ORDINANCE NO. 63

AN ORDINANCE GRANTING TO MONTANA-DAKOTA UTILITIES CO., A CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE FRANCHISE AND RIGHT TO CONSTRUCT, MAINTAIN AND OPERATE, WITHIN AND UPON, IN AND UNDER THE STREETS, ALLEYS AND PUBLIC GROUNDS OF THE

CITY OF WASHBURN, NORTH DAKOTA

A GAS DISTRIBUTION SYSTEM FOR TRANSMITTING AND DISTRIBUTING NATURAL OR MANUFACTURED GAS, OR A MIXTURE OF BOTH, FOR ALL PUBLIC AND PRIVATE USES.

BE IT ORDAINED BY
THE BOARD OF CITY COMMISSIONERS OF

THE CITY [redacted] OF WASHBURN, McLEAN COUNTY, NORTH DAKOTA

SECTION I. For convenience, herein, said municipal corporation is desginated and referred to as "Municipality" and Montana-Dakota Utilities Co. is designated and referred to as "Grantee". Any reference to either includes their respective successors and assigns.

SECTION II. There is hereby granted to Montana-Dakota Utilities Co., a corporation, Grantee, its successors and assigns, subject to the limitations herein stated, the right and franchise to occupy and use the streets, alleys, and public grounds of the municipality as now, or hereafter constituted, for the purpose of constructing, maintaining, and operating, within, upon, in and under the same, a gas distribution system for transmitting and distributing natural or manufactured gas, or a mixture of both, for all public and private uses.

SECTION III. Grantee shall maintain an efficient distribution system for furnishing natural or manufactured gas, or a mixture of both, for public and private use at such reasonable rates, and under such regulations as may be approved by the Public Service Commission of the State wherein said municipality is located.

SECTION IV. This franchise shall not be exclusive and shall not be construed to prevent the Municipality from granting to any other party the right to use the streets, alleys, and public grounds of the Municipality for like purposes nor to impose upon the Grantee the obligation to construct facilities to provide natural gas service within the Municipality unless the Grantee determines that it is economically feasible to do so.

SECTION V. The Municipality reserves any right it may have, under its police power, or otherwise, to control or regulate the use of said streets, alleys, and public grounds by Grantee.

SECTION VI. Grantee shall indemnify and save and hold the Municipality harmless from any loss or damage due to the construction, installation, and maintenance of its distribution system, and its use of the streets, alleys and public grounds of the Municipality.

SECTION VII. Grantee shall have the right to assign this franchise to any party, or corporation, but all obligations of Grantee hereunder shall be binding upon its successors and assigns.

SECTION VIII. Within thirty (30) days after passage and final approval of this Ordinance, Grantee shall file with the clerk or auditor of the municipality, its written acceptance of this franchise.

SECTION IX. This franchise shall continue and remain in full force and effect for a period of twenty (20) years from the date upon which this ordinance shall become effective as provided by law.

Passed the 20th day of March, 1961.

Approved this 20th day of March, 1961.

ATTEST: [signature] [redacted] Auditor

[signature] Mayor-Chairman

SEAL OF THE MUNICIPALITY

Form 678

CERTIFIED TRANSCRIPT OF GAS FRANCHISE PROCEEDINGS

Ordinance No. 63

CITY OF WASHBURN, McLEAN COUNTY, NORTH DAKOTA

STATE OF NORTH DAKOTA)
) SS.
COUNTY OF McLEAN)

I, the undersigned, as the recording officer of the City of Washburn, McLean County, North Dakota,

DO HEREBY CERTIFY: That attached hereto is a complete and exact transcript of all of the documents and proceedings relating to the granting of a gas franchise to MONTANA-DAKOTA UTILITIES CO. by the aforesaid municipality as evidenced by Ordinance No. 63 passed by the governing body of said municipality on the 20 day of March, 1961; that I have compared each of the attached copies of documents and proceedings pertaining thereto with the originals thereof, and that each attached copy is a true and correct transcript of the original instrument of which it purports to be a copy, namely:

(a) Application for gas franchise by MONTANA-DAKOTA UTILITIES CO.,

(b) Ordinance granting a gas franchise to MONTANA-DAKOTA UTILITIES CO.,

(c) Minutes of First meeting of the governing body of said municipality held March 6th, 1961, at which meeting said Ordinance was given its first reading,

(d) Minutes of Second meeting of the governing body of said municipality held March 20th, 1961, at which meeting said ordinance was given its second reading and final passage,

(e) Acceptance of said gas franchise ordinance by MONTANA-DAKOTA UTILITIES CO.

(f) Newspaper Publisher's Affidavit of Publication of gas franchise ordinance.

(g) Minutes of Meeting following filing of acceptance.

I FURTHER CERTIFY: That the original of each of the above mentioned documents is on file in my office; and that insofar as I have knowledge or am informed, all legal requirements of the By-Laws of the governing body of said municipality and of the statutes of the State of North Dakota covering the granting of said franchise, have been legally and fully complied with.

IN WITNESS WHEREOF, I have hereunto subscribed my name as the recording officer of said municipality this 4th day of May, 1961.

E. I. Belung
Clerk - Auditor

(Seal of the Municipality)

Washburn
Town - Village - City

McLean
County, North Dakota

MINUTES OF MEETING FOLLOWING FILING OF ACCEPTANCE

After the acceptance is filed, the auditor or clerk should report to the next succeeding meeting of the governing body that the acceptance was received by him within the thirty-day period and at such meeting, the council should enter the following minute in the minutes of that meeting:

> "The City Auditor reported to the Council that Montana-Dakota Utilities Co. did, on the 20 day of March, 1961, file in his office, a written acceptance of the gas franchise granted to that company as set forth in Ordinance No. 63. Upon motion duly made, seconded, and unanimously carried, the Auditor was directed to file said acceptance with the Ordinance."

E. J. Kelly

ACCEPTANCE OF FRANCHISE

The MONTANA-DAKOTA UTILITIES CO., a corporation, hereby accepts the terms and conditions of that certain Ordinance No. 63 enacted by the governing body of the City of Washburn, McLean County, North Dakota, the same being an ordinance granting to said company, its successors and assigns, a franchise to construct, maintain and operate within and upon, in and under, the streets, alleys and public grounds of said city, a distribution system of mains and service pipes for transporting and distributing natural gas, artificial, or manufactured gas, or a mixture of natural and artificial or manufactured gas for all public and private uses, which ordinance was duly passed, adopted and approved by the governing body of said city on the 20th day of March, 1961.

Dated this 29th day of March, 1961.

MONTANA-DAKOTA UTILITIES CO.

APPROVED BY

By David W. Smith
President

Attest:

Assistant Secretary

* *

I, the undersigned, the duly elected, qualified and acting Auditor/Clerk of the City of Washburn, State of North Dakota do hereby certify that I received the within Acceptance of Franchise this 3rd day of April, 1961, and on said date duly filed the same in my office.

E. J. Schulz
Auditor/~~Clerk~~

(SEAL OF MUNICIPALITY)