to the satisfaction of the official or officials of said Municipality having charge of the supervision thereof. There shall be no unnecessary obstruction to the streets, avenues, alleys and public places of said Municipality in the laying, installation, operation or maintenance of any of said mains, pipes, valves or apparatus. All facilities of Company in said Municipality shall be installed and maintained in accordance with the applicable rules and regulations of the Illinois Commerce Commission.

When any street, avenue, or other public place shall be graded, curbed, paved or otherwise changed so as to make the resetting or relocation of any pipes or other equipment placed or installed under this Ordinance necessary, the Company shall make such resetting or

relocation, at the Company's cost and expense. Municipality shall provide the Company with a suitable location for the resetting or relocation of such pipes or other equipment, and the Company's obligation shall be limited to resetting or relocating pipes or other equipment of the same type and configuration as the displaced pipes or other equipment. Company shall make such resetting or relocation within a reasonable time after receiving written notice of the need for the same from the authorized representative of the Municipality, and the establishment by the Municipality of the permanent grade at the new location.

SECTION 4. The rates to be charged by the Company for gas service rendered under this Ordinance shall be such as are approved from time to time by the Illinois Commerce Commission of the State of Illinois and/or such other duly constituted governmental authority as shall have jurisdiction thereof. All Rules and Regulations of the Illinois Commerce Commission of the State of Illinois applicable to the rights, privileges and authority granted by this Ordinance, in the event of conflict herewith, shall govern.

SECTION 5. As a further consideration for the rights, privileges and authorities granted by this ordinance, the Company shall, throughout the period in which Company shall exercise the rights, privileges and authority granted by this ordinance furnish to said Municipality, compensation in the amount of \$5,425, payable annually, within 30 days of the anniversary date. Municipality may request a revision to the compensation amount after five years from the date of passage of this ordinance if Municipality has a reasonable belief that its population has increased or decreased by 3% or more. Municipality must request the revision at least 60 days prior to the next anniversary date. If Company confirms that the number of customers served by the System within Municipality's corporate limits has increased or decreased by 3% or more, the compensation amount will be revised by that percentage for the next and succeeding payments. Municipality may request similar revisions to compensation amounts under these criteria in additional five year periods throughout the term of this ordinance.

SECTION 6. The rights, privileges and authority hereby granted shall inure to and be vested in Company, its successors and assigns, successively, subject to all of the terms, provisions and conditions herein contained, and each of the obligations hereby imposed upon Company shall devolve and be binding upon its successors and assigns, successively, in the same manner.

SECTION 7. This Ordinance shall confer no right, privilege or authority on Company, its successors or assigns, unless Company shall within ninety (90) days after due notice to the Company of the enactment of this Ordinance, file with the City Clerk an acceptance of the terms and provisions hereof; provided, however, that if such acceptance be not so filed within said period of ninety (90) days, all rights, privileges, and authority herein granted shall become null and void.

SECTION 8. All rights, privileges and authority given and granted by this Ordinance are granted for a term of 20 years from and after the acceptance of this Ordinance as hereinafter provided (the "Initial Term"), and thereafter on a year-to-year basis (each a "Subsequent Term") unless either the Company or Municipality notifies the other in writing of its desire to terminate this Ordinance at least six (6) months prior to the expiration of the Initial Term or any Subsequent Term.

SECTION 9. The Municipality acknowledges that Company is vested in rights, permissions and authority independent of this Ordinance. Neither acceptance of this Ordinance nor compliance with its provisions shall impair in any way or waive any right, permission or authority which Company may have independent of this Ordinance. In addition, neither use by Company of public property or places as authorized by this Ordinance nor service rendered by Company in said Municipality shall be treated as use solely of the rights, permission and authority provided for by this Ordinance and in no way shall indicate non-use of any right, permission or authority vested in the Company independent of this Ordinance. In the event the Municipality vacates any streets, avenues, alleys, easements, rights of way, bridges or other public places during the term of this Ordinance, Municipality agrees to reserve unto Company the rights, privileges and authority herein given and granted to the Company in upon, under, along, over and across each and all of such vacated premises which are at that time in use by the Company.

SECTION 10. All ordinances and parts of ordinances in conflict with this Ordinance or with any of its provisions are, to the extent of such conflict, hereby repealed.

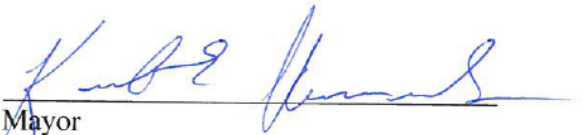
SECTION 11. This Ordinance shall not relieve Company of the obligation to comply with any ordinance now existing in the Municipality or enacted in the future requiring Company to obtain written permits or other approval from the Municipality prior to commencement of construction of facilities within the streets thereof, except Company shall not be required to obtain permits or other approval from the Municipality for the maintenance, upgrading and repair of its facilities. Except in cases of emergency, prior to engaging in any excavation activity that is expected to create an obstruction or other hazardous condition in any street avenue, alley or public place, the Company shall notify Municipality of the location and extent of the planned excavation. In cases of emergency, Company shall notify Municipality of the location and extent of any such activity as soon as practicable after the emergency has been abated.

SECTION 12. If any provision of this Ordinance, or the application of such provision to particular circumstances, shall be held invalid, the remainder of this Ordinance, or the application of such provision to circumstances other than those as to which it is held invalid, shall not be affected thereby.

SECTION 13. The Company shall be exempt from any special tax, assessment, license, rental or other charge during the term of this Ordinance, on all mains, pipes, valves, equipment and other apparatus placed under the streets, alleys, avenues, bridges, easements, rights of way or other public places within the corporate limits of Municipality.

SECTION 14. This Ordinance shall take effect and the rights, privileges and authority hereby granted and renewed shall vest in Company upon its filing of an acceptance with the City Clerk according to the terms prescribed herein. This Ordinance shall be in full force from and after its passage, approval and ten (10) day period of publication in the manner provided by law.

Passed and approved this 27<sup>th</sup> day of FEBRUARY, 2012

  
\_\_\_\_\_  
Mayor  
City of Nokomis, Illinois

[SEAL]

ATTEST:

  
\_\_\_\_\_  
City Clerk

STATE OF ILLINOIS                    )  
CITY OF NOKOMIS                    ) SS  
COUNTY OF MONTGOMERY         )

I, Pamela Burdzilauskas, City Clerk within and for the City of Nokomis, in the State and County aforesaid, do hereby certify that:

- (1) the foregoing constitutes a full, true and correct copy of Ordinance No. 974 of said City as:
  - (a) introduced before the City Council on the 13TH day of FEBRUARY, 2012, ~~2011~~; and
  - (b) passed by the City Council and approved by the Mayor on the 27th day of FEBRUARY, 2012, ~~2011~~, as fully as the same appears of record in my office;

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of Nokomis, Illinois, at my office in said City this 28th day of FEBRUARY, 2012,  
~~2011~~

[SEAL]

  
City Clerk

ACCEPTANCE

Ameren Illinois, Company of the rights and privileges granted by Ordinance No. 974 of the City of Nokomis, Illinois, passed February 27, A.D. 201~~1~~<sup>2</sup>, approved February 27, A.D. 201~~1~~<sup>2</sup>, and entitled "An Ordinance extending the authorization to Company, its successors and assigns, to construct, operate and maintain a utility system in the City of Nokomis, County of Montgomery and State of Illinois", hereby accepts said Ordinance and all the provisions thereof.

In Witness Whereof, Ameren Illinois, Company as aforesaid has caused these presents to be signed by its President or a Vice President and attested by its Secretary or an Assistant Secretary and its corporate seal to be affixed this 9<sup>th</sup> day of March, A.D. 201~~1~~<sup>2</sup>.

Ameren Illinois

By SCCisel  
Scott Cisel  
President

(Corporate Seal)

Attest:

[Signature]  
Assistant Secretary