

ORDINANCE NO. 104

An Ordinance of the Town of Arriba, Colorado, granting to Peoples Natural Gas Company, Division of InterNorth, Inc., its lessees, successors and assigns a non-exclusive authority for a period of twenty (20) years to erect, maintain and operate a gas distribution system and any and all necessary mains, pipes, services and other appurtenances thereunto appertaining in, upon, over, across and along the streets, alleys, bridges, and public places of the Town of Arriba, and for the transmission, distribution and sale of natural and/or mixed gas for lighting, heating, industrial and all other uses and purposes in said Town of Arriba and for the purpose of transmitting, transporting and conveying such gas into, through or beyond the immediate limits of towns to other towns, cities and customers, and prescribing the terms and conditions under which the said Company is to operate, and repealing Ordinance No. 81 of said Town of Arriba. BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF Arriba, COLORADO.

SECTION 1

That Peoples Natural Gas Company, Division of InterNorth, Inc., its lessees, successors and assigns, hereinafter referred to as Grantee, be and are hereby granted a non-exclusive authority for a period of twenty (20) years, to erect, construct, maintain and operate, a gas distribution system and any and all necessary mains, pipes, services and other appurtenances and equipment thereunto appertaining in, upon, over, across and along the streets, alleys, bridges and public places in the

Town of Arriba for the transmission, distribution and sale of natural and/or mixed gas for lighting, heating, industrial and all other uses and purposes in said Town of Arriba, Colorado, and for the purpose of transmitting, transporting and conveying such gas into, through or beyond the immediate limits of towns to other towns, cities and customers.

SECTION 2

Whenever the Grantee, in the construction or maintenance of its system or in the installation of any extension thereto, shall cut into or take up any pavement or shall make any excavation in any street, avenue, alley or public place, within the corporate limits of said Town, the same shall be done in a manner so as not to unduly interfere with the use of such thoroughfares by the public. The Grantee shall use such safeguards as may be necessary to prevent injury to persons or property during such construction work and upon its completion, all pavement shall be replaced in as good condition as it was before taken up. All excavations shall be refilled and all obstructions shall be removed at the expense of the Grantee and to the satisfaction of the Town. In the event that the Grantee shall fail to comply with the provisions of this section after having been given reasonable notice, the Town may do such work as may be needed to properly repair said thoroughfare and the cost thereof shall be repaid to the Town by the Grantee.

SECTION 3

The Grantee in constructing and maintaining said gas distribution system, and in entering and using said streets, highways, avenues, alleys, and public places in said Town and in laying and installing its mains,

services, piping, and related appurtenances and equipment, shall not in any manner interfere with or injure any improvement which said Town now has or may hereafter have upon any of its streets, alleys, highways, or public places.

SECTION 4

Grantee agrees for and in behalf of itself, its lessees, successors and assigns, that for and during the term and period of this grant, it will maintain in the Town an adequate, modern, standard and sufficient gas system and equipment and to maintain and operate the same in a modern and adequate fashion.

SECTION 5

This Ordinance is granted subject to all conditions, limitations and immunities now provided for and applicable to the operations of a public utility, by the laws of the State of Colorado. The rates to be charged for natural gas service within said Town and the rules and regulations with reference to the character, quality and standards of service to be furnished by Grantee shall be under the jurisdiction and control of such regulatory body as may, from time to time during this grant, be vested by law with authority and jurisdiction of the rates, regulations and quality and standards of service to be supplied by Grantee.

SECTION 6

The Grantee shall, at all times, maintain an adequate pressure and adequate supply of clean, standard gas of the British Thermal Unit heating value of not less than eight hundred (800) British Thermal Units per Cubic Foot of gas. Should the British Thermal Units fall below eight

hundred (800), the rate then in effect shall be automatically and correspondingly lowered and reduced during any period or periods of time in which such lower British Thermal Unit value shall be furnished. The Town shall have the privilege of requesting Grantee to furnish satisfactory proof of British Thermal Unit content of the gas.

SECTION 7

The Grantee shall hold the Town harmless from any and all claims and action, litigation or damage, arising out of the passage of this Ordinance or of the construction, erection, installation, maintenance or operation of its properties operated by authority of this Ordinance within the corporate limits of the Town or the negligence of its employees in the operation thereof, including the court costs and reasonable attorney fees in making defense against such claims. A copy of the process served upon the Town shall be served by the Town upon the Grantee. The Grantee shall have the right to defend in the name of the Town and to employ counsel for such purpose.

SECTION 8

If the Grantee shall be in default in the performance of any of the terms and conditions of this Ordinance and shall continue in default for more than thirty (30) days after receiving notice from the Board of Trustees of said Town of such default, the said Board of Trustees may, by Ordinance duly passed and adopted, terminate all rights granted under this Ordinance to the Grantee. The said notice of default shall specify the provision or provisions in the performance of which it is claimed the Grantee is in default. Said notice shall be in writing and served in the manner provided by the laws of Colorado for the service of original notices

in civil actions.

SECTION 9

That in consideration for said grant and in compensation for the use and occupancy of the streets, alleys and public grounds, the said Grantee, its lessees, successors and assigns shall make a report of gross receipts and shall pay into the treasury of Town, semiannually, an amount equal to five percent (5%) of Grantee's gross receipts from the sale of natural gas to domestic and commercial consumers who receive, are billed and pay for such gas at a rate provided for in the general rate schedule of the Grantee which is applicable to the sale of gas in said Town for domestic and commercial uses only.

SECTION 10

Ordinance No. 81 of the Town of Arriba, Colorado, as the same has been amended, is hereby repealed as of the effective date hereof.

SECTION 11

Grantee will from time to time during the term of this Ordinance make such enlargements and extensions of its distribution system as the business of the Grantee and the growth of said Town justify, in accordance with its Rules and Regulations relating to customer connections and main and service line extensions currently in effect and on file from time to time with the Colorado Public Utilities Commission or other competent authority having jurisdiction in the premises.

Grantee may also, through its said Rules and Regulations, make such allocations of gas or limitations on the use thereof as may from time

to time be required by its suppliers.

SECTION 12

This Ordinance shall be effective upon its acceptance by Grantee. If the Grantee does not within sixty (60) days following passage of this Ordinance express in writing its objections to any terms or provisions contained therein, or reject this Ordinance in its entirety, the Grantee shall be deemed to have accepted this Ordinance and the terms and conditions of the franchise contained therein.

This Ordinance was introduced, read on first reading, approved and ordered published by the Board of Trustees of the Town of Arriba, Colorado, at a regular meeting on Oct 13 - 1980.

Final passage and approval of the foregoing Ordinance was given and recorded by the Board of Trustees of the Town of Arriba, Colorado, this 3 day of November, 1980.

ATTEST:

Ida Calhoun
Mayor

Beverly S. Scheffer
Town Clerk

(SEAL)

TOWN OF Arriba, COLORADO

Minutes of a regular meeting of the Board of Trustees of the Town of Arriba, Colorado, held at the regular meeting place of the Board of Trustees on October 13, 1980

Present at the meeting were the following:

Ida Johnson
Mayor

Harvey Wynn
Member of the Board of Trustees

Curtis B. Price
Member of the Board of Trustees

Harvey L. Duncan
Member of the Board of Trustees

Larry D. Gastin
Member of the Board of Trustees

Mirley M. Mellatt
Member of the Board of Trustees

Glenn H. Gilliam presented a proposed Ordinance of the Town of Arriba, Colorado, granting to PEOPLES NATURAL GAS COMPANY, Division of InterNorth, Inc., a 20- year non-exclusive natural gas franchise; which Ordinance was read in full for the first time and considered by the Board of Trustees.

Adjournment of the meeting took place on motion.

Minutes approved.

Ida Johnson
Mayor

Attest: Beverly S. Schippers
Town Clerk

TOWN OF Arriba, COLORADO

Minutes of a regular meeting of the Board of Trustees of the Town of Arriba, Colorado, held at the regular meeting place of the Board of Trustees on November 3, 1980.

Present at the meeting were the following:

Ida C. Kusan
Mayor

Curtis B. Price
Member of the Board of Trustees

Harvey S. Kunsam
Member of the Board of Trustees

Harvey W. Easton
Member of the Board of Trustees

Shirley M. Mallatt
Member of the Board of Trustees

Member of the Board of Trustees

Glenn H. Gellibron presented a proposed Ordinance of the Town of Arriba, Colorado, granting to PEOPLES NATURAL GAS COMPANY, Division of InterNorth, Inc., a 20 year non-exclusive natural gas franchise, which Ordinance was read in full for the second time. Upon motion by Curt Price, seconded by Harvey Easton, said Ordinance was passed by the following vote, to-wit:

Ida Johnson
Mayor

For Against

Curtis B. Price
Member of the Board of Trustees

For Against

Larry D. Eastin
Member of the Board of Trustees

For Against

Harvey L. Dumcunk
Member of the Board of Trustees

For Against

Shirley M. Murratt
Member of the Board of Trustees

For Against

Member of the Board of Trustees

For Against

Upon the foregoing vote, constituting final passage of the Ordinance, the attached Ordinance, designated Ordinance No. 104, was duly executed by the Mayor and Town Clerk on behalf of the Board of Trustees. A copy of said Ordinance is attached hereto and by this reference hereby incorporated into the minutes of all meetings at which read.

Adjournment of the meeting took place on motion.

Minutes approved.

Ida Johnson
Mayor

Attest: Beverly S. Schiffer
Town Clerk

ACCEPTANCE OF FRANCHISE

The undersigned, Peoples Natural Gas Company, Division of InterNorth, Inc., for itself, its successors and assigns, hereby accepts that certain ordinance, designated as Ordinance No. 104, granting to said Peoples Natural Gas Company, Division of InterNorth, Inc., a franchise to construct, maintain and operate a system of mains, pipes, services and other appliances, in, upon, over, across and along the streets and public places of the City of Arriba, Colorado, for the purpose of transmitting, distributing and selling gas for lighting, heating, industrial and other uses in said City, which was passed and adopted by the City Council on the 3rd day of November 19 80, this acceptance being made in compliance with Section 12 of said Ordinance.

Dated at Council Bluffs, Iowa, this 25th day of November, 19 80.

Peoples Natural Gas Company,
Division of InterNorth, Inc.

[Signature]
Assistant Secretary

[Signature]
Vice President Operations

ACKNOWLEDGEMENT AND VERIFICATION
OF ACKNOWLEDGEMENT OF FILING OF
ACCEPTANCE OF FRANCHISE

The receipt and filing of the foregoing Acceptance of Franchise pursuant to the provisions of Ordinance No. 104, of the Town of Arriba is hereby acknowledged and verified this 16th day of December, 19 80.

[Signature]

EXP.
11/24/00