

Rec'd 5-25-05

ORDINANCE NO. #534

AN ORDINANCE GRANTING TO THE ILLINOIS GAS COMPANY an Illinois Corporation, its successors or assigns a Franchise to use the streets, alleys and other public places of the City of Sumner, in the County of Lawrence, State of Illinois to operate and maintain an artificial or natural gas plant together with distributive system for the same, and to sell and distribute such artificial or natural gas to consumers thereof.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SUMNER:

Section 1: Definitions. As used in this ordinance, the term "Municipality" or "City" shall mean the City of Sumner, as the same may exists from time to time, located in the county of Lawrence, in the State of Illinois, and the term "Company" or "grantee or the words " Illinois Gas Company" shall be construed to mean the Illinois Gas Company, an Illinois Corporation, its successors and assigns, and this ordinance shall be binding upon and inure to the benefit of the said Company, its successors and assigns.

Section 2: Grant and Term. That the Illinois Gas Company, an Illinois Corporation, its successors and assigns, upon the terms and subject to the conditions of this ordinance, are hereby granted to the right to construct, erect, renew, re-construct, repair, maintain, extend and operate within the corporate limits of said Municipality an artificial or natural gas plant, and distributive system, or a combination thereof, together with all appurtenances, mains, pipes, machinery, tanks, apparatus and appliances necessary or useful thereto for the purpose of generating, manufacturing and distributing natural or artificial gas or either or both of them, for the purpose of selling, distributing, and supplying gas to said municipality and the inhabitants thereof, together with the right to use and occupy the streets, alleys and public ways of said municipality as now, or hereafter laid out, with its gas mains, pipe lines, distributing lines and other appurtenances and appliances necessary or useful for the purpose of maintaining and operating such gas plant and gas distributing system within said Municipality, and the right of selling, distributing and supplying said Municipality and the inhabitants thereof with gas for heat, fuel, power, cooking, refrigeration and all other purposes, for a period of Twenty-five (25) years from and after the effective date of this ordinances, and thereafter until terminated by sixty (60) days written notice, either by said Municipality to said Company, or; by the said Company to the City of Sumner.

In the event said sixty (60) days written notice shall be given, by either of the parties hereto, the permission and authority granted by this ordinance shall thereupon expire on sixty (60) days after the receipt of said notice, and from and after said date, this ordinance shall be null and void and of no effect whatsoever, and

all rights and privileges granted thereby shall terminate.

Provided, that the rights granted hereunder shall not extend to any streets, alleys or other public places over which the Municipality has no jurisdiction, or to any territory, political subdivision or person outside such municipality over which said municipality has no jurisdiction.

This provision shall not bar the company herein from manufacturing, selling or distributing gas to persons outside the corporate limits of said Municipality so far as the Municipality has power under this ordinance to grant such right.

Section 3: Service. The Company shall construct, maintain and operate a modern and adequate gas plant, works, and system, or pipe line or other sources of supply of gas, or, any of the same for the furnishing, sale and distribution of gas in said City and said plant, works and system or other source of supply and grantee shall from time to time make such additions and extensions as may be required subject to current conditions.

Grantee agrees to supply to the city and its inhabitants an adequate supply of gas, subject at all times to the approval of the Illinois Commerce Commission or any other Governmental body given the requisite power and authority by law, and failure so to do shall make this franchise null and void.

Section 4: Construction of Mains:

a. The Company shall place on file with the Clerk of the City of Sumner, blue prints or plans showing the location of all mains of the Company as the same exists at the present time, and from time to time thereafter shall file additional blue prints showing any additional mains or pipe lines belonging to the Company within the municipality.

b. The Company shall in advance of any paving or repaving of any streets, alleys or public way and upon thirty (30) days notice prior to the commencement thereof, install and construct at its own expenses all mains and connections reasonably necessary for its future use in said streets, alleys, or public way, so as to prevent as far as possible the disturbance thereafter by the Company of any pavement.

c. The grantee is hereby authorized to make all necessary excavations in the streets, alleys and other public property, and the grantee shall in all cases restore all streets, alleys and public places, sidewalks and parkways and all pavements and excavations to their original condition, and in laying mains and pipes or making any excavation or restoring same to original condition the grantee shall conform to all reasonable regulations prescribed or to be prescribed by the City to prevent injury either permanent or temporary to all pavements, sidewalks, streets, alleys, public places and property, and grantee shall use the greatest care

and diligence to not necessarily injure or change any pavement, sidewalk, street, water pipe, drains, sewers or other property of said City or of any private person, and in case of necessary change, same shall be done at the expense of the grantee and subject to the reasonable regulations as above stated in this section.

d. Before any work is done requiring excavations to be made in any of the streets and alleys on the said City for the purpose of installing or removing street mains, a written application shall be presented to the Commissions of Streets, and Alleys, of the City for permission to perform said work and make said excavations in or under the said streets and alleys, and a written permit therefore be obtained from said Commissioner.

e. It is understood that the grantee shall not erect any plant or building of any kind in any public park in said City or in any property owned by the City without first obtaining the written consent of the City Council and incorporated in the minutes thereof.

Section 4: Suits.

The rights herein conferred are contingent upon the fact that the Company shall at its own expense defend all suits that may be brought against the City of Sumner on account of, or, in connection with any negligence or mismanagement of the Company, its agents or employees in the construction, reconstruction, maintenance and operation of said gas works or gas system, or the violation by the Company of any of the obligations hereby imposed upon or assumed by it, or by reason of, or for any damage to life, limb, or property and shall save and keep harmless the City of Sumner from any and all damages, judgments, costs and expenses of every kind that may arise by reason thereof, and the Company shall be liable for any and all damages caused by its negligence or mismanagement or the negligence or mismanagement of its agents or employees in the construction, reconstruction, maintenance and operation of said gas works or said gas system: provided, however, that notice in writing shall be immediately given to said Company of any claim or suit against the City of Sumner which by the terms thereof the Company shall be obligated to defend, or against which the Company has hereby agreed to save and keep harmless the City of Sumner, and the said City shall furnish to said Company all information in its possession relating to said claim or suit and co-operate with said Company in the defense thereof.

Section 5: Compensation.

In consideration of the foregoing grant and so long as said Company exercises and enjoys the right granted to it hereunder, the Company will furnish to the municipality free of charge a maximum of 3500 therms per calendar year for heat for the City Hall and Police Station. Any additional gas used will be billed to the City of Sumner at the then current retail rate.

Section 6: Rates.

The rates to be charged for gas and gas service by the grantee shall be such as may be fixed from time to time by the Illinois Commerce Commission or such other governmental body as may be given that power by law.

Section 7:

This ordinance shall be in full force and effect thirty (30) days from the time of its passage by the Council of the Municipality and upon the filing with the Clerk thereof, by the Illinois Gas Company, of its written and unconditional acceptance of all the provisions of this ordinance, executed by its proper officers thereunto duly authorized, under the corporate seal of said Company, and attested by its Secretary or Assistant Secretary.

Introduced:
Passed:
Approved:

May 10, 2005
May 10, 2005
May 10, 2005

Approved:

Betty Brian
Mayor

Attest:

Blanche Pipin
City Clerk

Date May 10, 2005

The ILLINOIS GAS COMPANY, by its duly authorized officers, unconditionally accepts all of the provisions contained within the foregoing ordinance.

[Signature]
President

Corporate Seal

Attest:

[Signature] Assistant Secretary
Secretary Assistant