

ORDINANCE - 85-20

AN ORDINANCE GRANTING A FRANCHISE TO UNITED CITIES GAS COMPANY, ITS SUCCESSORS AND ASSIGNS, TO OPERATE AND MAINTAIN A GAS SYSTEM IN THE TOWN OF SPRING HILL, TENNESSEE, INCLUDING A SYSTEM OF GAS MAINS AND SERVICE PIPES FOR THE PURPOSE OF TRANSMITTING AND DISTRIBUTING GAS IN, UPON, ACROSS, ALONG AND UNDER THE HIGHWAYS, STREETS, AVENUES, ROADS, ALLEYS, LANES, WAYS, UTILITY EASEMENTS, PARKWAYS AND OTHER PUBLIC GROUNDS OF THE TOWN OF SPRING HILL, TENNESSEE

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF SPRING HILL, TENNESSEE, as follows:

SECTION 1. This Ordinance shall be known and may be cited as the "United Cities Gas Company Franchise Ordinance."

SECTION 2. For the purposes of this Ordinance, the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(1) "City" is the Town of Spring Hill, Tennessee, a municipal corporation;

(2) "Company" is United Cities Gas Company, the grantee of the rights under this franchise, an Illinois and Virginia corporation, domesticated for the purpose of doing business within the State of Tennessee, with its principal place of business located at 404 James Robertson Parkway, Nashville, Tennessee 37219;

(3) "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.

SECTION 3. There is hereby granted by the Town of Spring Hill, Tennessee to United Cities Gas Company, its successors and assigns, the right, authority, privilege and franchise to erect, construct, operate and maintain a system of gas mains, service pipes, regulator stations and all other necessary and appropriate equipment and facilities for the transmission and distribution of gas in, upon, across, along and under the highways, streets, avenues, roads, alleys, lanes, ways, utility easements, parkways and other public grounds in the present or future corporate limits of the Town of Spring Hill and in the environs of said City, and to import, transport, sell and distribute gas, whether natural, manufactured, or mixed, within the City and its environs, for the supplying and selling of said gas to said City, and the inhabitants, institutions, and businesses thereof; and for such purposes to construct, operate, maintain, renew, replace, repair, and extend all necessary gas mains, service pipes and other appliances, fixtures and facilities as may be necessary for said purposes, to-wit, the transmission, distribution and sale of such gas to said City and the inhabitants thereof, for domestic, commercial, industrial and institutional uses, and such other purposes for which it is or may hereafter be used.

SECTION 4. This franchise and the rights herein granted shall take effect and be enforced from and after the Effective

Date hereof, as required by law, and upon the filing of acceptance by the Company, and shall continue in force and effect for a term of twenty-five (25) years after the effective date. Provided, that if the acceptance is not filed within thirty (30) days after final passage of this Ordinance, the provisions of this franchise shall be null and void.

SECTION 5. All gas mains, service pipes, fixtures, facilities and other appliances laid, constructed, maintained and operated by virtue of this franchise, shall be laid, constructed, maintained and operated in accordance with acceptable engineering practices and in full accord with any and all applicable engineering codes adopted or approved by the natural gas distribution industry and/or engineering profession and in accordance with any applicable Statutes of the State of Tennessee, Ordinances of the Town of Spring Hill and the Rules and Regulations of the Tennessee Public Service Commission or of any other governmental regulatory commission, board or agency having jurisdiction over the Company. Said facilities shall be so constructed as not to interfere with the drainage of said City, or interfere with or injure any street, sewer or other public improvement which said City has heretofore made or may hereafter make in, upon, across, along or under any highway, street, avenue, road, alley, lane, way, utility easement, parkway or other public grounds, or unnecessarily obstruct or impede such highway, streets, avenues, roads, alleys, lanes, ways, utility easements, parkways or other public grounds of said City.

SECTION 6. When the highways, street, avenues, roads, alleys, lanes, ways, utility easements, parkways or other public grounds are opened or any other opening is made by the Company within the City, whether the same be made for the purpose of laying, constructing, replacing or repairing the mains, pipes and other appliances and fixtures of said Company, said Company shall place and maintain all necessary safety devices, barriers, lights and warnings to properly notify all persons of any dangers resulting from such entrances, and shall comply with all safety regulations required by federal, state or local laws.

SECTION 7. In the event that at any time during the period of this franchise the City shall lawfully elect to alter, or change the grade of, any street, alley or other public ways in which the Company is maintaining gas mains, pipes or other appliances and fixtures, the Company, upon reasonable written notice by the City, shall remove, or change or relocate its mains, pipes, or other appliances and fixtures as necessary to conform to the proposed alteration. However, the Company shall be reimbursed its relocation costs whenever such reimbursement is authorized by a Federal or State statute, for either urban renewal development or street relocation.

SECTION 8. When any highway, street, avenue, road, alley, lane, way, utility easement, parkway or other public ground is entered by the Company, the Company shall, within a reasonable time, restore the same to its former condition as nearly as practicable in such a manner as to meet the approval of the City's

Engineer, Codes Inspector, or other responsible agent of the City, provided, however, that such approval shall not be unreasonably withheld. In the event the Company shall fail to restore said streets, avenues, roads, alleys, lanes, ways, utility easements, parkways, or other public grounds to their former state, as nearly as practicable, the City may itself, after giving the Company reasonable written notice, make restoration and charge the costs thereof to the Company.

SECTION 9. The Company shall, at all times, defend, indemnify and hold harmless the City from and against any and all claims for injury to any person or property by reason of the failure of the Company or its employees to exercise due care and diligence in and about the installing and maintenance of said system, guarding trenches and excavations while said system is being installed or subsequent extensions, repairs or alterations are being made or generally in the operation and maintenance of said system, provided the Company shall have been notified in writing of any claim against the City on account thereof, and shall have been afforded the opportunity fully to defend the same.

SECTION 10. The City and the Company hereby agree that this Ordinance shall, from time to time, be subject to Rules and Regulations adopted by the Company and approved by the Tennessee Public Service Commission or any other regulatory body having jurisdiction thereof during the term of this franchise, and shall also be subject to all Rules and Regulations adopted and approved

by the Tennessee Public Service Commission itself; and that all such Rules and Regulations shall be and become part of this Ordinance to the same extent and with the same effect as if said Rules and Regulations were herein set forth in full. The Company shall not be obligated or required to make any extension of distribution mains, except in accordance with the provisions relating thereto adopted or approved by the Tennessee Public Service Commission.

SECTION 11. Nothing contained herein shall be construed as preventing the Company from installing, placing, replacing, taking up, repairing or removing gas pipes, mains, service pipes or other devices for furnishing gas service, from using any easements for gas service which are shown on any plat or plats of any portion of the City heretofore or hereafter platted or recorded, or any easement which may hereafter be created, granted or dedicated for any such utility purposes by any person, firm or corporation whatsoever.

SECTION 12. No sale or transfer of the gas plant or system, or the transfer of any rights under this franchise shall be effective until the vendee, assignee or lessee has filed in the Office of the City Recorder an instrument, duly executed, reciting the fact of such sale, assignment or lease, accepting the terms of this franchise, and agreeing to perform all the conditions thereof.

SECTION 13. The company shall pay to the City an annual franchise fee during the term of this franchise in an amount equal to three (3) percent of the annual gross operating revenues from the sale of gas through the Company's distribution system and within the Town of Spring Hill. Said franchise tax shall become due and payable ninety (90) days from the end of the Company's fiscal year each year, so long as the Company shall supply and sell natural gas to the public within said City, or so long as this franchise is in effect. The aforementioned franchise fee and gross receipts tax provided by this Ordinance shall be treated and recovered as required by Tennessee Code Annotated, Section 65-4-105. The City shall have access at all reasonable times to the appropriate books of the Company for the purpose of ascertaining the amount due to the City under this Section. The Company shall furnish to the City an annual report showing the amount of its sales within the City.

SECTION 14. If any section or portion of any section of this Ordinance shall hereafter be declared or determined by a court of competent jurisdiction to be invalid, the Company, at its election (to be given to the City by notice in writing within thirty (30) days after any such declaration or determination) may ratify or confirm the remaining portions of this Ordinance and upon such ratification or confirmation the remaining portions of this Ordinance shall remain in full force and effect.

SECTION 15. The Company shall, within thirty (30) days after the passage of this Ordinance, file with the City Recorder of the Town of Spring Hill its unconditional acceptance of the terms and conditions of this Ordinance signed by its President and, after the filing of such acceptance, this Ordinance shall constitute a contract between the parties hereto and shall (subject to the rights and powers vested in and Orders lawfully issued by the Tennessee Public Service Commission or such other regulatory body of the State of Tennessee as may hereafter succeed to the rights and powers of the Tennessee Public Service Commission) be the measure of the rights, powers, obligations, privileges and liabilities of the City and of the Company.

SECTION 16. All the privileges given and obligations created by this Ordinance shall be binding upon the successors and assigns of the Company.

SECTION 17. This ordinance shall take effect and be in force immediately upon its passage by the Town of Spring Hill, Tennessee, and approval by the Mayor of said City.

TOWN OF SPRING HILL, TENNESSEE

BY George C. Jones  
George C. Jones, Mayor

ATTEST:

June Quirk  
June Quirk, City Recorder

Passed First Reading: 11-07-85

Passed Second Reading: 11-18-85

Passed Third Reading: 12-16-85