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"The City Between The Lakes"
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Urgent For Review Please Comment Please Reply

Comments:

City Attorney Norbert H. Schrm
Local-387-8112

Clinton County Judge
606-387-5234

Albany School Super
→ Talk To / Connie or Penny
606-387-6480

Any questions please call

Utility Tax (Schools)
Gross Rec Lic Tax
502-564-4810

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AGREEMENT

DATE: February 7, 1986

PARTIES: ALBANY GAS UTILITY COMPANY,
a private corporation
P.O. Box 655 - Adams Hook Road
Albany, Kentucky 42602

("Albany Gas")

and

CITY OF ALBANY, KENTUCKY,
a municipal corporation
c/o City Building
Cross Street
Albany, Kentucky 42602

("the City")

WHEREAS, the City, on April 11, 1985, granted to Mid-Western Oil and Exploration, the gas franchise for the City; and,

WHEREAS, Mid-Western Oil and Exploration has assigned the City gas franchise to Albany Gas; and,

WHEREAS, both parties desire to make certain modifications in their franchise arrangement, but only to the extent as set out below.

The parties hereto agree as follows:

1. ~~Albany Gas hereby transfers and assigns to the City all of its~~
~~plants and service meters which constitute the physical plant of~~
~~Albany Gas.~~

2. The City hereby grants to Albany Gas an exclusive management contract, under which it shall do all things necessary to maintain and improve the pipeline and service. Albany Gas shall be in charge of and responsible for all aspects of the gas business except as set out in numerical paragraph 3, below.

3. ~~The City of Albany hereby authorizes and authorizes for~~
~~all matters pertaining to the sale of natural gas under the terms~~
~~of the natural gas franchise. The City Council of the City of~~

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Albany must approve any change on rates and the setting of the initial rate for the sale of natural gas. The factors to be considered in setting rates will include but not be limited to:

(a) consideration of whether or not the rates are reasonable and just based upon comparison with the rates in cities of a comparable size and location; and,

(b) whether or not Albany Gas will be making a sufficient profit to allow it to provide an efficient and safe service to the citizens and businesses of the area; and,

(c) whether or not Albany Gas is making or will make a sufficient rate of return relative to the money and time invested in the project with consideration given to the initial risk involved in the project.

4. Albany Gas hereby guarantees the City (8%) eight percent of the gross receipts. This (8%) eight percent guaranteed profit on gross receipts shall be the only profit to be received by the City under this arrangement and it will replace the (1.5%) one and one-half percent stated in article 14 of the ordinance granting the franchise.

5. The City hereby sets the initial rates as follows:

USAGE PER MONTH	RATE
First 0-15 MCF'S	\$7.50
Next 16-50 MCF'S	\$2.40
Next 51-100 MCF'S	\$3.30
Next 101-450 MCF'S	\$5.25
Excess of 450-up MCF'S	\$5.20

There will be a minimum of \$7.50 on all bills each month.

The City acknowledges that the above rates are just and reasonable rates under current conditions and further agrees that these rates may never be adjusted downward for the term of the management agreement.

6. Albany Gas will continue to abide by all required safety guidelines and regulations as set forth by the Kentucky Public Service Commission and the National Pipeline Safety Act.

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7. Albany Gas shall furnish the City evidence of insurance to provide adequate coverage for damage resulting from the operation or installation of the gas pipeline.

9. This agreement shall be in force for a period of 10 years, ~~and at the election of either party for an additional 10 years.~~ *OK*
If, however, an unreasonably low rate is set by the City at any time, and such rate is successfully challenged by Albany Gas in an appropriate forum, at the election of Albany Gas, this agreement may be terminated, with a reversion of all property transferred hereunder, to Albany Gas.

Further, should the Public Service Commission deem that this agreement does not remove Albany Gas from its rate-making jurisdiction, this agreement, at the election of Albany Gas, will terminate and the parties shall be returned to the status quo ante.

Nothing herein, however, shall alter any of the Parties' respective rights, duties and obligations under the base franchise agreement, except where specifically mentioned herein.

This 7th day of February, 1986.
Mered

ALBANY GAS UTILITY COMPANY

by: *James A. Hill*
PRESIDENT

Samuel S. ...
MAYOR, CITY OF ALBANY, KENTUCKY
by authority of Ordinance 86-003,
enacted February 7, 1986.
Mered



CITY OF ALBANY, KENTUCKY
City Ordinance No. 86-008

AN ORDINANCE AMENDING A PRIOR ORDINANCE WHICH CREATED A FRANCHISE FOR THE CONSTRUCTION, MAINTENANCE AND OPERATION OF A NATURAL GAS SYSTEM IN THE CITY OF ALBANY, KENTUCKY FOR THE FURNISHING AND SELLING OF NATURAL GAS BY MEANS OF SAID FACILITIES AND PROVIDING FOR THE SALE OF SAID FRANCHISE IN THE CITY OF ALBANY, KENTUCKY.

WHEREAS the City of Albany, Kentucky did on March 4, 1986, vote to purchase the physical plant of Albany Gas Utility Company, and grant an exclusive management contract for same to Albany Gas Utility, and

WHEREAS it appears that the Ordinance passed was in fact defective and due to the chaotic events of recent days and the discord and confusion it has created among the members of City government and the good townspeople of Albany, Kentucky and

WHEREAS the City council has voted that the present situation as it exists is in fact an emergency situation, and therefore the second reading of this ordinance is not required as per KRS 83A.060(sub 7);

NOW WHEREFORE, be it ordained by the City of Albany, Kentucky, that the portion of City Ordinance No. 85-001 as set out below is amended as follows:

13. This franchise may be transferred by the Company only with written prior consent of the City and subject to the City's right of first refusal to purchase said franchise as set forth herein above. It is further understood that the word "company" whenever it appears herein shall include and apply to all the successors and/or assigns of the Company. Should the City elect to purchase said franchise, the City may enter into a management agreement with any party or entity, including the original grantee of the franchise. The terms and conditions of said management agreement shall be negotiable between the City and the entity granted the management contract.

This Ordinance shall take effect after its passage and upon publication.

Enacted this 7th day of March, 1986.

ATTEST:


LARRY BORDIN, Mayor


LARRY BORDIN, Mayor
City of Albany, Kentucky

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CITY OF ALBANY, KENTUCKY
City Ordinance No. 85-001

AN ORDINANCE CREATING A FRANCHISE FOR THE CONSTRUCTION, MAINTENANCE AND OPERATION OF A NATURAL GAS SYSTEM IN THE CITY OF ALBANY, KENTUCKY FOR THE FURNISHING AND SELLING OF NATURAL GAS BY MEANS OF SAID FACILITIES AND PROVIDING FOR THE SALE OF SAID FRANCHISE IN THE CITY OF ALBANY, KENTUCKY.

WHEREAS the City of Albany, Kentucky is authorized by the Constitution of the Commonwealth of Kentucky to establish a franchise within the City of Albany, Kentucky for the construction and maintenance of a system for selling natural gas within the city for the use and enjoyment of its citizens and

whereas the City of Albany, Kentucky wishes to establish certain guidelines for the operation of a natural gas system for the use and enjoyment of the people of the City of Albany,

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

1. That there is hereby created a franchise for installing, laying and maintaining gas pipes and other necessary apparatus for the transmission, distribution and sale of natural gas together with all appurtenant facilities and equipment in, along, under and across the public ways, roads, streets, alleys and other public places in the City of Albany, Kentucky, and for constructing the necessary conduits and manholes for the installation of said pipes, facilities and equipment, and for selling natural gas by means of said facilities, and such gas may be conveyed through the City of Albany and to any portion of Clinton County and to any other town or county.

2. The person, firm or corporation which shall become the purchaser of this franchise, or any successor or assignee thereof, shall for brevity hereinafter be spoken of as the

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"Company" herein, and the public ways, roads, streets, alleys and other public places of the City of Albany, Kentucky shall for brevity hereinafter be spoken of as the "streets."

3. The Company awarded this franchise, its legal representatives, successors and assigns, are hereby subject to the conditions hereinafter contained, authorized and empowered to acquire, purchase, construct, maintain, and operate in and through this city a system for the generation, distribution and transmission of natural gas from points either within or without the corporate limits of this city, to this city and the inhabitants thereof, and from and through this city to persons, corporations and municipalities beyond the limits thereof, and for the sale of same for light, heat, power and other purposes; to erect and maintain gas mains, pipes and other apparatus necessary or convenient for the operation of said system in, upon, across and along each and all of the streets, alleys and public places within the present and future corporate limits of this city; to have and hold as by law authorized, any and all property, easements and other rights necessary or convenient for said purpose, said property, easements and other rights to be acquired by the Company at its own expense; to use any and all such streets, alleys and public places while constructing or operating said natural gas systems or works; and to cross any and all streets and streams in this city for the purpose of constructing, maintaining or extending such pipes, and other apparatus as may be necessary or convenient for the proper distribution of natural gas in and through this city. If after any pipe or other apparatus has once been



resulting from the exercise by the Company of any of the privileges herein granted; and if any claim shall be made or suit brought against the City for damages alleged to have been sustained by reason of the occupation of any street or the exercise of any privileges herein granted, by the Company, the City shall immediately notify the company in writing thereof and the Company is hereby given the right and privilege to defend or assist in defending such suit in the name of the City.

5. The Company may furnish natural gas for light, heat, power and any other lawful purpose to any person or persons, company or entity residing along or near the aforesaid streets, and may make such lawful contracts for the use thereof as may be agreed upon between the Company and such person or persons, company or entity.

6. The Company shall extend its natural gas mains, pipes and equipment and install additional equipment whenever it is assured of deriving additional business therefrom and receive a reasonable return upon the investment required to install such extension.

7. The Company shall have the right to make and enforce reasonable rules and regulations necessary for the proper conduct of its business and protection of its property, subject to all local, state and federal laws and regulations.

8. The Company shall have the right to charge reasonable rates for natural gas supplied within the city and rates that are subject to regulation by the Public Service Commission of Kentucky, or any other appropriate local, state and/or federal agency.

9. This franchise and all rights and privileges granted hereunder shall be in full force and effect for a period of

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twenty (20) years from and after the date when this franchise is granted to the Company, subject to the Company's compliance with the provisions of this franchise.

10. In the event that the Company desires to sell the system that it establishes for the distribution of natural gas within the city, the City shall have the right of first refusal to purchase the system from the Company at a price to be agreed upon between the City and the Company. In the event that no price can be agreed upon between the City and the Company, the parties may provide for a method of determining a reasonable price for the system, including but not limited to, mediation or arbitration.

11. The Company shall comply with all local, state and federal laws and regulations in constructing and operating the natural gas system herein, including but not limited to, compliance with the rules and regulations of the Public Service Commission of the Commonwealth of Kentucky or any other appropriate local, state and/or federal agency.

12. In the event that the City should enact a utility tax, user fee or similar charge to be levied upon gas purchasers during the term of this franchise, the Company shall add said charge to its monthly bills, collect same for the City and deliver the collections monthly to the City, all at no cost to the City.

13. This franchise may be transferred by the Company only with written prior consent of the City and subject to the City's right of first refusal to purchase said franchise as set forth herein above. It is further understood that the word "company" whenever it appears herein shall include and apply to all the successors and/or assigns of the Company.

14. The City shall receive from the Company as consideration



for the granting of this franchise and the continuing enjoyment thereof, an annual franchise fee of 1% of all gross receipts received by the Company during a fiscal year, a fiscal year being from July 1 to June 30, and the Company shall pay said fee to the City within 30 days from the end of the fiscal year.

15. The Company shall start construction of a natural gas system within ninety (90) days from the date of the award of this franchise and the Company shall make reports upon its progress in constructing the natural gas system to the City every ninety days until the system is in operation, operation being that natural gas is supplied to customers within the city, said reports for the purpose of informing the City that the Company is making reasonable progress toward the implementation of the system and for the City to determine whether the franchise should be revoked by reason of the failure of the Company to make reasonable progress toward implementation of the system, as decided by the City. Following the implementation of the operation of the system the Company shall make annual reports to the City concerning the operation of the natural gas system and the financial condition of the Company at the end of each fiscal year. Within two years from the award of the franchise to the Company, the Company shall further make available natural gas service to seventy-five percent (75%) of the potential customers within the city of Albany and submit unto the City a report substantiating said availability of service, for the purpose of informing the City that the Company is making reasonable progress to provide service to all potential customers within the city and for the City to determine whether the franchise should be revoked by reason of the

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failure of the company to make reasonable progress in offering services to all potential customers within the city.

16. The terms of this ordinance granting this franchise are contractual and binding according to its terms, on the City and the Company.

17. Provisions of any other ordinances that are inconsistent with this franchise are and shall be ineffective with respect to the Company acquiring this franchise.

18. Any previous ordinance passed by the City of Albany dealing with the creation of a natural gas franchise is expressly repealed by the enactment of this ordinance.

19. It shall be the duty of the Clerk of the City as soon as practicable after the ratification of this ordinance to advertise the sale of this franchise once a week for two successive weeks in "The Clinton County News," so that the final publication shall appear not less than seven days before the day on which the sale shall occur nor more than 21 days before the day of the sale, said sale to occur on Friday, March 1, 1985, at the hour of 1:00 P.M., local time. Said notice and newspaper advertisement shall state when the Clerk shall receive the bids for the sale of said franchise by sealed bid, giving the time and place of opening of said bids. All bids shall be for a period of ten (10) days following the date of the opening. Said advertisement shall reserve unto the City the right to reject any and all bids submitted. The newspaper publication shall describe the franchise to be sold and state that a copy thereof is available for inspection at City Hall. The City shall sell said franchise in accordance with said notice and advertisement and the City may accept

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that bid which in its judgment is the highest and best bid
of the City may reject any and all bids submitted. No bid
of less than \$100 shall be accepted. The bidder to whom
said franchise shall be awarded shall within ten (10) days
after the acceptance of its bid by the City Council of the
City of Albany pay the amount of the bid to the City of
Albany. No permit fee or other additional charge, except
occupational license fee, shall be imposed on the Company.

20. This ordinance shall take effect and be in full
force when passed, published and recorded according to law.

IN WITNESS WHEREOF, I, the undersigned, as Mayor of the
City of Albany, Kentucky, have hereunto set my hand on this
14th day of February, 1985.


ROBERT W. SMITH, Mayor
City of Albany, Kentucky

ATTEST:


GLENNA ALLEN, Clerk
City of Albany, Kentucky

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