

7/17, 46

"AN ORDINANCE RESTATING AND AMENDING THAT CERTAIN ORDINANCE NO. 11
GRANTING ARKANSAS WESTERN GAS COMPANY OR ITS ASSIGNORS THE RIGHT AND PRIVI-
LEGE AND FRANCHISE TO CONSTRUCT, MAINTAIN AND OPERATE A NATURAL GAS SYSTEM
AND TO LAY GAS MAINS ALONG THE STREETS, AVENUES, ALLEYS, ROADS AND HIGHWAYS
AND OTHER PUBLIC PLACES, FOR THE PURPOSE OF DISTRIBUTING AND SELLING NATURAL
GAS AND PROVIDING THE REGULATION FOR THE CONDUCT OF SAID GAS DISTRIBUTION
SYSTEM, AND OTHER PURPOSES."

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREENLAND,
ARKANSAS:

SECTION 1. That the City of Greenland, hereby grants to
the Arkansas Western Gas Company the exclusive right, privilege and auth-
ority within the present and all future expansions of the corporate limits
of the City of Greenland (1) to sell, furnish, transmit
and distribute natural gas to all inhabitants and consumers within the said
limits; and (2) subject to the terms, conditions and stipulations mentioned
in this ordinance, consents and the right, permission and franchise is
hereby given to the Arkansas Western Gas Company, a corporation organized
and existing pursuant to the laws of the State of Arkansas, Grantee, and to
its successors, lessees, and assigns to lay, construct, equip, operate,
repair, and maintain a system of gas mains, pipes, conduits, feeders and
the appurtenances for the purpose of supplying and distributing natural gas
for light, fuel, power, and heat and for any other purpose, to the resi-
dents or inhabitants of the said City; and further, the right to lay,
construct, operate and maintain a system of gas mains, pipe lines, pipe
conduits and feeders and the necessary attachments, connections, fixtures
and appurtenances for the purpose of conveying, conducting or distributing
natural gas from any point beyond said City limits in order to enable the
said Grantee to distribute and sell natural gas to the said City and to the
residents or inhabitants thereof, and to others. As used in this ordinance
the terms "natural gas" and "gas" shall be defined as including, in addi-
tion to natural gas, such alternate, substitute or supplemental fuels as
(without necessarily limited to) liquefied natural gas, liquefied petroleum
gas, synthetic natural gas and propane - air.

SECTION 2. The Grantee herein is expressly given the permit (subject
to the proviso hereinafter contained) to use the streets, avenues, roads,
highways, alleys, sidewalks and other public places, as now laid out, or
hereafter to be established, for the purpose of laying gas mains, pipe
lines, conduits and feeders, and the necessary attachments, fixtures,
connections and appurtenances for the purpose of conveying or conducting
natural gas from any point within the said City or to any point beyond the
City limits of the said City, or to any other point, through and beyond the
City limits of said City, and to operate and maintain a system of pipe
lines, pipes, conduits, feeders and the necessary attachments, connections,
fixtures and appurtenances for the distribution of natural gas within said
City to serve the said City and the residents and inhabitants thereof, and
others; provided, however, that where alleys are accessible for laying
mains and pipes, the City shall have the right to require that the mains
and pipes shall be laid in the alleys instead of the streets, so long as
this is economically feasible (does not create an economic hardship).

SECTION 3. No fees or charges of any kind shall be imposed by Grantor
upon the Grantee or upon any successors, or upon any consumer of natural
gas for the breaking or opening of any highway, street, road, avenue,
alley, or other public places, or for the laying of any main, service pipe
or other connections therein, except as would be generally imposed on
others performing similar work under similar circumstances and conditions.

Nothing in this franchise shall be construed in such manner as to in
any manner abridge the right of the City to pass and enforce the necessary
police regulations for the purpose of protecting the citizens of said City

at least one side of all excavations and obstructions, and shall as soon as practicable restore all openings on the highway, road, street, avenue, alley and other public places to condition equally as good as before said openings or obstructions were made. Anything to the contrary notwithstanding, when in the judgment of Grantee it is necessary for the safety of the citizens, to divert or detour traffic from the area of excavations they have the power to so do upon notice to said City.

SECTION 4. The Grantee shall do no injury to any highway, road, street, avenue, alley, lane, bridge, stream or water course, park or public place, except as specifically allowed, nor with any public or private sewer or drainage system, or water lines, now or hereafter laid or constructed by the said Town or by any authorized person or corporation, but no sewer or water pipes, electric conduits, telephone or TV cables shall be so laid as to interfere unnecessarily with any gas main or pipes which shall have been laid prior to the time of laying such electric conduits, telephone and TV cables, sewer or water pipes. The Grantee shall fully indemnify and save harmless the City from any and all claims for damage for which said City shall or might be made or become liable by reason of the granting of this franchise, or any negligence or carelessness on the part of said Grantee, or because of any act or omission of the Grantee in the construction and operation of its system of mains and pipes.

SECTION 5. Natural gas service shall be provided under the terms and conditions herein specified and pursuant to the rules and regulations of the Arkansas Public Service Commission governing utility service, as well as Grantee's rules and regulations governing natural gas service on file with the Arkansas Public Service Commission and as interpreted and enforced by grantee. All utility services shall conform with these rules and regulations, as well as any other applicable rules and regulations, federal or state laws, including but not limited to the Arkansas Plumbing Code.

The rates which are to be charged by Grantee for natural gas service hereunder shall be those which are now lawfully approved or prescribed, and as said rates may, from time to time, be lawfully approved or prescribed by the Arkansas Public Service Commission or any successor regulatory authority having jurisdiction thereof.

The Grantee shall have the right to make and enforce as a part of the conditions under which it will supply natural gas for heat, power, light, fuel or other purposes as herein provided, all needful rules and regulations not inconsistent with law and the provisions of this franchise.

SECTION 6. The Grantee shall furnish promptly to the proper authorities any and all information which may be asked for by them in regard to the size, location or depths of any of the pipes, mains, conduits, or service pipes, in any form whatsoever, and any other information in regard to its occupation of roads, highways, streets, avenues, or public grounds of said City, which they may demand. Whenever the word Grantee occurs in this ordinance, it shall mean and it shall be understood to be the Arkansas Western Gas Company, its successors, lessees or assigns, and whenever the words "authorities" or "proper authorities" occur in this franchise they shall mean and shall be understood to mean the authorized officer or officers, committee or board representing the City of Greenland, Arkansas, or Grantor.

SECTION 7. During the life of this franchise the Grantee shall pay to Grantor each year a franchise tax in an amount equal to: Two percent (2%) of the Grantee's revenues before taxes for residential and commercial revenues as paid to the Grantee by residential and commercial customers located within the corporate limits of the City of Greenland. Payments shall be made by the Grantee to the Grantor in quarterly installments and Grantee shall have thirty (30) days after the end of each calendar quarter within which to make such payment. Residential and commercial gas revenues are those revenues so classified pursuant to Grantee's

revenues of Grantee from customers on which said franchise tax is due. In the event of a controversy between the Grantor and Grantee as to the amount of gross revenues received by Grantee in the City of Greenland upon which said tax is due, such controversy shall be referred to the Arkansas Public Service Commission, or such successor regulatory agency which may have jurisdiction over the Grantee, for final determination, and the decision of said Commission shall be binding upon both parties hereto.

It is expressly agreed and understood by the Grantor and Grantee that the aforesaid payment shall constitute and be considered as complete payment and discharge by the Grantee, its successors and assigns, of all licenses, fees, charges, impositions or taxes of any kind (other than automobile license fees, improvement districts, special millage taxes, and the general ad valorem taxes) which are now or might in the future be imposed by the Grantor under authority conferred upon the Grantor by law. In the event such other tax or taxes are imposed by Grantor, the obligation of the Grantee set forth in Section 7 hereof, to pay the franchise taxes annually shall immediately terminate.

SECTION 8. This franchise shall take effect and continue and remain in force perpetually as provided in Section 44 of Acts of 1935, No. 324, Acts of the State of Arkansas, as same may be amended from time to time, and upon the written acceptance by the Grantee of the terms and conditions of this franchise.

SECTION 9. If any section, paragraph, subdivision, clause, phrase or provision of this ordinance shall be adjudged invalid or unconstitutional, the same shall not affect the validity of this ordinance as a whole, or any part or provision, other than the part so decided to be invalid or unconstitutional.

SECTION 10. It is hereby determined by the City of Greenland that this Franchise is necessary in order that the needs of the city may be properly protected. Therefore, an emergency is declared to exist and the Franchise being necessary for the preservation of the public peace, health and safety shall take effect and be in full force from the date of its passage and approval.

ATTEST:

PASSED AND APPROVED the 13th day of October, 1980.

Pat Watkins
Clerk

James C. Stanley
Mayor

The Arkansas Western Gas Company, a corporation, grantee, hereby accepts the above franchise subject to the terms and conditions therein this Oct 17 day of 1980.

ARKANSAS WESTERN GAS COMPANY

By Wm. Shulan
President