ORDINANCE NO. 32

AN ORDINANCE GRANTING TO GREAT PLAINS NATURAL GAS CO., A MINNESOTA CORPORATION, ITS SUCCESSORS AND ASSIGNS PERMISSION TOERECT A GAS PLANT, AND TO USE THE PUBLIC WAYS AND PUBLIC GROUNDS OF SAID CITY FOR THE PURPOSE OF INSTALLING, ENLARGING, OPERATING, REPAIRING AND MAINTAINING IN THE CITY OF DANUBE, MINNESOTA THE NECESSARY GAS PIPES, MAINS AND APPURTENANCES FOR THE FURNISHING OF GAS TO SAID CITY AND ITS INHABITANTS AND OTHERS AND TRANSMITTING GAS INTO AND THROUGH SAID CITY.

Section 1.GRANT.

City hereby grants Company, for a period of 25 years from the date hereof, the right andprivilege of erecting a gas plant and using the public ways and public grounds of City for the purpose of installing, operating, repairing, and maintaining, in, on, over, under, and across the same, all gas pipes, mains and appurtenances, usually, convenientlt, or necessarily used in connection therewith, for the purpose of transmitting and furnishing gas for public and private use within and through the limits of City as its boundaries exist or as they may be extended in the future, Company may also do all reasonable things necessary or customary to accomplish those purposes, subject, however, to the further provisions of this franchise.

Section 2. RESTRICTIONS.

SUBD.1. All gas pipes, mains, regulators and other property and facilities shall be so located, constructed, installed and maintained as not to endanger or unnecessarily interfere with the usual and customary trade, traffic, travel upon and use of public ways of City. In installing, repairing, maintaining, removing or replacing daid gas pipes, mains and appurtenances, Company shall, in all cases, place the publicways, in, on, under, or across which the same are located in as good condition as they were prior to said operation.

SUBD. 2. Company shall provide field locations for all its underground facilities when requested by City within a reasonable period of time. The period of time will be considered reasonable if it compares favorably with the average time required by the Cities in the County to locate municipal underground facilities for Company. ("County" refers to the County in which City is located.)

SUBD.3. Before Company constructs any new structure or converts any existing structure for the manufacture or storage of gas, Company shall first obtain the approval of the structure and the location thereof from City. Such approval by City shall not be unreasonably withheld.

Section 3. SERVICE, RATES, MEASUREMENT.

The service to be provided, the measurement of, and the rates to be charged by Company for gas services in the City are subject to the jurisdiction of the Public Utilities Commission of this State or itssuccessor agency.

Section 4. RELOCATING.

SUBD. 1. Whenever City shall grade, regrade, or change the line of any public way, or construct or reconstruct any City utility system therein and shall, in the proper exercise of its police power, and with due regard to seasonable working conditions, when necessary order Company to relocate permanently its mains, services and other property located in said public way, Company shall relocate its facilities at its own expense. City shall give Company reasonable notice of plans to grade, regarde or change the line of any public way, or to construct or reconstruct any City utility system therein.

SUBD. 2 Any relocation, removal or rearrangement of any Company facilities made necessary because of the extension into or through City of a federally aided highway project shall be governed by the provisions of Minnesota Statutes Section 161.46 as supplemental or amended.

SUBD. 3 Nothing contained herein shall relieve any person, persons, or corporations from liability arising out of the failure to exercise reasonable care to avoid injuring Company's facilities while performing any work connected with grading, regrading or changing the line of any public way, or with the construction or reconstruction of any City utility system.

Section 5. INDEMNIFICATION.

Company shall indemnify, keep and hold City free and harmless from any and all liability on account of injury to persons or damage to property occasioned by the construction, maintenance, repair or operations of Company's gas facilities located in, on, over, under, or across the public ways and public grounds of City, unless such injury or damage grows out of the negligence of City, its employees, or agents, or results from the performance in a propermanner of acts reasonably deemed hazardous by Company, but such performance is nevertheless ordered or directed by City after notice of Company's determination. In the event a suit shall be brought against City under circumstances where the above agreement to indemnify applies, Company at its sole cost and expense shall defend City in such suit if written notice thereof is promptly given to Company within a period wherein Company is not prejudiced by lack of such notice. If such notice is not reasonably given as herein before provided, Company shall have no duty to indemnify nor defend. If Company is required to indemnify and defend, it will thereafter have complete control of such litigation, but Company may not settle such litigation without the consent of City, which consent shall not be unreasonably withheld. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to Company, and Company, in defending any action on behalf of City, shall be entitled to assert in any action every defense or immunity that City could assert in its own behalf.

Section 6. VACATION OF PUBLIC WAYS.

Except where required solely for a City improvement project; the vacation of any public way or public ground, after the installation of gas facilities, shall not operate to deprive Company of its rights to operate and maintain such gas facilities, until the reasonable cost of relocating the same and the loss and expense resulting from such relocation are first paid to Company by the party requesting the relocation.

Section 7. WRITTEN ACCEPTANCE.

Company shall, if it accepts this ordinance and the rights and obligations hereby granted, file a written acceptance of the rights hereby granted with the City within ninety (90) days after the final passage and any required publication of this ordinance.

Section 8. PROVISIONS OF ORDINACE.

Every section, provision, or part of this ordinance is declared separate from every other section, provision or part; andif any section, provision or part shall be held invalid, it shall not affect any other section, provision or part. Where a provision of any other City ordinance conflicts with the provision of this ordinance, the provisions of this ordinance shall prevail.

Section 9. PUBLICATION EXPENSE.

The expense of any publication of this franchise ordinance required by law shall be paid by Company.

SECTION 10. EFFECTIVE DATE.

This ordinance is effective as provided by statue or charter, and upon acceptance by Company as provided in section 8.

Passed and approved; November 12, 1987