

ORDINANCE NO. 649

Ord No 649
Rep 667

An ordinance granting to G. L. Rauch, his heirs, executors, administrators, and assigns with the right and privilege to supply the City of Albany and the inhabitants thereof with gas for heat, light and power and for the said purpose to construct works and lay pipes in the streets, avenues, alleys and all public places in the said city and to charge a reasonable price therefor.

The People Of The City Of Albany Do Ordain As Follows

That there is hereby granted to G. L. Rauch, his heirs, executors, administrators and assigns, hereafter referred to as the grantee, the right to construct, acquire, maintain, conduct and operate a plant or plants for the manufacture and distribution of gas for heat, light and power in the City of Albany, State of Oregon, and to lay pipes, mains and connections for the purposes of conducting and distributing said gas throughout said City of Albany as hereinafter specified, such gas not to be furnished to persons, firms, or corporations outside of the City of Albany, and should gas be furnished outside of the City of Albany such action shall revoke this franchise, provided however, should the grantee desire to furnish gas to any other incorporated municipality, the same may be done and provided further that service to any person, firm or corporation subject to orders of the Railroad Commission of Oregon shall work as forfeiture of this franchise.

Section 1. That there be and hereby is granted to said grantee full franchise, right, license and privilege to construct, acquire, maintain, conduct and operate works for the manufacture of gas and its by-products, for heat, light and power within the City of Albany, State of Oregon and to distribute, furnish, provide, sell or otherwise dispose of gas and its by-products in the said City of Albany for heat, light and power to construct, acquire, operate and maintain a supply pipe line system with all the necessary feeders and service pipe connections therein in and along and upon and under all streets, alleys, bridges, viaducts and public places in said city, provided however that in all cases where practicable said pipes shall be laid in a trench in such manner as not unnecessarily to disturb or tear up the streets, and provided further that no public square or public place of any nature shall be disturbed or torn up if there be a practicable way of laying pipes around it. In all cases before the grantee or his agents or servants shall open or excavate any street for the purpose above set forth, it shall file with the Recorder a plan showing the location of other public places wherein it is intended to lay said main or pipe and the council may at its option appoint an official to supervise said work.

Section 2. The grantee shall, on or before January 1, 1914, begin work in good faith to construct the necessary plant for the manufacture and distribution of gas and its by-products and shall lay sufficient mains and pipes to reasonably furnish gas for the public service on or before the thirty first day of December, 1914. Provided however, that in any case of delay caused by inclement weather, litigation, strikes or delays in the manufacture or distribution of the necessary material for the completion of the work as above set forth by the control of said grantee, then and in that event the time for the completion thereof shall be extended beyond the period limited in this section for a period of time equal to the sum of all delays so caused; provided, however, that in any event the grantee shall lay and install main pipes in advance of any paving ordered to be done subsequent to the passage of this ordinance.

Section 3. The said grantee shall do no permanent injury to any street or sidewalk and in any manner disturb or interfere with any sewer, conduit or other underground work now laid or hereafter to be laid by the said City of Albany and when any excavation shall be made by said grantee any street, pavement, sidewalk, parking, or other public property disturbed by said excavation shall promptly be restored by said grantee to conditions equally as good as before said excavation was made and where pipes are laid beneath pavement, wherever practicable the same shall be laid through the parking of the street and the pavement not disturbed.

The grantee in working upon any street shall provide reasonable safe guards for the protection of the public and said grantee shall be liable for any and all damages legally awarded for injury suffered by any person or by the city by reason of the construction, extension, operation and maintenance of the gas plant under this franchise.

Section 4. The said grantee shall not open nor encumber any street or parking to an extent more than may be necessary to proceed to advantage with the laying of the mains, pipes, feeders and service pipes herein provided nor permit any such street to remain open or incumbered for a longer period of time than may be necessary to reasonably execute the work for which said street shall have been opened.

Section 5. The grantee shall reasonably extend its main and pipes and use due diligence to serve any and all applicants with its gas and for such headmeters to serve may make as a minimum monthly bill a charge of one dollar (\$1.00) for each meter, provided, however, that the said grantee shall not be required to extend its mains more than one hundred (100) feet to supply any single consumer with gas.

Section 5. The grantee shall at all times impartially serve gas consumers within said city and the maximum price which said grantee may charge for each one thousand feet of its gas shall be \$1.50. The council, however, reserves the right from time to time subject to the laws of the State of Oregon and regulations of the railroad commission of Oregon to alter and regulate the charges which grantee may make under this franchise.

Section 7. Upon compliance with the provisions of this ordinance and the charter of the City of Albany by the grantee, this ordinance shall be in force for a term of twenty (20) years from the date of acceptance by grantee.

Section 8. As full compensation to the City of Albany for the granting of this franchise, the city agrees to accept from grantee, and the said grantee agrees to pay to the said city the sum of One Hundred (\$100.00) dollars upon the day that gas is first supplied to the City of Albany or the inhabitants thereof, and to furnish gas during the life of this franchise to sufficiently light the engine houses and city hall as the same now exists, or may hereafter be constructed. And the said grantee agrees that the Council or its designated agents shall have the right to examine the books of the said grantee for the purpose of ascertaining if the said grantee is using reasonable diligence to serve impartially and without discrimination, the City of Albany and the inhabitants thereof with gas as herein provided and specified.

Section 9. In the event that the said grantee fails for a period of three consecutive months at any time after the completion of the plant to furnish gas except when said failure may be occasional through destruction by fire or elements or other unavoidable casualty, this franchise may be cancelled by the council after reasonable notice to grantee.

Section 10. Whenever any grade or grades of any street within said city shall be changed or established, if none has been established prior to the time of the laying by the said grantee of the pipe or mains therein, said grantee shall at its own expense change the the said mains and pipes to conform to the grade so established or changed.

Section 11. The grantee shall at its own cost and expense furnish meters to all consumers for the measuring of gas and such meter shall at all reasonable times be subject to inspection by a proper city official and by grantee.

Section 12. The grantee shall file its written acceptance of this ordinance within thirty (30) days from the date this ordinance shall be in force.

Section 13. The grantee at the time of the acceptance of this franchise shall furnish to the City of Albany a good and sufficient bond in the sum of \$5,000.00, the same to be approved by the Mayor of Albany, for the faithful compliance with all the conditions of this ordinance, with a stipulation contained in said bond that the whole bond shall be forfeited unless work is begun in good faith within the time prescribed in the ordinance.

Section 14. At the expiration of the term of this franchise, the City of Albany at its election and upon payment therefor of a fair valuation thereof, may purchase and take over to itself the property and plants of the said grantee in its entirety and which may be situated on, in, above, or under the streets and public places of said city and used in connection therewith and should the City of Albany upon the termination of this franchise exercise such right of purchase, the said plant and property in its entirety shall be and become the property of the City of Albany upon an ordinance duly enacted authorizing the same and upon the City of Albany paying to the grantee the valuation thereof. Such valuation shall be arrived at by the City of Albany appointing one appraiser, the grantee appointing one appraiser and these two appraisers appointing a third appraiser, which appraisers shall have the power and authority to employ expert valuers to aid them in arriving at the value of said property.

Section 15. Whenever any transfer or assignment of this franchise is made, the same shall be in duplicate and one copy thereof shall be filed with the Recorder of the City of Albany and duly entered in the records of said City of Albany by said Recorder.

Passed by the council June 5th 1913.

Approved June 6th 1913

J. J. Ewert
Mayor.

F. L. Van Tassel
Recorder of the City of Albany.

Attest:

Recorder Albany Oregon

CITY RECORDER'S CERTIFICATE

STATE OF OREGON.
COUNTY OF LINN.

I, F. E. Van Tassel, Recorder of the City of Albany, in Linn County, and State of Oregon, do hereby certify that the foregoing and annexed copy of

Ordinance No. 6117
has been by me carefully compared with the original Ordinance Bill No. 704
now on file in my office, and that it is a true and correct copy of all and the whole of said

Ordinance Bill No. 704 as passed by the Council of the City of Albany, Oregon, December 1, 1913

Witness, my hand and official signature and the seal of the City of Albany, this

7th day of March 1913

F. E. Van Tassel

Recorder of the City of Albany.