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AN ORDINANCE OF THE CITY OF BEREA, KENTUCKY, GRANTING UNTO DELTA NATURAL GAS COMPANY, INC., ITS SUCCESSORS AND ASSIGNS, THE RIGHT, FRANCHISE, AND PRIVILEGE FOR A PERIOD OF TWENTY YEARS, FROM JANUARY 1, 1995, TO ACQUIRE, CONSTRUCT AND MAINTAIN IN THE CITY OF BEREA, KENTUCKY, THE NECESSARY FACILITIES FOR THE OPERATION AND MAINTENANCE OF A NATURAL, MANUFACTURED, AND/OR MIXED, GAS DISTRIBUTION SYSTEM, AND TO USE AND OCCUPY THE PUBLIC STREETS, HIGHWAYS, AVENUES, ALLEYS, BRIDGES, AND PUBLIC PLACES FOR SUCH PURPOSES, AND PRESCRIBING THE TERMS AND CONDITIONS THEREOF, AND PROVIDING FOR THE IMPOSITION AND COLLECTION OF A FRANCHISE FEE.

WHEREAS, by Ordinance No. 9-94 the City of Berea, Kentucky created a non-exclusive natural gas distribution system franchise, pursuant to Kentucky Constitution Section 163, KRS 82.082 and KRS 96.010, within the City of Berea, Kentucky, and requested that bids be submitted therefrom; and

WHEREAS, the Delta Natural Gas Company, Inc. (hereafter Delta Gas) submitted a bid pursuant to Ordinance No. 9-94; and

WHEREAS, the said bid of Delta Gas was accepted by the City Council of the City of Berea, Kentucky,

NOW, THEREFORE, be it ordained by the City Council of the City of Berea, Kentucky as follows:

SECTION I

That Delta Gas, its successors and assigns, be and it is hereby granted and vested with the right, franchise, and privilege for a period of twenty (20) years, from January 1, 1995, as provided by law, to acquire, construct, maintain, or operate within the City of Berea, Madison County, Kentucky, the necessary facilities for the operation and maintenance of a natural gas distribution system for public and private use and to construct and maintain along, upon, across, or under the streets, highways,



avenues, alleys, bridges, and public ways or places of the City, to lay, maintain, operate and remove gas mains, pipelines, feeders or any other appurtenance necessary to operate and maintain a gas transmission system. The rights and obligations granted pursuant to this franchise shall be extended to any territory newly annexed to the City of Berea upon the same terms and conditions hereunder, subject to the approval of the appropriate state regulatory authority, if applicable.

### SECTION II

This franchise shall not be exclusive and shall not restrict in any manner the right of the City of Berea in the exercise of any regulatory power which it now has or which may hereafter be authorized or permitted by laws of the Commonwealth of Kentucky. This franchise shall not be transferred, assigned, nor delegated without the written consent of the City of Berea, which consent shall not be unreasonably withheld, and which consent shall be deemed to be given upon approval of the assignee or purchaser by the Public Service Commission, after notice to the City.

### SECTION III

That Delta Gas, its successors and assigns, shall at all times during the term of this franchise, conform with, submit to, and carry out any and all ordinances relating to any person, firm, or corporation furnishing natural gas service now in force or that may hereafter be enacted and not inconsistent herewith; and particularly, Delta Gas, its successors and assigns, shall comply in all respects to the terms and provisions of Ordinance No. 1977-17 of the City of Berea, Kentucky, which is adopted herein by



reference, except as it may be inconsistent herewith.

SECTION IV

In consideration of the granting and exercise of the franchise herein, and in further consideration of the grant to Delta Gas the right to make use of the public streets, highways, avenues, alleys, bridges and public places, there is hereby imposed upon Delta Gas, and by its acceptance of this franchise it hereby agrees that there shall be paid by Delta Gas, its successors and assigns, to the City of Berea, Kentucky, a franchise fee equal to three percent (3%) annually of Delta Gas's gross local service revenues generated within the corporate limits of the City of Berea. Delta Gas shall pay such sum quarterly, on the 30th day after the end of each quarter, and shall furnish to the City a statement setting forth the amount of its gross local service revenues received relative hereto.

SECTION V

That all ordinances or parts of ordinances in conflict herewith are repealed. This ordinance shall be published according to law.

FIRST READING: November 1, 1994.

SECOND READING AND ENACTMENT: November 15, 1994.

CITY OF BEREA, KENTUCKY

ATTEST:

Patricia D. Adams  
Clerk of the City Council



APPROVED BY:

Clifford F. Kerby  
Clifford F. Kerby, M.D., Mayor

ACCEPTED BY:

DELTA NATURAL GAS COMPANY, INC.

By: Robby C. Howlitz  
Title: VP, Public and Government Affairs

ATTEST: Georgia Ann Lee  
Title: \_\_\_\_\_

Published this \_\_\_\_\_ day of \_\_\_\_\_, 1994.

PREPARED BY:

James T. Gilbert  
James T. Gilbert  
Corporation Counsel  
City of Berea, Kentucky

TARIFF BRANCH  
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