

322

322

Citizens Utilities

Franchise

AN ORDINANCE GRANTING CERTAIN FRANCHISES AND RIGHTS TO
CITIZENS UTILITIES COMPANY, ITS SUCCESSORS AND ASSIGNS,
IN THE CITY OF LAS ANIMAS, IN THE STATE OF COLORADO.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAS ANIMAS, IN THE STATE OF
COLORADO:

Section 1. THAT THERE BE AND HEREBY IS granted to CITIZENS UTILITIES COMPANY, a Delaware corporation, hereinafter referred to as the Grantee, the sole and exclusive right, privilege and franchise to construct, erect, build, operate and maintain, within the said City of Las Animas, such mechanical or other appliances and equipment as may be necessary for the manufacture and distribution of manufactured, or mixed manufactured and natural gas, or for the distribution of natural gas, for lighting, power, heating industrial, or other purposes to which gas may be applied whether manufactured, mixed or natural, with the sole and exclusive right and privilege for the period and upon the terms and conditions hereinafter specified, to construct, maintain and operate a transmission line or lines for the purpose of conducting into or from or to said City, gas generated there or elsewhere, and to sell or furnish natural or manufactured or mixed gas to the said City of Las Animas and the inhabitants thereof, and to distribute the same by means of mains, conduits, or pipes laid over, upon, along, under and or across the streets, alleys, bridges, public ways, and public places in the said City of Las Animas and upon the extension or continuation of any such streets, alleys, bridges, and public ways and places or upon any new streets, alleys, bridges, and public ways and places that may hereafter be laid out, opened, or constructed, and consent is hereby given to construct, operate and maintain through said City a main transmission line or lines for the service of other cities and communities outside of the City of Las Animas.

And for the purposes aforesaid the said Grantee may enter upon, through, or under any street, avenue, alley, viaduct, subway or public place or grounds and take up any pavement or sidewalk then existing therein or thereon and make excavations necessary for the laying of such conduits, mains pipes and appurtenances, provided that any such use of said street, avenues, alleys, viaducts, subways, and public grounds be made with the least possible inconvenience to the inhabitants of said City; that such excavations be barricaded when necessary and lighted at night and that such sidewalks, pavements or excavations be refilled and replaced without unnecessary delay, by and at the expense of the Grantee, in as good condition as they were before said work was commenced.

PROVIDED, HOWEVER, That the Grantee shall not have the absolute right to cut into or remove any permanent sidewalks but shall be required wherever practicable in laying mains, conduits, or pipes to tunnel under said sidewalks;

PROVIDED, FURTHER, That said Grantee shall not have the right to enter into any public park or public grounds in said City for the purpose of laying conduits, pipes or mains until it has first obtained the consent of the City Council so to do.

Section 2. All conduits, pipes and mains shall be placed in alleys wherever practicable and in any event in such manner as will not unnecessarily interfere with the use of said streets and alleys, and public highways, places and grounds nor with the established grade of streets or gutters, nor with water pipes or sewers or any character of drain pipes which are now installed in the said streets or alleys by the said City.

Section 3. The Grantee shall be and remain solely and exclusively responsible for all damage to persons or property that may arise by reason of any negligence of the Grantee or any its agents, servants, or employees, in exercising any of the privileges, rights or franchises herein granted. The said Grantee shall hold and save harmless the City of Las Animas from and against any and all loss and damage of any kind or description whatever by reason of its negligent exercise of any right, privilege or franchise hereby granted.

Section 4. This ordinance and the rights, privileges and franchises hereby granted shall be and remain in full force and effect for the period of Twenty-five (25) years from and after its effective date, provided that the Grantee shall, before such effective date, have filed with the City Clerk, of said City its written acceptance of this ordinance and in case of failure of said Grantee to file such acceptance within the time so limited, this ordinance, and the rights, privileges and franchises hereby granted shall be and become null and void, but the rights and franchises granted by this ordinance are granted upon the express condition that said City shall have the right and power to purchase or to condemn at the time or times and under the conditions and in the manner provided by the laws of the State of Colorado at such time in full force and effect, all works and plants erected hereunder and all property of said Grantee actually used or useful for the convenience of said City.

Section 5. Said Grantee shall pay to said City two per centum (2%) of all collected gross receipts derived by said Grantee from the sale of gas within the corporate limits of said City, excluding all receipts in excess of \$2,500.00 derived per annum from the sale of gas service rendered to each customer at any one location, payment to be made to the City Treasurer on or before the 20th day of each month for the amount due said City for the preceding month, provided always that the receipts derived from the sale of gas to said City, within or without the corporate limits of said City, for lighting, heating, power or other purposes shall be considered part of said gross receipts and subject to said two per centum (2%) franchise tax, and the above limitation of \$2,500.00 to each customer shall not apply to the receipts derived from the sale of gas to the City of Las Animas. Said payment shall be in lieu of all meter, occupation, privilege, franchise, license or other similar tax now or hereafter assessed or levied against said Grantee by the City for any purpose whatever, and should the City at any time impose any such tax, then, and in that event, the obligation hereby imposed upon the Grantee to pay the amount in this section provided shall cease and determine without affecting the remainder of this franchise.

Section 6. Upon the effective date of this ordinance, if the Grantee shall have accepted the same, the franchise granted to said Grantee by Ordinance No. 267, approved April 2, 1929, shall be and become null and void.

Section 7. The rights, privileges, franchises and easements hereby granted shall inure to the benefit of said Citizens Utilities Company, its successors and assigns, and wherever the word "Grantee" is used herein, the same shall refer and apply to said Citizens Utilities Company, its successors and assigns, as if said Company, its successors and assigns, were mentioned in each instance, and wherever the words "City" or "City of Las Animas" are used, they shall be deemed and taken to mean the City of Las Animas in the

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County of Bent, in the State of Colorado.

Section 8. This ordinance shall take effect thirty (30) days after it has been published as provided by law following its final passage and approval.

It was moved by Councilman Durbin Cover and seconded by Councilman Robert Carver that the ordinance entitled "An Ordinance Granting Certain Franchises and Rights To Citizens Utilities Company, Its Successors and Assigns, In The City Of Las Animas, In The State Of Colorado" be passed on its first reading, adopted and approved, and ordered published in the Bent County Democrat and Las Animas Leader for a period of not less than two (2) weeks prior to the time such ordinance is again read and put upon its passage.

The City Clerk then read in full the ordinance entitled "An Ordinance Granting Certain Franchises and Rights to Citizens Utilities Company , It Successors and Assigns, in the City of Las Animas, in the State of Colorado". A roll call was taken on the motion and the following vote was recorded:

Ayes: John Meckes, Albert Coffey, Wayne Nelson, Robert Carver and Durbin Cover.

Nays: None

Absent or not voting: Harold Thomeczek

The vote being unanimous for the motion, the Mayor declared the motion carried.

ATTEST:

(SEAL)

D. M. Allen
City Clerk

E. A. Thapston
Mayor