

Commonwealth of Kentucky
Before the Public Service Commission

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PUBLIC SERVICE
COMMISSION

In the Matter Of:

Application of Sigma Gas Corporation)
to bid on Franchise for Natural) Case No. 2004-00051
Gas Service in Salyersville, KY)

Petition for Franchise Authorization

Sigma Gas Corporation, by counsel, petitions for authorization pursuant to KRS 278.020 to bid on a franchise offered by the city of Salyersville, KY, copy attached.

1. Sigma is a natural gas distribution company regulated by the Public Service Commission. Its mailing address is Box 22, Salyersville, Ky. 41465. Its manager is Estill Branham;

2. Sigma was granted approval of the Public Service Commission on December 15, 1993 to acquire the assets of Salyersville Gas Company in the Joint Application of Sigma Gas Corporation and Salyersville Gas Company, Inc. for the Approval of the Acquisition of Assets, PSC Case No 93-349;

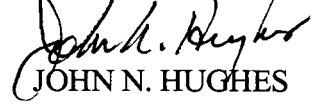
3. No franchise currently exists for Salyersville;

4. Sigma now has approximately 789 customers in and around Salyersville;

5. Sigma has the ability to continue to serve those customers and to fulfill the requirements of the proposed franchise.

For these reasons, Sigma requests an order authorizing it to bid on the proposed franchise of the city of Salyersville, KY.

SUBMITTED BY



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ATTORNEY FOR SIGMA
GAS CORPORATION

ORDINANCE NO. 450.6

AN ORDINANCE PROVIDING FOR THE SALE OF A NON-EXCLUSIVE FRANCHISE OR PRIVILEGE TO CONSTRUCT, LAY, MAINTAIN, OPERATE, REPAIR AND REMOVE MAINS, PIPES AND CONNECTIONS, FIXTURES AND APPLIANCES FOR TRANSMISSION, DISTRIBUTION AND SALE OF GAS FOR HEATING AND OTHER PURPOSES WITHIN THE CITY OF SALYERSVILLE, KENTUCKY.

WHEREAS, the City of Salyersville, Magoffin County, Kentucky, is desirous of obtaining a franchise for the distribution of gas within the City; and

WHEREAS, the Kentucky Constitution and Statutes requires that all franchises be bid after due notice and advertising in local newspaper;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL THAT THE CITY OF SALYERSVILLE, KENTUCKY, AS FOLLOWS:

SECTION 1. There is hereby created a non-exclusive franchise to acquire, lay, maintain and operate in the public streets, alleys, avenues, public roads, highways, sidewalks and other public ways of the City of Salyersville, Kentucky, a system of mains, pipes, fixtures and appliances for the transmission, distribution and sale of natural gas for heating and other purposes subject to all the provisions of this Ordinance.

SECTION 2. Such non-exclusive franchise, when awarded and approved by the City Council of the City of Salyersville, Kentucky, shall constitute a contract bid between the City of Salyersville and the grantees thereof under the terms of which shall be hereinafter stated.

SECTION 3. The person, firm or corporation which shall become the purchaser of said franchise, or any successors or assignees of such person, shall for brevity hereinafter be referred to as the "company" herein. The public streets, alleys, avenue, public roads, highways, sidewalks and other public ways (as the same now exists and including all which may hereinafter be established or created) within the territory within the City of Salyersville, Kentucky, shall have brevity be hereinafter referred to as the "City." The mains, pipes, fixtures, appliances, and other apparatus, equipment, or facilities necessary, essential, used or useful to, in the operation of the gas system shall have brevity hereinafter be referred to as the "equipment and apparatus." The City of Salyersville, Kentucky, shall have brevity be hereinafter referred to as the "City."

SECTION 4. The company acquiring this non-exclusive franchise shall have the right and privilege of laying, maintaining and operating gas mains and pipes, equipment and apparatus, and appurtenances necessary or appropriate in connection therewith, in, along, and under (but not above) the streets within the corporate boundaries of the City as they now exist or may hereafter be extended; subject to the provisions hereof and to all powers (including police power) inherent in, conferred upon or reserved to said City.

SECTION 5.

- (a) When an emergency arises which requires immediate repair, the company may disturb or excavate a street without first obtaining written permission from the Mayor or City Council, provided that same is notified in writing of said repairs within five (5) days. This notification shall include at least the time, date, location and extent of excavation or other work performed.
- (b) When the company shall enter upon any street for the purposes of excavating, operating, maintaining and/or removing equipment and apparatus, it shall prosecute the work, at its own expense with due diligence and shall dig and expose places as rapidly as possible, and shall leave the streets in the same condition or better as when entered.
- (c) In the construction or reconstruction or maintenance or removal of any said equipment or apparatus, the company shall have due regard for the City and others, and shall not interfere with or in any way injure the property of the City or others, under, on or above the ground.

Said purchaser shall comply with all the Laws of Commonwealth of Kentucky and Ordinances of the City as to placing lights, danger signals or warning signs and shall be liable for any and all damage which may arise by reason of its failure or neglect to comply with such Ordinances and laws.

- (d) The company shall be given access to street plans and specifications in the possession of the City.

SECTION 6. The City, through its Mayor, or designated representative, or through such assistants as the City may employ or designate, may inspect any hazard, have access to all or any of the property owned or used in part or in whole by the company its operating and maintaining the gas system under this non-exclusive franchise. In like manner, the City, or its above-mentioned officers and assistants, may at all reasonable times enter in or upon said property to

inspect or examine it.

SECTION 7.

- (a) The non-exclusive franchise hereby created shall be for a term of ten (10) years from and after the date same shall become effective with the option to renew, Council reserving the right to re-negotiate terms at time of renewal.
- (b) Company is hereby given the right to assign the non-exclusive franchise created by this Ordinance to any person, firm or corporation able, ready and willing to carry out the terms of this franchise, but shall, prior to assignment, obtain consent from the City to such assignment and consent shall not be unreasonably withheld.

SECTION 8. It shall be the duty of the Mayor or his duly designed representative, as soon as practicable after the passage of this Ordinance to offer for sale under sealed bid said non-exclusive franchise and privilege. Said non-exclusive franchise and privilege shall be sold to the highest and best bidder at a time and place fixed by the Mayor after he has given due notice thereof by advertisement in one issue of the local newspaper in general circulation in Salyersville, Magoffin County, Kentucky.

The advertisement shall appear not less than seven (7) days nor more than twenty-one (21) days before the date of bid holding.

SECTION 9. Bids and proposals for the purchase and acquisition of the franchise and privileges hereby stated shall be in writing and shall be delivered to the Mayor or his designated representative upon the date and at the time fixed in said advertisement for receiving same. Thereafter, the Mayor shall report and submit to the City at the time of its regular meeting said bids and proposals for its approval. The City reserves the right to reject all bids; and in case the bids reported by the Mayor be rejected by the City, it may direct, by Resolution or Ordinance, said franchise and privilege to be again offered for sale, from time to time, until a satisfied bid therefore shall be received and approved.

SECTION 10. Bids offered for purchase of this franchise shall state the bidder's acceptance of the conditions set forth in this Ordinance. In addition to the highest and best bid, the company, in consideration of the terms of this non-exclusive franchise, agrees to pay to the City the sum equal to the cost of the advertising and selling of this franchise, upon proper billing by the City to the company.

Payment schedules and penalties for failure to make payments in a timely manner or non-payment of fees shall be set forth in the Ordinance approving said non-exclusive franchise.

SECTION 11. The franchise created by this Ordinance shall become effective on the date of its passage.

PUBLICLY READ AND FINALLY ADOPTED this _____ day of February, 2004.

CITY OF SALYERSVILLE, KY

STANLEY HOWARD, MAYOR

ATTEST:

Carlotta Howard
CARLOTTA HOWARD
CITY CLERK

First Reading..... Feb. 9, 2004
Second Reading.... _____
Publication..... _____