

ORDINANCE NO. 1779

CITY OF LEXINGTON, NEBRASKA

Passed First Reading 7/23/85

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ORDNANCE NO. 1779

AN ORDINANCE OF THE CITY OF LEXINGTON, DAWSON COUNTY, NEBRASKA, PROVIDING FOR THE PROCEDURE TO BE FOLLOWED, BY A FRANCHISEE OF THE CITY MAINTAINING AND OPERATING A RETAIL GAS DISTRIBUTION SYSTEM, IN ESTABLISHING OR MODIFYING RATES TO BE CHARGED TO RETAIL CUSTOMERS AND WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LEXINGTON, NEBRASKA:

Section 1. RATES. Regulatory Authority. The FRANCHISEE shall at all times be subject to all rights, power and authority now or hereafter possessed by the CITY to regulate and control and direct the rates and tariffs charged for natural gas service in the City.

Section 2. RATE SCHEDULES. FRANCHISEE shall provide to the CITY, for informational purposes, copies of all rate schedules and contracts for all rates charged and the requirements for service under such schedule within the CITY. They should also show separately the base rate and the Purchased Gas Adjustment (PGA) rate. The base rate shall exclude all gas supply costs and gas supply cost adjustments. Gas supply costs and gas supply cost adjustments shall be collected solely through the PGA rate.

Section 3. REFUND. Any refund, including interest thereon, if any, received by the FRANCHISEE from its supplier related to increased rates paid by the FRANCHISEE subject to refund and applicable to natural gas purchased for resale within the CITY shall be passed on to presently served customers by an appropriate adjustment shown as a credit on subsequent bills during a period selected by the FRANCHISEE, not to exceed twelve (12) months, or by a cash refund at the FRANCHISEE'S OPTION or by such other method as may be established by ordinance.

Section 4. OTHER RATE CHANGES. In the event the FRANCHISEE desires to change its rates for natural gas service within the CITY other than to reflect an adjustment for the cost of purchased gas, the FRANCHISEE will present to the CITY copies of present and proposed rate schedules and information supporting the proposed rates to

be charged for natural gas service within the CITY. The rate schedule and information submitted with the rate schedules shall be referred to as the Rate Filing. Any such Rate Filing shall be deemed filed upon receipt of the same by the City Clerk. A filing fee in the amount of _____ percent of the previous four quarterly franchise payments (or \$ _____) shall be paid to the CITY with the Rate Filing. Such fee will be considered as an operating cost of the FRANCHISEE and shall not be separately itemized on any customer billings.

The governing body of the CITY shall have the right to select and engage rate consultants, accountants, auditors, attorneys, engineers and other experts as deemed necessary and desirable to advise and represent the governing body in evaluating any proposed rate change. FRANCHISEE shall reimburse the CITY within ninety (90) days of the presentation of a bill by the CITY for the reasonable costs of those services only to the extent that said costs exceed the filing fee for the Rate Filing.

If the proposed rates sought by the FRANCHISEE in its Rate Filing have not been passed on final reading by the City Council within ninety (90) days after it was filed, or as such time may be extended by agreement between FRANCHISEE and CITY in order to supply additional information if requested by the CITY, the proposed rates shall be put into effect as interim rates and shall be collected subject to refund pursuant to Section 18-415 of the Nebraska Revised Statutes, 1943, as the same may be amended from time to time. Such interim rates shall remain in effect pending final determination by the CITY, which determination shall be made within one (1) year, or in the event of litigation, final rate determination by the courts.

The rates proposed to be changed for non-contract firm natural gas service within the CITY shall be based upon the utility's cost of providing service to the CITY or the representative costs in that part of utility's service area which includes the CITY. The period for which the cost of service is to be recognized

is to be a projected twelve (12) month period commencing not later than the proposed effective date of the increase. The cost of service shall be determined in a manner consistent with regulated public utility practices and shall include (1) appropriate costs as defined and set forth in the Federal Energy Regulatory Commission Uniform System of Accounts Prescribed for Natural Gas Companies FERC Accounts, and (2) a reasonable return on the utility's rate base.

In determining a reasonable return, a rate (percentage) shall be employed that is representative of the cost of debt, preferred stock, and common equity capital. The rate base shall consist of the applicable net investment in utility plant (as defined in the FERC Accounts), allowance for working capital, and such other items as may reasonably be included; less such investment as may, unless otherwise prevented by law, be attributed to other than investor capital.

The FRANCHISEE'S appropriate costs and items of rate base shall include allocated or apportioned expenses and rate base items, when such allocations or apportionments are reasonably representative of assigned common costs and arise from the manner in which the FRANCHISEE'S operations are conducted or from an avoidance of excessive and costly financial recordkeeping.

Rate Filings, not including changes reflecting the cost of gas, shall be limited to a maximum of one (1) in any twelve (12) calendar month period.

Section 5. INFORMATION TO BE PROVIDED. FRANCHISEE shall provide, in its Rate Filing, three copies of the most recent annual report to the stockholders and the completed and signed copies of the "SUMMARY OF PROPOSED RATE CHANGE" sheets. In addition three (3) copies of the following information shall, on request by CITY, be provided by the FRANCHISEE.

A. A financial summary showing aggregate rate base, operating revenues, operating expenses, return on rate base, and rate of return:

1. Actual for the most recent calendar year preceding the date of submission.

2. For the projected twelve (12) month period using natural gas rates currently in effect.
 3. For the projected twelve (12) month period using the proposed natural gas rates.
- B. Rate base schedules, on an original cost basis, showing for the most recent twelve month period available and for the projected 12-month period:
1. For utility plant and accumulated depreciation and amortization components - the beginning and end of period balances by account, explanation of changes in balances during the period, and the calculated rate base amounts.
 2. For cash working capital - the manner in which rate base amounts are calculated.
 3. For other rate base components - beginning and end of period amounts, explanations of changes in balances during the period, and calculated rate base amounts.
 4. Explanations and calculations of allocated amounts included in (1), (2) and (3) above.
- C. Operating expense schedules, showing:
1. Expenses by FERC accounts for the most recent calendar year including filing fees and occupation taxes paid to the CITY.
 2. Explanation and calculations of allocated amounts included in (1).
 3. Expenses by FERC accounts or their equivalent for the projected twelve (12) month period.
 4. Explanation of methods employed to develop projected expenses.
 5. Explanations and calculations of allocated amounts included in (3).
- D. Rate of return/cost of capital schedules showing debt, preferred stock, and common equity amounts at the beginning and end of the projected twelve (12) month period, explanations of changes during the period, and methods used to calculate or otherwise determine cost of capital.
- E. Operating revenue schedules, showing:
1. Number of customers, volume of sales, and operating revenue by customer classes for the most recent calendar year.
 2. Number of customers and volume of sales by customer classes for the projected twelve (12) month period.
 3. Explanation of methods employed to determine data in (2).

4. Operating revenues by rate schedules for the projected twelve (12) month period using current rates.
 5. Operating revenue by customer classes for the projected twelve (12) month period using proposed rates.
 6. Detailed rates and calculations for (4) and (5), including customer usages (consumption analysis) data, peak demand and load factor data by customer class, allocation methods and justifications, etc.
- F. Informational Schedules showing for the CITY as a whole:
1. Cost of utility plant.
 2. Number of customers, volume of sales, and operating revenue by customer classes.
- G. Grantee shall clearly designate as part of its expenses, all expenditures for business gifts and entertainment, institutional, consumption inducing, and other advertising or public relations expenses, and legislative-advocacy expenses. The CITY may not allow its costs or expenses for rate making purposes any of these expenditures which the CITY determines not to be in the public interest. FRANCHISEE has the burden of showing these expenses are in the public interest.

Section 6. NOTICE OF APPLICATION. FRANCHISEE shall not make changes in its rates except by filing a Rate Filing prescribed with the City Clerk at least ninety (90) days prior to the proposed effective date of the requested change. Notice of the filing shall be given by publication by placing a notice to the public of the proposed change in a newspaper having general circulation in the CITY. However, notwithstanding the above, instead of the publication of newspaper notice contemplated above, FRANCHISEE may provide notice to the public by mailing such notice by United States mail, postage prepaid, to the billing address of each directly affected customer, or by including the notice in such customer's bill in a conspicuous form. The notice must be in the following form:

NOTICE OF RATE INCREASE/DECREASE

The City of Lexington proposes to increase/decrease your rates by \$ _____ (amount of total annual increase requested) per year, which is an overall increase/decrease of _____ (percentage of increase over all revenues during the applicable test year) percent and is an increase/decrease in base rates of (percentage of increase over all revenues during the applicable test year which are not subject to escalation through some form of automatic adjustment clause) _____ percent. Further information may be obtained from _____ (name and address of utility official) or the application on file with the City Clerk.

An affidavit signed by an official of FRANCHISEE and describing the method of publication of the notice shall be filed with the City Clerk.

Section 7. PROVIDING OF GENERAL INFORMATION. The FRANCHISEE shall provide the CITY, at the request of CITY, on a regular continuing basis, within thirty (30) days of publication, copies of documents, information and data listed below for the FRANCHISEE or its parent company as applicable.

Annual Report to Stockholders.

Quarterly Report to Stockholders.

Securities and Exchange Commission Form 10-K, as the same may be changed from time to time.

Securities and Exchange Commission Form 10-Q, as the same may be changed from time to time.

Prospectus for Debt Securities to be Issued.

Distribution System Map of the CITY.

Section 8. VALIDITY OF FRANCHISE. If any section, subsection, sentence, clause, phrase or portion of this franchise shall for any reason be held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereto.

Section 9. That all other ordinances or sections of ordinances in conflict herewith are hereby repealed.

Section 10. This ordinance shall be published in pamphlet form and take effect as provided by law.

PASSED AND APPROVED this _____ day of _____, 1985.

CITY OF LEXINGTON, NEBRASKA

Mayor

ATTEST:

City Clerk