

**APPENDIX 3**  
**ORDINANCE NO. 342**

AN ORDINANCE GRANTING TO ARKANSAS LOUISIANA GAS COMPANY, A CORPORATION, ITS SUCCESSORS AND ASSIGNS, FOR A PERIOD OF TWENTY-FIVE YEARS FROM THE ACCEPTANCE HEREOF THE RIGHT TO ERECT, INSTALL, MAINTAIN, EXTEND AND OPERATE A SYSTEM OF WORKS, PIPES, PIPELINES AND ALL NECESSARY APPARATUS, STRUCTURES AND APPURTENANCES IN AND UNDER THE STREETS, ALLEYS AND OTHER PUBLIC WAYS AND PLACES OF, AND THE ADDITIONS TO, AS ANY OF THE SAME NOW EXIST OR MAY HEREAFTER BE CREATED OR ADDED TO THE CITY OF WILBURTON, LATIMER COUNTY, OKLAHOMA, FOR THE PURPOSE OF TRANSPORTING IN AND THROUGH, SELLING AND DISTRIBUTING NATURAL OR ARTIFICIAL GAS TO SAID CITY, ITS INHABITANTS AND THE PUBLIC GENERALLY, SUBJECT TO THE TERMS AND CONDITIONS HEREINAFTER PROVIDED, ORDERING AN ELECTION AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE COUNCILMEN OF THE CITY OF WILBURTON, LATIMER COUNTY, OKLAHOMA:

SECTION 1. That there is hereby granted to Arkansas Louisiana Gas Company, a Delaware corporation, its successors and assigns (hereinafter referred to as the "grantee", and the word "Grantee" shall include and be taken to mean the successors and assigns of Arkansas Louisiana Gas Company, consent to assignment being given) a franchise for a period of twenty-five (25) years from and after the acceptance hereof to use the streets, alleys, avenues, ways and other public place of the City of Wilburton, Latimer County, Oklahoma, as now constituted, and as it may hereafter be extended, for the purpose of transporting in and through and the selling and distributing of natural or artificial gas to said City, its inhabitants and the public generally for domestic, commercial and industrial uses, together with the right to enter upon and open said streets, alleys, avenues, lanes, parkings, boulevards, sidewalks, parks and other public areas or grounds of said City for the proper laying, repairing, building, removing and/or replacing said works pipes, pipelines, and all necessary apparatus, structures and appurtenances, provided that the previous franchise held by Grantee shall be null and void from and after its acceptance of this new franchise.

SECTION 2.

(a) Grantee covenants and agrees that it will maintain efficient gas service in the City of Wilburton, Latimer County, Oklahoma, under rules and regulations imposed, ordered or approved by the Corporation Commission of the State of Oklahoma, or by other lawfully constituted regulatory authority. Provided, the Grantee shall not be liable for loss or damage caused by interruption or failure of service due to accident or breakdown to plant, lines or equipment, strikes, riot, Act of God, or the public enemy, or causes beyond the control of Grantee, or due to shutdowns for reasonable periods to make repairs to lines or distributing equipment; but Grantee agrees in such cases to exercise proper dili-

gence in making such repairs, and to resume operation of the same without unnecessary delay.

(b) Grantee shall have the right to make and enforce such reasonable rules and regulations as may be ordered or approved by the Corporation Commission of the State of Oklahoma, or by other lawfully constituted regulatory authority, for the sale, delivery, connecting and disconnecting customers, metering of its natural or artificial gas, and the conduct of its business.

(c) The Grantee shall have the right to disconnect service to customers whose meters, service lines, or appliances are found to have been tampered with or who have failed to pay for gas service, or customers or parties who resell, lease or otherwise deliver any part of the service furnished to a third person, or to persons whose service lines are in such a state of disrepair as to leak and cause a dangerous condition.

(d) The Grantee shall have the right to enter in and upon the premises of a consumer or one who has been a consumer for the purpose of removing all meters and connections owned by the Grantee from the building or premises of anyone to prevent fraud, or in the event of the refusal or failure to pay charges not exceeding those mentioned herein or otherwise stipulated in the service contract or for the purpose of determining whether or not there are any leaks which might cause a dangerous condition to exist.

(e) Grantee shall charge and collect from the City of Wilburton, Latimer County, Oklahoma, and the consumers therein, reasonable and compensatory rates such as may be from time to time lawfully ordered or approved by the Corporation Commission of the State of Oklahoma, or by other lawfully constituted regulatory authorities.

SECTION 3. Upon application by any bona fide applicant for service, Grantee shall at its own expense furnish and install service pipe of suitable capacity to the curb line (where the main is in the street) or property line (where the main is in the alley) of property abutting upon any street, highway, alley, lane or road along which the Grantee has distribution mains.

#### SECTION 4.

(a) During the life of this franchise Grantee will deliver and sell to Grantor all natural or artificial gas used by it in its municipal plants and offices, and Grantor will take such natural or artificial gas from Grantee and pay therefore at rates filed with and approved by the Corporation Commission of Oklahoma.

(b) It is expressly understood and agreed that this franchise shall never be construed to mean an exclusive franchise and the grant hereof is not the grant of an exclusive franchise.

#### SECTION 5.

From and after the approval and acceptance of this Ordinance, the Grantee shall pay, and in consideration of the granting of this franchise agrees to pay, to the Grantor, an annual charge in an amount equal to two percent (2%) of the gross cash receipts for each current year from the sale and delivery of natural and artificial gas wholly within the corporate limits of Grantor, for use in such corporate limits, including natural and artificial gas sold and delivered to the Grantor wholly within the corporate limits of the Grantor.

Said tax shall be due to the said Grantor on a calendar year basis payable in January of each year. But it is provided and ordained that same may be paid by applying so much thereof as may be necessary to the satisfaction and payment of bills representing the balances due the Grantee for natural and artificial gas used for municipal services of all kinds and classes, and the remaining balance of said two percent (2%) of the gross receipts, if any, shall be paid to the Treasurer of said City to be placed in its general fund.

Said charge of two percent (2%) of said gross receipts shall be in lieu of all franchise, license, occupation, or excise taxes, except ad valorem taxes levied by Grantor.

SECTION 6. The Grantee shall furnish, free of cost regulators, which shall be and remain the property of Grantee, but said Grantee shall not be required to furnish or install any piping or service connections of any kind for or on the property of the consumer.

SECTION 7. All main pipelines and all lateral pipelines constructed or replaced during the term of this Ordinance shall be installed in such a manner that the main pipelines will be buried at least thirty (30) inches and all lateral pipelines not less than twenty-four (24) inches below the established grade of said streets, avenues, and alleys.

SECTION 8. It shall be the duty of Grantee in constructing, repairing, maintaining and/or operating its works and plant, to use all reasonable and proper care to avoid injuries to persons or property within said City, and the Grantee shall hold the City of Wilburton harmless against any damage caused by it in constructing, maintaining, repairing and/or operating its gas distribution system and works and Grantee shall repair or replace at its expense all streets, alleys, walks and property disturbed by it. Further, Grantee shall at all times so use the privilege herein granted so as not to cause more than temporary interference with the public's right to continue to use such streets, alleys and other public ways as here fore used.

SECTION 9. The franchise hereby granted shall not be operative unless and until the same shall be approved by a vote of the majority of the qualified electors residing within said City who shall vote thereon at an election called under or pursuant to the provisions hereof, and if the franchise hereby granted shall fail to be so approved at the said election, no rights shall accrue to the Grantee hereunder.

The question of the approval or disapproval of the franchise hereby granted shall be submitted at a special election to be held in the City of Wilburton, Latimer County,

Oklahoma, on the 18 day of November , 1975 between the hours of 7:00 o'clock a.m. and 7:00 o'clock p.m. and the Mayor of said City is hereby authorized and directed to give due and legal notice of said election to be held on such date for such purpose, and the proper officers of said City are hereby directed to take all steps necessary for holding of said election for the submission of said franchise to the electors of said City.

Provided, that the Grantee shall within thirty (30) days after the result of such election is declared, file with the City Clerk of Wilburton, Latimer County, Oklahoma, an acceptance in writing duly executed according to law accepting all of the terms, conditions and obligations hereof; and failure of said Grantee so to accept this Ordinance within said period shall be deemed a rejection hereof by said Grantee, and the rights and privileges herein granted, if not so accepted within said thirty (30) days, shall absolutely cease and terminate.

SECTION 10. The present Natural Gas Franchise of Arkansas Louisiana Gas Company being about to expire and it being highly desirable that the inhabitants of Grantor be assured of a continued and adequate supply of natural or artificial gas for heating, power and other purposes for the preservation of public health, peace and safety, an emergency is hereby declared to exist by reason whereof this Ordinance shall take effect immediately.

IT IS THEREFORE ORDAINED, that this Ordinance and Franchise shall be in full force and effect from and after its passage, approval and publication as required by law.

PASSED BY THE COUNCILMEN OF THE CITY OF WILBURTON, OKLAHOMA ON THE 2nd DAY OF OCTOBER , 1975.