

GAS FRANCHISE ORDINANCE

ORDINANCE NO. 431

An Ordinance granting the right, permission, privilege and authority to the Western Illinois Gas Company, its successors and assigns, to construct, maintain, and operate in the City of Nakomis, County of Montgomery, State of Illinois, a system for the transmission, distribution and sale of natural gas for lighting, heating and other purposes at and within the City of Nakomis.

WHEREAS, WESTERN ILLINOIS GAS COMPANY, hereinafter designated as grantee, has petitioned the City of Nakomis, of the County of Montgomery, State of Illinois, hereinafter also designated as Municipality, asking that the right, permission, privilege and authority be granted to it, its successors and assigns, by ordinance, to construct, maintain, extend and operate a system for the transmission, distribution, and sale of natural gas, for lighting, heating, and other purposes, within the corporate limits of the municipality.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Nakomis:

1. That it is hereby granted to the WESTERN ILLINOIS GAS COMPANY the right, privilege and authority to establish, construct, maintain, extend, and operate a system for the transmission, distribution, and sale of natural gas, for lighting, heating and other purposes, and to use and occupy the streets, alleys and avenues in said municipality for the purpose of supplying and furnishing said municipality, and the public in general, natural gas for heating, lighting, and such other purposes as may be adapted, and for that end and to that purpose, the said WESTERN ILLINOIS GAS COMPANY shall have the right, privilege and authority to lay down, construct and maintain all the necessary pipes, mains, fixtures and appurtenances in and underneath the surface of and along and upon said public streets, alleys, and



avenues in said municipality, together with the right and privilege to maintain any and all pipes, mains, fixtures and appurtenances hereafter belonging to said grantee, therein or thereon situated, for the purpose of supplying and conducting said gas for the term of 50 years from the date of this ordinance; provided, however, said grantee, in the exercise of the rights and privileges herein granted, shall not interfere with the pipes, mains, fixtures, or appurtenances of any other company, person, or corporation in said municipality, erected under or by virtue of the permission of the City Council, heretofore granted.

2. The grantee, in the establishment, maintenance, and construction of said system, shall repair and replace, in as good condition as before interfered with, all streets, avenues, alleys and public grounds of said municipality, as soon as may conveniently be done as said work progresses.

3. The rates to be charged by the grantee, and rules and regulations to govern the furnishing of service to the inhabitants of the municipality, shall be in accordance with the rates fixed and filed with the Illinois Commerce Commission.

4. All pipes, lines, equipment and appurtenances placed in or underneath the streets or public places in the municipality shall be exempt from any special tax assessments, license or rental charge during the term of this ordinance.

5. That all rights and privileges granted by this ordinance are granted for a term of 50 years from and after the date of the acceptance of this ordinance; provided, however, that at the end of 30 years from the date of the acceptance of this ordinance, if the city shall determine to purchase the property, assets and franchises of the company and shall have given written notice to the company of such intention and determination at least six months prior to the expiration of said period of 30



years, the company will then sell and convey the same to the city upon the city paying a just and fair compensation therefor, which said compensation, if said parties cannot agree, shall be determined by a competent firm of appraisal engineers mutually agreed upon by said parties to appraise the property, assets and franchises of the company and to fix a just and fair value thereupon, and, if the parties cannot agree upon said firm of appraisers, then each party shall appoint some capable and reasonable minded person to represent them in choosing a competent firm of appraisal engineers to make such appraisal, and, if such two parties cannot agree, then they shall select a third disinterested person to act with them as an arbitration committee in selecting a competent firm of appraisal engineers to appraise and fix the just and fair compensation to be paid the company for its property, assets and franchises, and the selection of said firm of appraisers by the committee of three so appointed shall be final and binding upon both the city and the company. And the price to be paid the company by the city shall be the appraised value of such property as fixed by said firm of appraisal engineers, plus a sum equal to ten per cent thereof, which shall be taken by both the city and the company as the just, fair and reasonable compensation due the company for its property and franchises within said municipality.

6. This franchise shall not be considered or construed as being an exclusive franchise.

7. That after the passage and approval of this ordinance and within sixty (60) days after such approval, this ordinance shall be accepted by grantee by its filing with the Clerk of the municipality, an unconditional written acceptance thereof. Failure of grantee to so accept this ordinance within said period of time shall be deemed a rejection thereof by grantee, and the rights



and privileges herein granted shall, after the expiration of said period of sixty (60) days, if not so accepted, absolutely cease and determine, unless said period of time shall be extended by ordinance duly passed for that purpose.

8. That all provisions of this ordinance which are obligatory upon or which inure to the benefit of WESTERN ILLINOIS GAS COMPANY, shall also be obligatory upon and shall inure to the benefit of all successors and assigns of WESTERN ILLINOIS GAS COMPANY and the word "grantee" wherever used in this ordinance shall include and be taken to mean not only WESTERN ILLINOIS GAS COMPANY, but also all successors and assigns of WESTERN ILLINOIS GAS COMPANY.

9. This ordinance shall be in full force and effect thirty (30) days after its passage by the Council of the said City, provided, however, that if within thirty (30) days of the date of the passage of this ordinance by the Council of said City there be presented to the Council a petition signed by the electors of the City equal in number to at least ten (10%) per cent of the number of votes cast for the candidates for Mayor at the last preceding general quadrennial municipal election, protesting against the passage of said ordinance, the effective date of this ordinance shall be suspended until such time as the question of the adoption of such ordinance shall be submitted to the electors of the City at a general or special election called for that purpose, and until a majority of the qualified electors voting on the adoption of this ordinance shall vote in favor thereof.

10. Should the grantee, its successors, representatives and assigns, fail to establish, construct, maintain and operate a system for the transmission, distribution and sale of natural



gas with the said municipality within three years from the date said franchise is granted, or, having established the same, fail to maintain and operate it as herein contemplated, or fail to perform the things hereinbefore set out, then, and in such instance, said franchise herein granted shall become null and void.

PRESENTED this 15<sup>th</sup> day of OCTOBER, 1951.  
PASSED this 5<sup>th</sup> day of NOVEMBER, 1951.  
APPROVED this 5<sup>th</sup> day of NOVEMBER, 1951.  
RECORDED THIS 6<sup>th</sup> day of NOVEMBER, 1951.

Kenneth E. Felleman  
Mayor.

ATTEST:

John J. Greaney  
City Clerk.