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FLEMING , , COLORADO

ORDINANCE NO. 32-A

AN ORDINANCE granting to Kansas-Nebraska Natural Gas Company, Inc., Phillipsburg, Kansas, its successors and assigns, the right and authority to construct, install, maintain and operate a gas transmission and distribution system, including mains, pipes, conduits, services and other necessary structures and appliances thereto appertaining, in, upon under, over, across and along the streets, alleys, bridges, and public grounds within the present and future corporate limits of the Town of Fleming, Colorado, for the furnishing, transmission, distribution and sale of gas, whether artificial, natural, mixed or otherwise, for heating, domestic, industrial, and other purposes, and for transmitting gas into, through and beyond said town and defining the terms upon which such right and authority are granted.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF
FLEMING :

SECTION 1. That in consideration of the benefits to be derived by said Town and the public thereof from the installation and operation of a gas distribution system in said Town, the right and authority be and hereby are granted to Kansas-Nebraska Natural Gas Company, Inc., Phillipsburg, Kansas, its successors and assigns (hereinafter collectively referred to as "Grantee"), to construct, install, maintain and operate a gas transmission and distribution system, including mains, pipes, conduits, services and other necessary structures and appliances thereto appertaining, in, under, upon, over, across and along the streets, alleys, bridges and public grounds within the present and future corporate limits of the Town of Fleming
 Colorado, for the furnishing, transmission, distribution and

sale of gas, whether artificial, natural, mixed or otherwise, for heating, domestic, industrial and other purposes, and for transmitting gas into, through and beyond said Town.

SECTION 2. All mains, pipes, conduits and services shall be installed and maintained so as to interfere as little as practicable with traffic over the streets, alleys, bridges and public places of said Town.

When Grantee shall do any work of construction, repair or maintenance of said system in the course of which any pavement, curbing or gutter upon any street, alley, bridge or public place shall be excavated, Grantee shall properly protect excavations and shall promptly restore such street, alley, bridge, or public place as far as practicable to as good condition as before such work was done.

SECTION 3. Grantee shall make such reasonable extensions of the mains of said system from time to time as warranted by expansion and development of demand, but Grantee shall not be required to make any extension for the purpose of serving any new consumer or consumers which will necessitate the installation of more than one hundred (100) feet of main for each consumer to be served, or where the estimated revenue to be derived from serving such new consumer or consumers is insufficient to show an adequate return upon the total additional investment required to serve such new consumer or consumers.

SECTION 4. Grantee shall have the right to make such reasonable rules and regulations for the protection of its property, the prevention of loss and waste and in connection with the distribution and sale of gas as from

time to time it may deem necessary or expedient, including reasonable meter deposits in such amounts as may be required to assure payment of bills.

Grantee shall have the right to enter the premises of consumers at all reasonable times for the purpose of reading meters, inspecting pipes and gas appliances and disconnecting and removing meters.

SECTION 5. Grantee agrees during the term hereof, at all times to protect, save harmless and indemnify said town from any and all liability or judgments, legally established, arising or growing out of the construction, maintenance and operation of said system by Grantee and due to or caused by the fault or negligence of Grantee.

SECTION 6. In consideration of the rights and privileges herein granted, the grantee shall pay to the Town Treasurer an annual payment for each year of the duration of this franchise, an amount equal to two per cent (2%) of the gross receipts derived by the grantee from sales of gas delivered to residential (commonly known as domestic) gas users within said Town of Fleming, as set forth in Grantee's annual report to The Public Utilities Commission of the State of Colorado. Payment shall be made on or before March 1st of each year for the preceding year and shall be accompanied by a statement showing the total amount of the gross receipts upon the basis of which the computation for such payment was made.

Such payment shall be in lieu of any and all other fees, charges, licenses, taxes or assessments which the Town may impose for the rights and privileges herein granted or for the privilege of doing business within the Town and, in the event any such fee, charge, license, tax or assessment shall be imposed by the Town, the payment to be made in accordance with the

provisions of this section, shall be reduced in an amount equal to the annual burden of such fee, charge, license, tax or assessment imposed upon the grantee. Ad valorem property taxes imposed generally upon all real and personal property with the Town shall not be deemed to affect the obligation of the Grantee under this section.

SECTION 7. The right and authority herein granted shall continue for the period of twenty-five (25) years from and after this ordinance goes into effect under Section 11 hereof.

SECTION 8. On ninety days prior written notice to the Grantee of its intention so to do, said Town, after not less than twelve (12) months from the effective date hereof may by ordinance cancel and terminate this franchise, unless before such cancellation and termination upon the expiration of such notice Grantee shall have actually begun laying gas mains within said Town; for the specific purpose of originating natural gas service; provided, however, that such twelve (12) months' period shall be extended by the addition of any time reasonably lost, due to litigation instituted by others, or due to action of said Town, its officials or governing body, or of any other governmental body or authority, or due to strikes or other causes reasonably beyond the control of Grantee.

SECTION 9. This ordinance and the rights, authority and franchise hereby granted shall terminate and be of no further force or effect (a) unless within three (3) months after the legal enactment hereof Grantee shall file with the Town Clerk of said Town a written acceptance hereof; also (b) if and when after such acceptance Grantee, its successors or as-

signs, shall make and file with the Town Clerk of said Town a surrender here-
of in writing.

SECTION 10. Wherever the term "Grantee" is used herein, the same
shall be held to mean and include said Kansas-Nebraska Natural Gas Company,
Inc., its successors and assigns.

SECTION 11. This ordinance shall be published as required by law
and shall take effect and be in force upon the expiration of five (5) days from
date of its final passage, subject to the provisions of the statute in such case
made and provided.

PASSED 3rd of May, 1954.

Lester B. Harms
Mayor of the Town of
Fleming,
Colorado

ATTEST:

Glen Mc Miller
Town Clerk of the Town of Fleming
_____, Colorado

↑
Published June 11, 1954.

Posting

It was thereupon moved by Board Member C. J. Warren
_____ and seconded by Board Member R. Albert Morris
_____, that the foregoing Ordinance entitled "An Ordinance
granting to Kansas-Nebraska Natural Gas Company, Inc., Phillipsburg, Kansas,
its successors and assigns, the right and authority to construct, install, main-
tain and operate a gas transmission and distribution system, including mains,
pipes, conduits, services and other necessary structures and appliances there-
to appertaining, in, under, upon, over, across and along the streets, alleys,
bridges and public grounds within the present and future corporate limits of
the Town of Fleming _____, Colorado, for the furnishing,
transmission, distribution and sale of gas, whether artificial, natural, mixed
or otherwise, for the heating, domestic, industrial and other purposes and for
transmitting gas into, through and beyond said Town and defining the terms up-
on which such right and authority are granted.", read in full at the meeting
aforesaid be published in full by copies thereof being posted at the direction
of the Town Clerk in the following six public places in the Town of Fleming
_____ on or before the 10 day of May _____, 1954 :

1. Past office
2. First National Bank
3. Mens Club
4. Frates Luncheon Co.
5. Davis Restaurant
6. Fleming Bay Service

Posting

that said ordinance after it is published as aforesaid, be considered for final

passage at a regular meeting of the Town Board to be held at the Muns

Club on Monday, the 7th day of
June, 195 4 at the hour of 8:00 o'clock P. M.

The question being upon the adoption of said motion, the roll was called
with the following results:

Those Voting Aye:

<u>C. A. Warren</u>	<u>Elmer McPherson</u>
<u>Gale Heiman</u>	<u>Charles Miles</u>
<u>Roland Morris</u>	<u>Edwin Barkley</u>
_____	_____

Those Voting Nay:

<u>None</u>	_____
_____	_____
_____	_____

_____ members of the Board having voted in favor of
said motion, the presiding officer thereupon declared the said motion carried,
and said ordinance ordered published as aforesaid.

Thereupon, the meeting adjourned.



ATTEST:

Glen McMillan
Town Clerk

Lester B. Harms
Mayor

Posting

Attach Clerk's Certificate of Publication by Posting of
Notice of Application by Kansas-Nebraska Natural Gas
Company, Inc., for Franchise Rights.

Posting

Attach Clerk's Certificate of Publication by Posting of
Ordinance No. 52-A prior to final reading.

Posting

STATE OF COLORADO)
COUNTY OF LOGAN) ss
TOWN OF FLEMING)

The Town Board of the Town of Fleming, the
County of Logan, and State of Colorado, met in regular
session in full conformity with law and the ordinances and rules of said Town,
at the Mens Club, being the regular meeting place of said
Board, on ~~Monday~~, the 7 day of June,
A.D., 1954, at the hour of 8:00 o'clock P M., at which meeting
there were present and answering the roll call the following:

Mayor Lester B. Harms

Board Members: C A Warren

Clones McPherson

Roland Morris

Absent: Charles Miles

Colvin Barbery

Also Present: _____

The Town Clerk presented his certificate, showing publication of a pro-
posed Ordinance entitled: "An Ordinance granting to Kansas-Nebraska Natural
Gas Company, Inc., Phillipsburg, Kansas, its successors and assigns, the
right and authority to construct, install, maintain and operate a gas transmis-
sion and distribution system, including mains, pipes, conduits, services and
other necessary structures and appliances thereto appertaining, in, under,
upon, over, across and along the streets, alleys, bridges and public grounds

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within the present and future corporate limits of the Town of Fleming
 , Colorado, for the furnishing, transmission, distribution
and sale of gas, whether artificial, natural, mixed or otherwise, for the heat-
ing, domestic, industrial and other purposes and for transmitting gas into,
through and beyond said Town and defining the terms upon which such right
and authority are granted.", said certificate showing the publication of said
Ordinance by posting copies thereof in six public places in the Town of
Fleming, by Glen McMiller, Clerk
on the 4 day of May, 1954, being more than two
weeks prior to the date of this meeting.

On motion duly made and seconded, it was ordered that said certificate be received, filed and preserved among the records of the Town Clerk.

It was then moved by Board Member C. A. Warren
and seconded by Board Member Roland Morris
that said Ordinance entitled: "An Ordinance granting to Kansas-Nebraska Natural Gas Company, Inc., Phillipsburg, Kansas, its successors and assigns, the right and authority to construct, install, maintain and operate a gas transmission and distribution system, including mains, pipes, conduits, services and other necessary structures and appliances thereto appertaining, in, under, upon, over, across and along the streets, alleys, bridges and public grounds within the present and future corporate limits of the Town of Fleming, Colorado, for the furnishing, transmission, distribution and sale of gas, whether artificial, natural, mixed or otherwise, for the heating, domestic, industrial and other purposes and for transmitting gas into,

Posting

through and beyond said Town and defining the terms upon which such right and authority are granted," be placed on its second reading and be read by title only, which motion, having been put to a vote, was carried upon the following roll call:

Those voting Aye:

C. A. Warren
Roland Morris
Charles Mite

Elmer McPherson
Calvin Barkley

Those Voting Nay:

None

Board Member C. A. Warren, seconded
by Board Member Roland Morris then moved that
said Ordinance entitled: "An Ordinance granting to Kansas-Nebraska Natural
Gas Company, Inc., Phillipsburg, Kansas, its successors and assigns, the
right and authority to construct, install, maintain and operate a gas trans-
mission and distribution system, including mains, pipes, conduits, services
and other necessary structures and appliances thereto appertaining, in, under,
upon, over, across and along the streets, alleys, bridges and public grounds
within the present and future corporate limits of the Town of Fleming
 , Colorado, for the furnishing, transmission, distribution and
sale of gas, whether artificial, natural, mixed or otherwise, for the heating,
domestic, industrial and other purposes and for transmitting gas into, through
and beyond said Town and defining the terms upon which such right and authority

Posting

are granted," do now pass, which motion was carried upon the following recorded vote:

Those Voting Aye:

<u>C. G. Warren</u>	<u>Elmer McPherson</u>
<u>Roland Morris</u>	<u>Edwin Barkley</u>
<u>Charles Miles</u>	_____

Those Voting Nay:

<u>None</u>	_____
_____	_____

It was thereupon moved by Board Member C. G. Warren and seconded by Board Member Roland Morris, that said Ordinance be published in the Sterling Journal Advocate, a newspaper of general circulation within the limits of the Town of Fleming.

The question being put upon the adoption of said motion, the roll was called with the following results:

Those Voting Aye:

<u>C. G. Warren</u>	<u>Elmer McPherson</u>
<u>Roland Morris</u>	<u>Edwin Barkley</u>
<u>Charles Miles</u>	_____

Those Voting Nay:

<u>None</u>	_____
_____	_____

Five Members of said Town Board having voted in favor of said motion, the Mayor declared said Ordinance duly adopted and said motion carried, and the Ordinance was ordered published in accordance with said motion.

There being no further business to come before the meeting, on motion duly made, seconded and carried, the meeting was adjourned.

Lester B. Harms
Mayor

(SEAL)

ATTEST:

Glen McMillan
Town Clerk



STATE OF COLORADO)
COUNTY OF LOGAN) ss
TOWN OF FLEMING)

I further certify that said Ordinance was placed on second reading and final passage at a regular meeting of the Town Board held on Monday, the 7 day of June, 1954, more than two weeks after the first publication thereof; that at said meeting said Ordinance was read in full, finally passed, adopted, approved and ordered published in the Sterling Journal Advocate.

I further certify that after Ordinance No. 32-A was passed and adopted by the Board of Trustees, it was presented within forty-eight hours after passage to Lester B. Harms, Mayor of said Town, and was immediately signed by him as Mayor and attested by the undersigned as Town Clerk under the seal of said Town, and was thereafter published in full in the Sterling Journal Advocate on the 10 day of June, 1954.

Posting

Attach Affidavit of Final Publication of
Ordinance No. 52-A

STATE OF COLORADO)
COUNTY OF LOGAN) ss
TOWN OF FLEMING)

The Town Board of the Town of Fleming,
in the County of Logan and State of Colorado, met in regular
session, in full conformity with law and the ordinances and rules of said Town,
at the Mens Club in the Town of Fleming,
being the regular meeting place of said Town Board, on Monday,
the 3rd day of May, A.D., 1954, at the hour of
_____ o'clock _____ M., at which meeting there were present and answer-
ing the roll call the following:

Mayor: Lester Harmis

Board Members:

C. A. Warren
Sal Heiman
Roland Morris

Elmer McPherson
Charles Miles
Garwin Barkley

Absent:

None

Also Present:

Norris Ryle

Heiman Trusty

Thereupon, the following proceedings, among others, were had and
taken, to-wit:

Posting

The Town Clerk presented his certificate of publication, by posting, showing publication of a Notice of Application by Kansas-Nebraska Natural Gas Company, Inc., Phillipsburg, Kansas, for franchise rights in the Town of Fleming, Colorado as follows:

"NOTICE OF APPLICATION BY KANSAS-NEBRASKA
NATURAL GAS COMPANY, INC., PHILLIPSBURG,
KANSAS FOR FRANCHISE RIGHTS IN TOWN OF
FLEMING COLORADO"

"Pursuant to the Statutes of the State of Colorado in such case made and provided, notice is hereby given that on the _____ day of May, 1954, at a regular meeting of the Mayor and Board of Trustees of the Town of Fleming, Logan County, Colorado, to be held at the hour of _____ o'clock P. M., Kansas-Nebraska Natural Gas Company, Inc., a corporation duly authorized to transact business in the State of Colorado, will make application to said Mayor and Board of Trustees for the passage of an ordinance granting to said corporation a franchise to construct, maintain and operate a transmission and distribution system within said town for the furnishing, distribution, and sale of gas, natural, mixed or otherwise, for heating, domestic, industrial and other purposes, and setting forth the terms and conditions upon which said franchise, right and authority is granted."

"Said franchise ordinance will, among other things, (1) provide for a consideration to be paid to said town, (2) be for a term of twenty-five (25)

Posting

years, and (3) be subject to cancellation in case of default by grantee under certain conditions."

"Signed this 9th day of April, 1954."

ATTEST:

KANSAS-NEBRASKA NATURAL
GAS COMPANY, INC.

/s/ Glen W. Gierhart, Jr.
Assistant Secretary

By /s/ S. D. Whiteman
President

(SEAL)

said certificate showing the publication of said notice by posting copies thereof in six public places in the Town of Fleming,
by Said Clerk, on the sixteenth
day of April, 1954, being more than two weeks
prior to the date of this meeting.

On motion duly made and seconded, it was ordered that said certificate be received, filed and preserved among the records of the Town Clerk.

Board Member C. S. Warren

introduced the following Ordinance: