

CITY OF MESQUITE

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ORDINANCE NO. 676

AN ORDINANCE GRANTING TO LONE STAR GAS COMPANY, A CORPORATION, A FRANCHISE TO FURNISH AND SUPPLY GAS TO THE GENERAL PUBLIC IN THE CITY OF MESQUITE, DALLAS COUNTY, TEXAS, FOR THE TRANSPORTING, DELIVERY, SALE AND DISTRIBUTION OF GAS IN, OUT OF, AND THROUGH SAID MUNICIPALITY FOR ALL PURPOSES, AND PROVIDING FOR THE PAYMENT OF A FEE FOR THE USE OF THE STREETS, ALLEYS AND PUBLIC WAYS, AND PROVIDING THAT IT SHALL BE IN LIEU OF OTHER FEES AND CHARGES, EXCEPTING AD VALOREM TAXES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

Section 1. That the City of Mesquite, Texas, hereinafter called "City," hereby grants to Lone Star Gas Company, hereinafter called "Company," consent to use and occupy the present and future streets, alleys, highways, public places, public thoroughfares and grounds of the City for the purpose of laying, maintaining, constructing, operating and replacing therein and thereon pipe lines and all other appurtenant equipment needed and necessary to deliver gas in, out of, and through said City and to sell gas to persons, firms and corporations, including all the general public, within the City's corporate limits, said consent being granted for a term of twenty-five(25) years from and after the date of the final passage and approval of this ordinance. This franchise shall not be transferred or assigned without written consent of the City Council of Mesquite, but when such consent is granted, it shall inure to the benefit of and be binding upon such successors and assigns.

Section 2. Company shall lay, maintain, construct, operate and replace its pipes, mains, laterals and other equipment so as to interfere as little as possible with traffic and the general public. The location of all mains, pipes, laterals and other appurtenant equipment shall be fixed under the supervision of the City Manager or other authorized agent appointed by said City Council. When Company shall make, or cause to be made, any damages to any public property, repair or removal of obstruction shall be made in a reasonable time at Company's expense and said public property shall be restored to equal the original condition.

Section 3. The Company shall hold the City harmless from all expense or liability for any act or neglect of the Company. The City shall never be held liable by the Company for any construction, reconstruction, or repair of streets, alleys, or thoroughfares which cause Company to replace, repair, or reconstruct any of Company's pipes, mains, laterals or other equipment.

Section 4. The City reserves to itself the right and power at all times to exercise, in the interest of the public, full regulation and control to assure the rendering of efficient public service at reasonable rates and the maintenance of Company's property in good repair throughout the term of this franchise and City may regulate by ordinance the rates charged for gas within the city limits of Mesquite as provided by law.

Section 5. The Company shall never be required to make unreasonable extensions, or be required to provide service lines on consumers' property, or be required to connect consumers to intermediate or high pressure lines. The Company may require from each consumer of gas, before gas service is commenced, a deposit equal to twice the amount of an estimated average monthly bill, provided the Company shall return said deposit to the consumer, together with six percent (6%) interest per annum thereon, after discontinuance of service and all indebtedness owed Company has been paid by consumer. This deposit and accrued interest may be applied to any debt owed Company by consumer.

Section 6. This franchise is not exclusive, and nothing herein contained shall be construed so as to prevent the City from granting other like or similar rights and privileges to any other person, firm or corporation.

Section 7. Company agrees to pay, and City agrees to accept, on or before the first day of June, 1967, a sum of money which shall be equivalent to one and one-half percent (1 1/2%) of the gross receipts received by Company from the sale of gas to its consumers within the city limits of said City for the preceding calendar year, and on or before the first day of April, 1968, a sum of money which shall be equivalent to one and one-half percent (1 1/2%) of the gross receipts received by Company from the sale of gas to its consumers within the city limits of said City for the period January 1, 1967, to May 31, 1967, and four percent (4%) of said gross receipts for the period from June 1, 1967, to December 31, 1967, and on or before the first day of April, 1969, and on or before the same day of each succeeding year during the life of this franchise, up to and including the year 1991, a sum of money which shall be equivalent to four percent (4%) of the gross receipts received by Company from the sale of gas to its consumers within the city limits of said City for the preceding calendar year. Said payments shall be made by Company and accepted by City as full payment for Company's privilege of using and occupying the streets, alleys, highways, easements and public ways within the City and of other fees connected with that use, such as rentals, supervision, and occupation charges and in lieu of license and inspection fees, street and alley rentals (excepting only general or special ad valorem taxes which City is authorized to levy and impose on real and personal property or any sales tax which City is authorized to levy in the future) and for the further privilege of receiving this grant of governmental authority to operate within the City.

In order to determine the gross receipts received by Company from the sale of gas within the corporate limits of City, Company agrees that at the time of making said payments, it will file with the City Secretary a sworn report showing the gross receipts received from the sale of gas to consumers within said corporate limits for the calendar year preceding the date of payment.

Section 8. Company shall maintain a good and sufficient accounting and record system in accordance with the Federal or State Regulatory Agencies' standards and good accounting principles. City or its authorized representatives may, if it sees fit, examine these records and books to ascertain the correctness of the sworn reports agreed to be filed herein or to determine a reasonable rate structure for Company.

Section 9. The failure of the Company to comply with the terms of this franchise after due notice and hearing and the providing of an adequate time for Company to comply with said terms shall entitle the City to compel compliance by suit in any courts of competent jurisdiction and if, upon final judgment, not subject to further appeal, being entered in favor of the City, Company still fails to comply with the terms of the franchise and said final judgment, the City may compel compliance under penalty of forfeiture hereof, with the City having an option to purchase Company's property located in the City at a reasonable fair value should such forfeiture occur. The Company further agrees that if for any reason the Company fails to pay the gross receipts charge as provided in this franchise within thirty (30) days following written notice from the City that Company has failed to make said payment, such failure shall be sufficient to permit City to forfeit the franchise without court action.

Section 10. Company shall file its written acceptance of this franchise within sixty (60) days after its passage and approval.

PASSED ON FIRST READING at the regular meeting of the City Council on May 15, 1967.

PASSED ON SECOND READING at the regular meeting of the City Council on June 5, 1967.

PASSED ON THIRD AND FINAL READING at the regular meeting of the City Council on June 19, 1967.

APPROVED:

ATTEST:

Norma G. McGaughey
Norma G. McGaughey
City Secretary

George Boyce
George Boyce
Mayor

