

102 revised by Ord 1341

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ORDINANCE NO. 1327

An ordinance granting to Portland Gas & Coke Co., a corporation, its successors and assigns, for a period of 20 years, the right, privilege and franchise to lay, maintain and operate gas mains, pipes and appurtenances thereto, in the present and future streets, alleys, and highways and public places of the city of Albany, Oregon, and its successors, for the purpose of supplying gas to the City of Albany and the inhabitants thereof, and others, for light, heat, power and other purposes.

THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1. There is hereby granted to Portland Gas & Coke Company, its successors and assigns, hereafter called the grantee, for a period of 20 years from and after the date of passage of this ordinance, the right, privilege and franchise to lay, maintain and operate gas mains, pipes and conduits with all necessary or desirable appurtenances, in and upon the present and future streets, alleys, highways and public places of said City of Albany and its successors, for the purpose of supplying gas to the said City of Albany and its successors and to the inhabitants thereof, and to persons living beyond the limits thereof, for light, heat, power and other purposes.

Section 2. Whenever the grantee shall excavate or in any manner disturb, or interfere with any street, alley, highway or public place within said City of Albany, it shall restore the portion of the street, alley or public highway so excavated to the same condition in which it was prior to the opening thereof, without unnecessary delay, and failing to do so the Council of the City of Albany shall have the right to fix a certain time within which such repairs and restoration shall be completed, and, upon failure of such repairs and restoration being made by the grantee within the time specified, said City, by its Council, may cause such repairs to be made at the expense of the grantee; provided, however, that the proper City authorities may require the any opening or excavation in any hard-surface pavement in any of the streets, alleys or public highways of said City shall be filled in and the pavement replaced by the city authorities, and the cost thereof, including the cost of inspection and supervision, shall be paid by the said grantee, its successors or assigns, and the city authorities may require a deposit with the city treasurer of a sum of money sufficient to pay said cost by said grantee, its successors or assigns, before such opening in any of said streets, alleys or public highways shall be begun, and no opening or excavation in any hard-surface pavement shall be made until the Council shall determine whether or not such deposit shall be required.

Section 3. Nothing in this ordinance shall be construed as in anywise to prevent the City of Albany from sewerage, grading, paving, repairing, altering or doing any work that may be desirable on any of the streets, alleys, highways or public places of said City, but all work shall be done if possible in such manner as not to obstruct, injure or prevent the free use and operation of said gas system of the grantee. But in case it may be necessary to remove or lower any of the conduits, mains or pipes aforesaid in the improvement of any street, alley, highway or public place, the grantee shall, after notice to do the same, make all changes necessary and called for promptly and at the grantee's sole cost and expense. If, after notice as aforesaid, the grantee shall fail, neglect or refuse to remove, lower or change any conduit, main, pipe or manhole or other appliance in connection therewith, as aforesaid, then the City of Albany, by its properly constituted authorities, may do the same and charge and collect the cost thereof from the grantee.

Section 4. The grantee hereby agrees and covenants to indemnify and save harmless the City of Albany and the officers thereof, and its successors, against all damage, cost and expense whatsoever to which it or they may be subject in consequence of the acts or neglect of the grantee, its agents or servants, in any manner arising out of any construction, maintenance or operation of the system to be installed under and by reason of this franchise.

Section 5. The rights, privilege and franchise hereby granted are not exclusive and the service to be furnished hereunder, and all rates and charges therefor, shall at all times be subject to such reasonable rules and regulations as may lawfully be prescribed by the Public Service Commission of Oregon or by any other body having lawful jurisdiction in the premises. The quality and character of the product to be furnished by the grantee hereunder shall at all times be as good and of as high a standard as that furnished by the grantee, its successors or assigns, within the corporate limits of the City of Portland, Oregon.

Section 6. The grantee shall make all necessary excavations in any of said streets, alleys, highways or public places of said city for the purpose of laying conduits, mains or pipes, and the necessary manholes and other appliances used in connection with said system and for the purpose of repairing and operating the same under the direction of the Street Committee, and the grantee shall furnish and file with the City Recorder a map or blue print showing the location of all mains, apparatus and service pipes within the City of Albany, and shall bring said map to date twice each year upon notice, or at any time upon reasonable notice from the Mayor.

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Section 7. Unless and until otherwise lawfully ordered by the Public Service Commission of Oregon, or other body, having lawful jurisdiction in the premises, the rates for gas to be furnished by the grantee hereunder shall not exceed Two Dollars (\$2.00) per thousand cubic feet of gas, but the grantee may charge and collect a reasonable monthly minimum charge for the service furnished hereunder from any customer; provided however that the grantee prior to furnishing service under this franchise shall file with the Public Service Commission of Oregon in the manner provided by law, a tariff and rates applicable to the City of Albany, but such tariff and rates shall always be subject to all reasonable rules, orders and regulations lawfully made and prescribed by said Public Service Commission, or by any other body having lawful jurisdiction in the premises.

Section 8. So long as the grantee shall be required by the provisions of the laws of the State of Oregon to keep and maintain books of account and make reports in accordance with standards prescribed by said Public Service Commission of Oregon, the compliance of said grantee with such state laws and regulations shall be deemed a compliance with the requirements of Section 95 of the charter of the City of Albany.

Section 9. As fair compensation to the city of Albany for the franchise hereby granted, the grantee, its successors and assigns, shall, at all times during the continuance of said franchise, furnish gas to the City of Albany for use by said municipality for municipal purposes at the price of seventy-five cents (75c) per thousand cubic feet of gas, and shall annually pay in advance to the city of Albany each and every year during the term of this franchise the sum of One Hundred Fifty Dollars (\$150.00) the first of said payment to be made simultaneously with the filing of the grantee's acceptance of the franchise hereby granted and the subsequent payments to be made annually on the same date in each year thereafter, which said payment shall be in lieu of all licenses or other charges which might be imposed or required by the City of Albany from said Gas and Coke Company, its successors and assigns, for the privilege of conducting the aforesaid business in the City of Albany.

Section 10. The grantee shall begin construction work under this franchise within the City of Albany within One Hundred Twenty (120) days from the date of acceptance of this franchise, unless the grantee shall be prevented from beginning such work within that time by failure or delay on the part of the manufacturers of pipe to deliver the necessary pipe to the grantee for its construction work in said City of Albany or by other cause, in which event the grantee shall be allowed such additional time within which to begin such work as may be reasonably required by the grantee and as may be granted by resolution by the Council of the City of Albany on application of the grantee.

Section 11. At the expiration of the term of this franchise, the City of Albany, at its election and upon the payment therefor of a fair valuation thereof, may purchase and take over to itself the property of the said Gas and Coke Co., its successors and assigns, in its entirety, and which may be situated on, in, above or under the streets and public places of said City and used in connection therewith, within the corporate limits of said City, and should the City of Albany upon the termination of this franchise exercise such right of purchase, the said property of said Company, its successors and assigns, in its entirety shall be and become the property of the City of Albany upon the passage, approval and publication of an ordinance duly enacted authorizing the same, and upon the City of Albany paying to the said Portland Gas and Coke Company, its successors and assigns, the valuation thereof. Such valuation shall be of all appurtenances, appliances, equipment, mains, pipes, lease-holds, buildings, stores and furniture and fixtures suitable and used by the Company for its purposes within said City of Albany under this franchise, basing such appraisalment upon the fair market value of the property as it is then located, ready for actual use; and such valuation shall be arrived at by the City of Albany appointing one appraiser, Portland Gas and Coke Company, its successors or assigns, appointing one appraiser, and such two appraisers appointing a third appraiser, which appraisers shall have the power and authority to employ expert valuers to aid them in arriving at the value of said property.

Section 12. The grantee shall file with the Recorder of the City of Albany its written acceptance of this ordinance, and of the rights, privileges and franchise hereby granted and of the obligations hereby imposed within thirty (30) days from and after the date when this ordinance shall become effective, otherwise this ordinance shall become null and void. The grantee shall at all times fully and faithfully perform all of the terms, provisions and conditions of this franchise or grant and furnish efficient service hereunder and maintain its property in good order and repair throughout the entire term of the grant, and upon any default by the grantee hereunder and the continuance of such default for a period of thirty (30) days from and after the receipt of notice from the Council of the City of Albany specifying such default, said City of Albany may by ordinance and for good cause shown, forfeit this grant or franchise, and all further rights of the grantee, its successors and assigns hereunder.

Section 12-a. The grantee herein shall prosecute the construction work of laying its gas mains, pipes and conduits, together with all necessary or desirable appurtenances in and upon the streets, alleys, highways and public places of said city for the purposes aforesaid, with such vigor and without delay, except for causes beyond its control, in order that the service of supplying gas therein be instituted on or before January 1, 1931.

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Section 13. This ordinance shall be of no force or effect unless or until it shall have been published in full at the expense of said Portland Gas and Coke Company at least twice in a daily newspaper of general circulation published in the City of Albany, Oregon, such publication to take place and be completed not less than ten (10) nor more than thirty (30) days before the final passage hereof.

Passed by the Council April 9, 1930.
Approved April 9, 1930.

V.L.CALAVAN,
Mayor of the City of Albany.

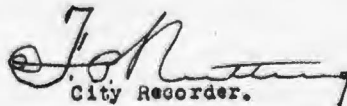
Attest:

F.P.Nutting,
Recorder of the City of Albany.

STATE OF OREGON,
County of Linn, ss.

I, F.P.Nutting, Recorder of the City of Albany, Linn County, Oregon, do hereby certify that the foregoing and annexed ordinance No. 1327 has been by me carefully compared with the original ordinance bill No. 1435, now on file in my office, and that it is a true and correct copy of all of said ordinance bill No. 1427, passed by the Council April 9, 1930 and approved by the Mayor April 9, 1930

In witness whereof I have hereunto set my hand and official seal of the City of Albany this 10th day of April, 1930.


City Recorder.