

Article 6. Natural Gas Franchisee

[Editor's Note: Article 6 was adopted in its entirety by Ord 503 passed November 25, 1985]

§10-601 RATES; REGULATORY AUTHORITY:

The FRANCHISEE shall at all times be subject to all rights, power and authority now or hereafter possessed by the City to regulate and control and direct the rates and tariffs charged for natural gas service in the City.

§10-602 RATE SCHEDULES:

FRANCHISEE shall provide to the City for informational purposes, copies of all rate schedules and contracts for all rates charged and the requirements for service under such schedule within the City. They should also show separately the base rate and the Purchased Gas Adjustment (PGA) rate. The base rate shall exclude all gas supply costs and gas supply cost adjustments. Gas supply costs and gas supply cost adjustments shall be collected solely through the PGA rate. Rate Schedules are on file in the office of the Municipal Clerk and available for inspection by the public during regular business hours. (*Ord 745, 2/14/00*) (*Amended by Ord 760, 12/9/01*)

§10-603 REFUND:

Any refund including interest thereon, if any, received by the FRANCHISEE from its supplier related to increased rates paid by the FRANCHISEE subject to refund and applicable to natural gas purchased for resale within the City shall be passed on to presently served customers by an appropriate adjustment shown as a credit on subsequent bills during a period selected by the FRANCHISEE, not to exceed twelve (12) months, or by a cash refund at the FRANCHISEE'S OPTION or by such other method as may be established by ordinance.

§10-604 OTHER RATE CHANGES:

In the event the FRANCHISEE desires to change its rates for natural gas service within the City other than to reflect an adjustment for the cost of purchased gas, the FRANCHISEE will present to the City copies present and proposed rate schedules and information supporting the proposed rates to be charged for natural gas service within the City. The rate schedule and information submitted with the rate schedules shall be referred to as the Rate Filing. Any such rate filing shall be deemed filed upon receipt of the same by the City Clerk. A filing fee in the amount of three hundred (\$300.00) dollars shall be paid to the City with the Rate Filing. The fee shall be considered as an operating cost of the FRANCHISEE and shall not be separately itemized on any customer billings.

The City Council shall have the right to select and engage rate consultants, accountants, auditors, attorneys, engineers and other experts as deemed necessary or desirable by the City Council to advise and represent the City Council in evaluating any proposed rate change.

FRANCHISEE shall reimburse the City within ninety (90) days of the presentation of a bill by the City for the reasonable costs of those services only to the extent that said costs exceed the filing fee for the Rate Filing.

If the proposed rates sought by the FRANCHISEE in its Rate Filing have not been passed on final reading by the City Council within ninety (90) days after it was filed, or as such time may be extended by agreement between FRANCHISEE and CITY in order to supply additional information if requested by the CITY, the proposed rates shall be put into effect as interim rates and shall be collected subject to refund pursuant to section 18-415 of the Nebraska Revised Statutes, 1943, as the same may be amended from time to time. Such interim rates shall remain in effect pending final determination by the CITY, which determination shall be made within one (1) year, or in the event of litigation, final rate determination by the courts.

The rates proposed to be charged for non-contract firm natural gas service within the CITY shall be based upon the utility's cost of providing service to the CITY or the representative costs in that part of utility's service area which includes the CITY. The period or which the cost of service is to be recognized is to be projected twelve (12) month period commencing not later than the proposed effective date of the increase. The cost of service shall be determined in a manner consistent with regulated public utility practices and shall include (1) appropriate costs as defined and set forth in the Federal Energy Regulatory Commission Uniform System of Accounts Prescribed for Natural Gas Companies FERC Accounts, and (2) a reasonable return on the utility's rate base.

In determining a reasonable return, a rate (percentage) shall be employed that is representative of the cost of debt, preferred stock, and common equity capital. The rate base shall consist of the applicable net investment in utility plant (as defined in the FERC Accounts), allowance for working capital, and such other items as may reasonably be included; less such investment as may, unless otherwise prevented by law, be attributed to other than investor capital.

The FRANCHISEE'S appropriate costs and items of rate base shall include allocated or apportioned expenses and rate base items, when such allocations or apportionments are reasonably representative of assigned common costs and arise from the manner in which the FRANCHISEE'S operations are conducted or from an avoidance of excessive and costly financial recordkeeping.

Rate Filings, not including changes reflecting the cost of gas, shall be limited to a maximum of one (1) in any twelve (12) calendar month period. (*Amending Ord 537, 11/23/87*)

§10-605 INFORMATION TO BE PROVIDED:

FRANCHISEE shall provide, in its Rate Filing, three (3) copies of its most recent annual report to the stockholders and the completed and signed copies of the "SUMMARY OF PROPOSED CHANGES IN NATURAL GAS RATES," a copy of the form is attached and made a part of this Ordinance. In addition three (3) copies of the following information shall, on request by CITY, be provided by the FRANCHISEE:

- A. A financial summary showing aggregate rate base, operating revenues, operating expenses, return on rate base, and rate of return:
 1. Actual for the most recent calendar year preceding the date of submission.
 2. For the projected twelve (12) month period using natural gas rates currently in effect.

3. For the projected twelve (12) month period using the proposed natural gas rates.
- B. Rate base schedules, on an original cost basis, showing for the most recent twelve (12) month period available and for the projected twelve (12) month period;
1. For utility plant and accumulated depreciation and amortization components - the beginning and end of period balances by account, explanations of changes in balances during the period, and the calculated rate base amounts.
 2. For cash working capital - in manner in which rate base amounts are calculated.
 3. For other rate base components - beginning and end of period amounts, explanations of changes in balances during the period, and calculated rate base amounts.
 4. Explanations and calculations of allocated amounts included in 1, 2, and 3 above.
- C. Operating expense schedules, showing:
1. Expenses by FERC accounts for the most recent calendar year including filing fees and occupation taxes paid to the CITY.
 2. Explanation and calculations of allocated amounts included in 1.
 3. Expenses by FERC accounts or their equivalent for the projected twelve (12) month period.
 4. Explanation of methods employed to develop projected expenses.
 5. Explanations and calculations of allocated amounts included in 3.
- D. Rate of return/cost of capital schedules showing debt, preferred stock, and common equity amounts at the beginning and end of the projected twelve (12) month period, explanations of changes during the period, and methods used to calculate or otherwise determine cost of capital.
- E. Operating revenue schedules, showing:
1. Number of customers, volume of sales, and operating revenue by customer classes for the most recent calendar year.
 2. Number of customers and volume of sales by customer classes for the projected twelve (12) month period.
 3. Explanation of methods employed to determine data in 2.
 4. Operating revenues by rate schedules for the projected twelve (12) month period using current rates.
 5. Operating revenue by customer classes for the projected twelve (12) month period using proposed rates.
 6. Detailed rates and calculations for 4 and 5, including customer usages (consumption and analysis) data, peak demand and load factor data by customer class, allocation methods and justifications.
- F. Informational Schedules showing for the CITY as a whole:
1. Cost of utility plant.
 2. Number of customers, volume of sales, and operating revenue by customer classes.
- G. GRANTEE shall clearly designate as part of its expenses, all expenditures for business gifts and entertainment, institutional, consumption inducing, and other advertising or public relations expenses, and legislative-advocacy expenses. The CITY may not allow its cost of expenses for rate making purposes any of these expenditures which the CITY determines not to be in the public interest. FRANCHISEE has the burden of showing these expenses are in the public interest.

§10-606 NOTICE OF APPLICATION:

FRANCHISEE shall not make changes in its rates except by filing a Rate Filing prescribed with the City Clerk at least ninety (90) days prior to the proposed effective date of the requested change. Notice of the filing shall be given by publication by placing a notice to the public of the proposed change in a newspaper having general circulation in the CITY. If there is no legal newspaper in or of general circulation in the municipality, then the municipality shall publish such notice or advertisement in a legal newspaper in or of general circulation in the county in which the municipality is located. If there is no legal newspaper in or of general circulation in such county, then the municipality shall publish such notice or advertisement by posting a written or printed copy thereof in each of three public places in the municipality for the same period of time the municipality is required to publish the notice or advertisement in a legal newspaper. However, notwithstanding the above, instead of the publication of newspaper notice contemplated above, FRANCHISEE may provide notice to the public by mailing such notice by United States mail, postage prepaid, to the billing address of each directly affected customer, or by including the notice in such customer's bill in a conspicuous form. The notice must be in the following form:

NOTICE OF RATE INCREASE

The (name of the utility) proposes to increase your rates by (amount of total annual increase requested) dollars per year, which is an overall increase of (percentage of increase overall revenues during the applicable test year) percent and is an increase in base rates of (percentage of increase overall revenues during the applicable test year which are not subject to escalation through some form of automatic adjustment clause) percent. Further information may be obtained from (name and address of utility official) or the application on file with the City Clerk. (*Amended by Ord 952, 3/12/2018*)

§10-607 VALIDITY OF ORDINANCE:

If any section, subsection, sentence, clause, phrase or portion of this Article shall for any reason be held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Article 7. Electricity Franchise

§10-701 FRANCHISE; ELECTRICITY; GRANT:

The City of Pawnee City, Pawnee County, Nebraska a municipal corporation, hereby grants unto the Nebraska Public Power District, its successors and assigns, the non-exclusive right and franchise for a period of twenty (20) years to erect, operate and maintain within said City an electric light and power system; and the right to construct, operate and maintain poles, conduits, wires and other necessary equipment, in, over, across or under the streets, alleys and public places in said City for the purpose of supplying electric energy to said City and its inhabitants, or to other cities, villages and communities and their inhabitants, or to others connected or to be connected to said system. *(Ord 567, 5/14/90) (Amended by Ords 643, 1/9/95; 876, 2/22/10)*

§10-702 FRANCHISE; ELECTRICITY; TRIM TREES:

Nebraska Public Power District shall have the authority to trim trees upon and overhanging the streets, alleys and public places of the City so as to prevent the branches of such trees from coming in contact with or endangering said electric light and power system. *(Ord 567, 5/14/90) (Amended by Ords 643, 1/9/95; 876, 2/22/10)*

§10-703 FRANCHISE; ELECTRICITY; COMPENSATION:

Nebraska Public Power District is hereby authorized to charge, collect and receive a reasonable compensation for electricity furnished to the City and its inhabitants, however, said District shall at no time during the existence of this franchise charge a greater sum for electric energy for light and power purposes than is charged by said District to other communities of a like size and under similar conditions. *(Ord 567, 5/14/90) (Amended by Ords 643, 1/9/95; 876, 2/22/10)*

Article 8. Canvassers, Solicitors, and Peddlers

[Editor's Note: Article 8 was adopted in its entirety by Ordinance No 579, 9/9/91]

§10-801 CANVASSERS, SOLICITORS, AND PEDDLERS; PAYMENT OF OCCUPATION TAX REQUIRED:

It shall be unlawful for any individual whether self-employed or employed by someone else to engage in business as a solicitor, canvasser, or peddler, as hereinafter defined, traveling either by foot, automobile, motor truck, vehicle, or other type of conveyance, from house to house, from dwelling to dwelling, or from residence to residence, for the purpose of soliciting orders, sales, subscriptions, or seeking donations; or offering and exposing goods, wares, merchandise, or other products for sale and delivery, either now or in the future, without first paying the occupation tax required by section 10-301.

§10-802 CANVASSERS, SOLICITORS, AND PEDDLERS; DEFINITIONS:

A "canvasser or solicitor" is defined as any individual who as the primary mode of conducting a business travels either by foot, automobile, motor truck, vehicle, or other type of conveyance, from house to house, from residence to residence, or from dwelling to dwelling, taking or attempting to take orders for sale of goods, wares, and merchandise, personal property of any nature whatsoever, for future delivery; seeking donations; or taking or attempting to take orders for services to be performed in the future. It shall be immaterial whether or not such individual has, carries, or exposes for sale a sample of the subject of such sale, or whether he is collecting advance payments on such sales. Such definition shall apply to such individual described herein whether or not such individual who for himself or for any other individual, firm, partnership or corporation, hires, leases, uses or occupies any building, structure, tent, hotel room, motel room, lodging house, apartment, shop or any other place within the City for the sole purpose of exhibiting samples and taking orders for future delivery.

The word "peddler" shall include any individual traveling by foot, automobile, vehicle, or any other type of conveyance, from resident to residence, from house to house, or from dwelling to dwelling, carrying, conveying or transporting goods, wares, merchandise, magazines, book, or other products or provisions, offering and exposing the same for sale, or making sales and traveling from house to house, from residence to residence, or from dwelling to dwelling, who shall sell or offer the same for sale from an automobile, vehicle, truck, or other vehicle or conveyance.

§10-803 CANVASSERS, SOLICITORS, AND PEDDLERS; OCCUPATION TAX:

Effective August 1, 1991, peddlers, canvassers and solicitors as defined hereunder shall be required to pay an occupation tax of thirty dollars (\$30.00) per six months or fifty dollars (\$50.00) per year or fraction thereof. The year for which such occupation tax is levied shall commence on the first day of August and shall end as of the 31st day of July next succeeding, and such occupation tax shall not be prorated.

§10-804 CANVASSERS, SOLICITORS, AND PEDDLERS; OCCUPATION TAX RECEIPT:

(1) A person shall be issued an occupation tax receipt if said person has paid the occupation tax provided for in section 10-301 and is in compliance with all laws relating to the conduct of business within the State of Nebraska. Said person shall be furnished a nontransferable occupation tax receipt indicating that he has paid the occupation tax and showing the dates covered by such receipt.

(2) Each person, shall at all times, while soliciting, canvassing, or peddling, within the City carry on her person a current and valid occupation tax receipt and it shall be unlawful for such person to refuse to exhibit such receipt when requested to do so by any police officer or prospective customer.

§10-805 CANVASSERS, SOLICITORS, AND PEDDLERS; HOURS:

It shall be unlawful to make in person calls as a solicitor, canvasser, or peddler to prospective customers before 8:00 o'clock a.m. or after 8:00 o'clock p.m., any day, unless requested to do so by the prospective customer.

§10-806 CANVASSERS, SOLICITORS, AND PEDDLERS; EXCEPTIONS:

The provisions of this Article shall not apply to officers or employees of the City, county, state, or federal government, or any subdivision thereof, when on official business; or any individual representing a charitable, nonprofit organization; or any individual who is in the business of delivering newspapers of general circulation within the City or any farmer or producer selling with the City any article or provision or vegetable grown or produced by him.

§10-807 CANVASSERS, SOLICITORS, AND PEDDLERS; PENALTY:

Any person, firm, partnership or corporation, violating any provisions of sections 10-801 through and including 10-806, shall be fined not less than fifty dollars (\$50.00) or more than one hundred dollars (\$100.00) for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

Article 9. Cable Television Franchise

§10-901 CABLE TELEVISION FRANCHISE; ADOPTION BY REFERENCE:

A non-exclusive franchise is hereby granted to Time Warner Entertainment - Advance/Newhouse Partnership to construct, operate and maintain a cable television franchise in the City for a period of fifteen (15) years, with a five (5) year extension. The franchise is adopted by reference as if fully set forth herein. Actual terms and conditions of the franchise are on file in the office of the Municipal Clerk and available for inspection by the public during regular business hours. (*Ord 758, 5/29/01*)

Article 10. Penal Provision

§10-1001 VIOLATION; PENALTY:

(1) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding five hundred dollars (\$500.00). A new violation shall be deemed to have been committed every twenty-four (24) hours of failure to comply with the provisions of this chapter.

(2) (a) Whenever a nuisance exists as defined in this chapter, the Municipality may proceed by a suit in equity to enjoin, abate, and remove the same in the manner provided by law.

(b) Whenever, in any action, it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. (*Ref 17-505, 18-1720, 18-1722 RS Neb*) (*Amending Ord 756, 8/28/00*)