

File

ORDINANCE NO. 8032

AN ORDINANCE GRANTING TO NORTHERN STATES POWER COMPANY, A MINNESOTA CORPORATION, ITS SUCCESSORS AND ASSIGNS, PERMISSION TO ERECT A GAS DISTRIBUTION SYSTEM FOR THE PURPOSE OF INSTALLING, ENLARGING, OPERATING, REPAIRING AND MAINTAINING IN THE CITY OF LAKE ELMO, MINNESOTA, THE NECESSARY GAS PIPES, MAINS AND APPURTENANCES FOR THE TRANSMISSION OR DISTRIBUTION OF GAS TO SAID CITY AND ITS INHABITANTS AND OTHERS AND TRANSMITTING GAS INTO AND THROUGH SAID CITY, AND TO USE THE PUBLIC WAYS AND PUBLIC GROUNDS OF SAID CITY FOR SUCH PURPOSE.

THE CITY COUNCIL OF THE CITY OF LAKE ELMO, WASHINGTON COUNTY, MINNESOTA, DOES ORDAIN:

Section 1. There be and hereby is granted to Northern States Power Company, a Minnesota corporation, its successors and assigns, hereinafter referred to as "Company", for a period of 20 years from the date hereof, the right and privilege of erecting a gas distribution system in the City of Lake Elmo, Washington County, Minnesota, hereinafter referred to as "City", and using the public ways and public grounds of City for the purpose of installing, operating, repairing, and maintaining, in, on, over, under, and across the same, all gas pipes, mains, and appurtenances, usually, conveniently, or necessarily used in connection therewith, for the purpose of the transmission of gas, or the distribution of gas, for public and private use within the limits of City as its boundaries exist or as they may be extended in the future, and for the purpose of transmitting gas into and through the City. Company may also do all reasonable things necessary or customary to accomplish these purposes subject, however, to the further provisions of this franchise. "Gas" as used herein shall be held to include natural gas, manufactured gas, or other form of gaseous energy.

Section 2. The gas transmission or distribution service to be provided and the rates to be charged by Company for service in the City shall be subject to the jurisdiction of the Public Utilities Commission of this State. Company shall provide reasonably efficient and adequate service to members of the public within the City who apply for such service in accordance with the rules and regulations of Company.

Section 3. Company shall indemnify, keep, and hold City free and harmless from any and all liability on account of injury to persons or damage to property occasioned by the construction, maintenance, repair, or operation of Company's gas facilities located in, on, over, under, or across the public ways and public grounds of City, unless such injury or damage grows out of the negligence of City, its employees, or agents, or results from the

performance in a proper manner of acts reasonably deemed hazardous by Company, but such performance is nevertheless ordered or directed by City after notice of Company's determination. In the event a suit shall be brought against City under circumstances where the above agreement to indemnify applies, Company at its sole cost and expense shall defend City in such suit if written notice thereof is promptly given to Company within a period wherein Company is not prejudiced by lack of such notice. If such notice is not reasonably given as hereinbefore provided, Company shall have no duty to indemnify nor defend. If Company is required to indemnify and defend, it will thereafter have complete control of such litigation, but Company may not settle such litigation without the consent of City, which consent shall not be unreasonably withheld. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to City; and Company, in defending any action on behalf of City shall be entitled to assert in any action every defense or immunity that City could assert in its own behalf.

Section 4. The City shall give the Company at least two weeks prior written notice of a proposed vacation of a public way. Except where required solely for a City improvement project, the vacation of any public way, after the installation of gas facilities, shall not operate to deprive Company of its rights to operate and maintain such gas facilities, until the reasonable cost of relocating the same and the loss and expense resulting from such relocation are first paid to Company. In no case, however, shall City be liable to the Company for failure to specifically preserve a right-of-way under Minnesota Statutes, Section 160.29.

Section 5. Company shall have full right and authority to assign to any person, persons, firm, or corporation all the rights conferred upon it by this Ordinance, provided that the assignee of such rights, by accepting such assignment, shall become subject to the terms and provisions of this Ordinance.

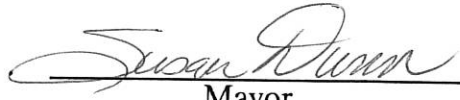
Section 6. Company shall, if it accepts this Ordinance and the rights and obligations hereby granted, file a written acceptance of the rights hereby granted with the City Clerk within ninety (90) days after the final passage and any required publication of this Ordinance.

Section 7. This Ordinance shall be in full force and effect from and after its passage, any publication required by law, and acceptance by Company.

Section 8. Where a provision of any other Ordinance conflicts with the provisions of this Ordinance, the provisions of this Ordinance shall prevail.

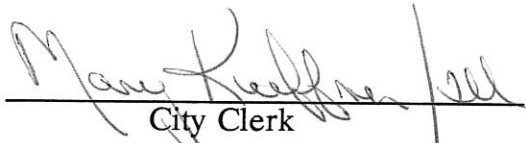
Section 9. Any notice to Company required under this Ordinance, shall be mailed to the Vice President of Gas Utility thereof at 825 Rice Street, St. Paul, Minnesota, 55117. Any notice to City shall be mailed to the CITY CLERK.

Passed and approved: June 5, 1990.



Mayor

Attest:



City Clerk

EXCERPTS OF MINUTES OF June 5, 1990 Regular
MEETING

OF THE CITY COUNCIL

OF THE

CITY OF LAKE ELMO, WASHINGTON COUNTY, MINNESOTA

June 5,, 1990

A Regular meeting of the City Council of the City of Lake Elmo, Minnesota, duly called, convened, and held in accordance with law, was called to order by Mayor Dunn on the 5th day of June, 1990 at 7 o'clock p.m. at the Council Chamber in said City.

The following members, constituting a legal quorum were present:

Mayor; Susan Dunn

City Council Members: Lee Hunt, Rose Armstrong, Todd Williams

Councilmember Lee Hunt introduced a certain Ordinance No. 8032 entitled:

AN ORDINANCE, AND GRANTING TO NORTHERN STATES POWER COMPANY, A MINNESOTA CORPORATION, ITS SUCCESSORS AND ASSIGNS, PERMISSION TO ERECT A GAS DISTRIBUTION SYSTEM FOR THE PURPOSE OF INSTALLING, ENLARGING, OPERATING, REPAIRING AND MAINTAINING IN THE CITY OF LAKE ELMO, MINNESOTA, THE NECESSARY GAS PIPES, MAINS AND APPURTENANCES FOR THE TRANSMISSION OR DISTRIBUTION OF GAS TO SAID CITY AND ITS INHABITANTS AND OTHERS AND TRANSMITTING GAS INTO AND THROUGH SAID CITY, AND TO USE THE PUBLIC WAYS AND PUBLIC GROUNDS OF SAID CITY FOR SUCH PURPOSE.

and on motion made, seconded, and duly adopted, the above-entitled Ordinance was read.

Thereafter a motion was made by Councilmember Lee Hunt and seconded by Councilmember Rose Armstrong that the above-entitled Ordinance be adopted as read and in its entirety.

On roll call the vote was as follows:

AYES: (4) Hunt, Armstrong, Dunn, Williams

NAYS: (0)

The Mayor then declared said motion duly carried and the above-entitled Ordinance duly passed and adopted, and ordered the City Clerk to publish the same in accordance with the law in such case made and provided.

I DO HEREBY CERTIFY that I am City Clerk of the City of Lake Elmo, Washington County, Minnesota, and that I am custodian of its records, that the above is a true and correct copy of a part of the minutes of the Regular meeting of the City Council of said City held on June 5,, 1990

Mary Kueffner / sll
City Clerk

ACCEPTANCE OF ORDINANCE NO. 8032

CITY OF LAKE ELMO, WASHINGTON COUNTY, MINNESOTA

ACCEPTANCE OF FRANCHISE:

WHEREAS, the City Council of the City of Lake Elmo, Washington County, Minnesota, on the 5th day of June, 1990, passed and adopted Ordinance No. 8032, entitled:

AN ORDINANCE GRANTING TO NORTHERN STATES POWER COMPANY, A MINNESOTA CORPORATION, ITS SUCCESSORS AND ASSIGNS, PERMISSION TO ERECT A GAS DISTRIBUTION SYSTEM FOR THE PURPOSE OF INSTALLING, ENLARGING, OPERATING, REPAIRING AND MAINTAINING IN THE CITY OF LAKE ELMO, MINNESOTA, THE NECESSARY GAS PIPES, MAINS AND APPURTENANCES FOR THE TRANSMISSION OR DISTRIBUTION OF GAS TO SAID CITY AND ITS INHABITANTS AND OTHERS AND TRANSMITTING GAS INTO AND THROUGH SAID CITY, AND TO USE THE PUBLIC WAYS AND PUBLIC GROUNDS OF SAID CITY FOR SUCH PURPOSE.

which Ordinance was duly published according to law on the 8th day of August, 1990 in The St. Croix Valley Press, a newspaper printed and published in the City of Lake Elmo, County of Washington, and State of Minnesota, and which Ordinance is not effective unless accepted in writing by NSP Company.

NOW THEREFORE, Northern States Power Company, a Minnesota Corporation for itself and its successors and assigns, does hereby accept all the terms and conditions of said Ordinance.

IN WITNESS WHEREOF, Northern States Power Company has caused this document to be executed in its corporate name by its duly authorized persons and its corporate seal to be hereto affixed this 27th day of

August, 1990.

Attest:

Johanna Isdahl
Assistant Secretary

Northern States Power Company

By [Signature]
Vice President, Gas Utility

poles, pole lines, and fixtures and appurtenances, installed in pursuance of the authority hereby granted, provided that Company shall save said City harmless from any liability in the premises.

Section 4. Company shall indemnify, keep and hold City free and harmless from any and all liability on account of injury to persons or damage to property occasioned by the construction, maintenance, repair or operation of Company's electric facilities located in, on, over, under, or across the public ways and public grounds of City, unless such injury or damage grows out of the negligence of City, its employees, or agents, or results from the performance in a proper manner of acts reasonably deemed hazardous by Company, but such performance is nevertheless ordered or directed by City after notice of Company's determination. In the event a suit shall be brought against City under circumstances where the above agreement to indemnify applies, Company at its sole cost and expense shall defend City in such suit if written notice thereof is promptly given to Company within a period wherein Company is not prejudiced by lack of such notice. If such notice is not reasonably given as hereinbefore provided, Company shall have no duty to indemnify nor defend. If Company is required to indemnify and defend, it will thereafter have complete control of such litigation, but Company may not settle such litigation without the consent of City, which consent shall not be unreasonably withheld. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to City; and Company, in defending any action on behalf of City shall be entitled to assert in any action every defense or immunity that City could assert in its own behalf.

Section 5. The City shall give the Company at least two weeks prior written notice of a proposed vacation of a public way. Except where required solely for a City improvement project, the vacation of any public way, after the installation of electric facilities, shall not operate to deprive Company of its rights to operate and maintain such electric facilities, until the reasonable cost of relocating the same and the loss and expense resulting from such relocation are first paid to Company. In no case, however, shall City be liable to the Company for failure to specifically preserve a right-of-way under Minnesota Statutes, Section 160.29.

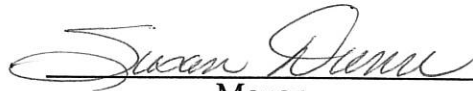
Section 6. Company shall have full right and authority to assign to any person, persons, firm, or corporation all the rights conferred upon it by this Ordinance, provided that the assignee of such rights, by accepting such assignment, shall become subject to the terms and provisions of this Ordinance.

Section 7. Company shall, if it accepts this Ordinance and the rights and obligations hereby granted, file a written acceptance of the rights hereby granted with the City Clerk within ninety (90) days after the final passage and any required publication of this Ordinance.

Section 8. This Ordinance shall be in full force and effect from and after its passage, any publication required by law, and acceptance by Company.

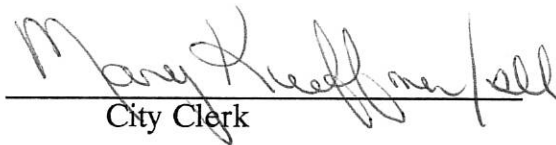
Section 9. Where a provision of any other Ordinance conflicts with the provisions of this Ordinance, the provisions of this Ordinance shall prevail. Notice to Company shall be mailed to the Area Manager thereof at 1700 East County Road E, White Bear Lake, Minnesota, 55110 and any notice to City shall be mailed to the CITY CLERK.

Passed and approved: June, 5, 1990



Mayor

Attest:



City Clerk