

**CITY OF WARD
ORDINANCE 2022-03**

AN ORDINANCE AMENDING ORDINANCE 1973-1, PROVIDING FOR THE COMPUTATION OF THE OCCUPATION (LICENSE) TAX THAT THE ARKANSAS LOUISIANA GAS COMPANY SHALL PAY TO THE CITY OF WARD, ARKANSAS DURING THE YEAR 1973 AND FUTURE YEARS; PROVIDING FOR PAYMENT THEREOF, AND FOR OTHER PURPOSES

WHEREAS, ARKANSAS CODE ANNOTATED (A.C.A.) 14-200-101 states the Cities are permitted to determine the terms and conditions upon which a public utility may be permitted to occupy the streets, highways, or other public areas within the municipality and to collect a reasonable franchise fee; and,

WHEREAS, ORDINANCE 1964-5 granted the Arkansas-Louisiana (ARKLA) Gas Company and its successors and assigns, the right to construct, maintain and operate a natural gas distribution system and to use public streets and grounds for that purpose; and,

WHEREAS ORDINANCE 1973-1 provided for the computation of fees due to the City of Ward, Arkansas; and,

WHEREAS THE CITY OF WARD desires to amend Ordinance 1973-1 (Attached).

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WARD, ARKANSAS THAT ORDINANCE 1973-1 IS HEREBY AMENDED AS NOTED BELOW:

SECTION 1: ARKLA, or it's successors, which is conducting or carrying on business of operating, maintaining and extending its gas service to the consumers and inhabitants of the City of Ward, Arkansas, by franchise, shall pay four ~~and one quarter~~ ^{@ 3/21/22} percent (4.00%)¹ of the gross revenue received by said company in the preceding quarter from the following classes of service to customers with the corporate limits of the City of Ward.

1. Residential
2. Commercial
3. Industrial

SECTION 2: Said payment described in Section 1 shall be paid in quarterly payments; the first payment will be due on or before July 31, 2022 and quarterly thereafter for the previous quarter gross revenue.

SECTION 3: This Ordinance in no way affects any payments prescribed in Ordinance 1973-1 for the year 2021 and the first three (3) months of the year 2022

¹ City of Ward Ordinance 2006-03 (Attached)

which are due and payable under the terms of Ordinance 1973-1; that any amount accrued after April 1, 2022 shall be paid under the terms of this Ordinance.

SECTION 4: No other alterations or amendments of Ordinance 1973-1 are intended and the remainder of said Ordinance not heretofore specifically amended shall remain in full force and effect.

SECTION 5: The Mayor and/or the City Clerk are hereby authorized to execute any and all documents, contracts, and agreements necessary to effectuate this Ordinance.

SECTION 6 – EFFECTIVE DATE: The effective date of this Ordinance is April 1, 2022.

SECTION 7 – SEVERABILITY: If, for any reason, any portion or portions of this ordinance shall be held invalid, such invalidity shall in no way affect the remaining portions.

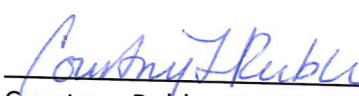
PASSED AND ADOPTED THIS 21st DAY OF February, 2022

YEAS: 5 NAYS: 0

APPROVED:


Charles Gastineau, Mayor

ATTEST:


Courtney Ruble, City Clerk

ORDINANCE NO. 1964-5

AN ORDINANCE GRANTING ARKANSAS LOUISIANA GAS COMPANY THE RIGHT TO CONSTRUCT, MAINTAIN AND OPERATE A NATURAL GAS DISTRIBUTION SYSTEM AND TO USE THE PUBLIC STREETS AND PUBLIC GROUNDS FOR THAT PURPOSE

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WARD, ARKANSAS:

That Arkansas Louisiana Gas Company, its successors and assigns, hereinafter called "Grantee", are hereby granted the right to construct, maintain and operate in this Municipality a system for the transportation, distribution and sale of natural gas and to use, and excavate in, the public streets, sidewalks, alleys and grounds for that purpose, for the period provided by law.

The system shall be installed and operated in a workmanlike manner, and this Municipality shall be held harmless from any damages caused by the negligence of Grantee's employees in the course of their employment. Grantee shall tunnel beneath paved streets, sidewalks and alleys wherever practical in laying and replacing mains. Grantee shall refill its excavations and restore sidewalks and pavements promptly, and if this is not done within a reasonable time then it may be done by this Municipality at Grantee's expense. Grantee's lines shall be laid so as not to interfere with the present sewer system, and if a new sewer line crosses Grantee's pipeline at the same level, then this Municipality may, if Grantee has not done so after the reasonable notice, raise or lower Grantee's line at Grantee's expense but only under Grantee's supervision. This Municipality may inspect Grantee's construction work at any time, or have said work inspected by a qualified engineer.

Grantee shall deliver gas to the consumer at the curb line, or within 10 feet of the property line where no curb line has been determined, and all service pipes and facilities necessary to receive and utilize the gas at that point shall be furnished and maintained by the consumer, except that Grantee shall furnish and connect the gas meter. Title to all equipment installed by Grantee shall remain in Grantee. Grantee shall extend its mains to serve new customers where reasonably assured of enough new customers and revenues therefrom to justify the capital expenditure necessary to establish the service. Grantee may promulgate and enforce reasonable rules, regulations and requirements governing the sale, delivery, receipt and use of gas furnished by Grantee and the commencement and discontinuance of gas service.

Grantee's rates which are currently in effect in the Town of Cabot, Arkansas, and which are made part hereof by this reference, shall be the rates which Grantee will charge in the Town of Ward, Arkansas until the rates to be charged in Ward are raised or lowered in the manner provided by law.

The provisions hereof are intended to be separate and severable, and the holding of any portion hereof to be invalid shall not affect the other portions.

This ordinance shall not be effective unless accepted by Grantee by written notice to the Mayor within ninety (90) days after either the date of its passage or the date all approvals necessary to enable Grantee to serve this Municipality have been granted by federal and state authorities with jurisdiction, whichever is later.

PASSED AND APPROVED THIS 9th DAY OF October, 1964.

Richard C. Boyles
Mayor

ATTEST: Regin D. Eubanks
Recorder

STATE OF ARKANSAS

COUNTY OF LONOKE

I, the undersigned Municipal Recorder of The Town of Ward, Arkansas, certify that the foregoing is a true and correct copy of Ordinance No. 1964-5, which was duly and regularly passed by the Town Council of the Town of Ward, Arkansas, at a regular meeting on the 9th day of October, 1964, by a majority of the whole number of members elected to the Council, the yeas and nays having been duly called and recorded, after two-thirds of the members composing the Council had dispensed with the rule that it be read on three different days, and the said Ordinance, after passage, was authenticated by the signatures of the presiding officer of the governing body and the recorder and then duly recorded in the book kept for that purpose.

TO CERTIFY WHICH, WITNESS MY HAND AND THE OFFICIAL SEAL OF THIS MUNICIPALITY, this 9th day of October, 1964.

Roger D. Eubanks
Recorder

ORDINANCE NO. 1973-1

AN ORDINANCE PROVIDING FOR THE COMPUTATION OF THE OCCUPATION (LICENSE) TAX THAT THE ARKANSAS LOUISIANA GAS COMPANY SHALL PAY TO THE CITY OF WARD, ARKANSAS DURING THE YEAR 1973 AND FUTURE YEARS; PROVIDING FOR THE PAYMENT THEREOF; DECLARING AN EMERGENCY, AND FOR OTHER PURPOSES.

WHEREAS, The Arkansas Louisiana Gas Company (hereinafter sometimes referred to as the "Gas Company") is duly authorized by franchise ordinance heretofore enacted to operate a gas distribution system and appurtenances thereto, used in, or incident to the rendition of gas service to WARD, and the inhabitants thereof residing in said City, and,

WHEREAS, the Arkansas Louisiana Gas Company is now occupying the streets and alleys of WARD, for the purpose of operating, maintaining and extending its gas service to the city and the inhabitants and consumers residing in said City, and is supplying to the City and consumers therein gas service, and,

WHEREAS, the City is entitled to receive such just and reasonable taxes from the Gas Company which the City may lawfully impose and the Gas Company is entitled to pay.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WARD, ARKANSAS:

SECTION I. The amount of Occupation (License, Franchise, or other special city) Tax to be paid by Arkansas Louisiana Gas Company during the year 1973 and future years until changed by ordinance shall be determined as follows:

At the close of the calendar year 1973 and the close of each calendar year thereafter, the Gas Company shall determine the average number of domestic and commercial meters for the preceding year within the corporate limits of the City of WARD, and shall inform the Mayor of the results of this calculation. The Tax for each year shall be computed by multiplying the average number of meters by \$2.00 per meter.

SECTION II. Said Tax during the year 1973 shall be paid by JUNE 1, 1974, and the Tax similarly computed for succeeding years shall be paid by JUNE 1st of each succeeding year.

-2-

SECTION III. Nothing herein shall be construed to alter or change the terms or conditions of the present franchise under which the Gas Company is operating.

SECTION IV. All other ordinances, agreements and parts of ordinances and agreements in conflict with the provisions of this Ordinance are hereby repealed.

SECTION V. WHEREAS there is a great need for revenues in the City of WARD to carry on necessary public service; and, whereas the Arkansas Public Service Commission has approved a standard formula for computation for municipal Occupation (License, Franchise, or other special city) Taxes which formula is adopted by this Ordinance; and, whereas this Ordinance should become effective immediately in order to provide for the prompt computation and collection of said taxes, therefore, an emergency is hereby declared to exist and this Ordinance being necessary for the immediate protection of the public peace, health and safety shall take effect immediately upon its passage and approval.

Richard C. Bayles
Mayor

DATE: 9th AUGUST, 1973

ATTEST: Lyle M. Cook
City Recorder



-3-

I, Sybil M. Cook, City Recorder for the
City of WARD, ARKANSAS hereby certify that this is a true and correct
copy of Ordinance No. 1973-1 of the City of WARD, ARKANSAS, duly
passed and adopted the 9th day of August, 1973.

Sybil M. Cook
City Recorder

Date: 9th August 1973

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46

CITY OF WARD, ARKANSAS

ORDINANCE NUMBER O-2006-03

**AN ORDINANCE ESTABLISHING A REASONABLE FRANCHISE FEE
FOR THE OCCUPATION OF STREETS, HIGHWAYS, OR OTHER
PUBLIC PLACES WITHIN THE CITY OF WARD, ARKANSAS;
AND FOR OTHER PURPOSES**

**NOW THEREFORE, BE IT ORDERED BY THE CITY COUNCIL OF
THE CITY OF WARD, ARKANSAS:**

Section 1: **PURPOSE.** To the extent permitted by law, the Council of the City of Ward, Arkansas, is enacting this Ordinance to establish jurisdiction to determine the quality and character of each kind of, and rates for, product or service to be furnished or rendered by any public utility within the City of Ward, and all other terms and conditions, including a reasonable franchise fee, upon which the public utility may be permitted to occupy the streets, highways, or other public places within the City of Ward.

Section 2: **DEFINITION OF PUBLIC UTILITY.** The term "Public Utility", for the purposes of this Ordinance, shall mean any electric, gas, water, sewer, wastewater, cable or telephone company, and any company providing similar services.

Section 3: **NON-EXCLUSIVE FRANCHISE.** Unless specifically authorized, any franchise granted to a Public Utility is a non-exclusive franchise. Therefore, unless specifically authorized, the franchise is granted upon the express condition that it shall not in any manner prevent the City from granting other or further franchises for public utility services.

Section 4: **POWERS RETAINED BY THE CITY.** Nothing contained in a franchise issued to a Public Utility under this Ordinance shall be construed to prevent the City from purchasing or contracting for public utility services for city property from sources other than the Public Utility.

Section 5: **DUTIES OF THE PUBLIC UTILITY.** The Public Utility shall at all times comply with all laws and obtain all necessary permits; construct company facilities per plans and specifications filed; record all company facilities, maintain and operate company facilities in a safe manner; operate as marketer of services; obtain and maintain bonds/ insurance; reimburse the City for costs and expenses; file and maintain emergency response plan; and provide safe and efficient services to the City.

Section 6: **FRANCHISE FEE.** As a condition for the use of public rights-of-way, the City may assess a municipal franchise fee against a Public Utility for the privilege of providing utility services to the public and for occupying the streets, highways, or other

1 public places within the City of Ward. The franchise fee established herein shall be 4%
2 of gross receipts derived by the Public Utility from the sale, supply, delivery, distribution,
3 operation, transmission or transportation of goods, products and/or services within the
4 City of Ward. The franchise fee shall be applicable to all residential, commercial and
5 industrial customers. Such fee shall be exclusive and in addition to: (1) the usual and
6 general or special *ad valorem* taxes which the City is authorized to levy and impose upon
7 real and personal property; (2) sales taxes on the Public Utility's services to the extent
8 permitted by State law; and (3) assessments for public improvements.
9

10 Section 7: CONFIRMATION OF FEES. For the purpose of confirming the franchise
11 fee paid under this Ordinance, the Public Utility shall provide to the City documentation
12 supporting its gross receipt statements for the prior year. The City shall have the right to
13 conduct an independent review of the books and records of the Public Utility relating to
14 the calculation of the gross receipts calculation, and shall have the right to require an
15 audit of the Public Utility's books and records if the City has any questions about the
16 gross receipts calculation performed by the Public Utility.
17

18 Section 8: EXISTING FRANCHISE AGREEMENTS. Nothing in this Ordinance
19 shall amend or adversely impact the terms and provisions of an existing and binding
20 franchise agreement between the City of Ward and a Public Utility.
21

22 Section 9: BUSINESS LICENSE TAX. The Public Utility shall also pay the
23 business license tax as established.
24

25 Section 10: NONCOMPLIANCE. Noncompliance with the provisions of any
26 ordinance or resolution adopted pursuant to the provisions of this agreement will result in
27 a penalty of not less than one hundred dollars (\$100.00) nor more than one thousand
28 dollars (\$1,000.00) for each day such continues to exist. Each day shall constitute a
29 separate offense.
30

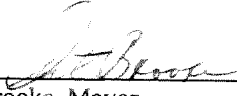
31 Section 11: INDEMNIFICATION AND HOLD HARMLESS. The Public Utility
32 shall agree to protect, hold harmless, and indemnify the City (including its officers,
33 agents, contractors, and employees) from and against all claims, losses, damages, causes
34 of action, suits and liability of every kind, which may occur to, or be suffered by, any
35 person or persons, corporation, or property by reason of any act or failure to act on the
36 part of the Public Utility.
37

38 Section 12: GENERAL. In the event the municipal boundaries of a city or town are
39 altered or amended by annexation or otherwise, the city or town shall notify the utility's
40 registered agent for service of process of the alteration or amendment.
41

42 **Also to be added to the ordinance will be an emergency clause and effective date of**
43 **May 1. This new ordinance is because of some of the questions directed to us about**
44 **the language from the utilities.**

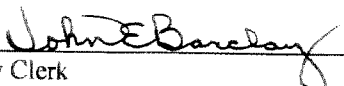
1
2
3
4
5
6
7
8
9
10
11
12
13

ADOPTED BY THE COUNCIL OF THE CITY OF WARD, LONOKE
COUNTY, ARKANSAS, this 13th day of February, 2006.



Art Brooke, Mayor

Attest:



City Clerk