

ORDINANCE NO. 5101

AN ORDINANCE GRANTING TO MONTANA-DAKOTA UTILITIES CO., A DIVISION OF MDU RESOURCES GROUP, INC., A CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE FRANCHISE AND RIGHT TO CONSTRUCT, MAINTAIN AND OPERATE WITHIN AND UPON, IN AND UNDER THE STREETS, ALLEYS AND PUBLIC GROUNDS OF THE CITY OF RAPID CITY A GAS DISTRIBUTION SYSTEM FOR TRANSMITTING AND DISTRIBUTING NATURAL OR MANUFACTURED GAS, OR A MIXTURE OF BOTH, FOR PUBLIC AND PRIVATE USE.

WHEREAS, the City of Rapid City has previously adopted a franchise ordinance with Montana-Dakota Utilities Co., a division of MDU Resources Group, Inc., a corporation, which became effective September 13, 1985; and

WHEREAS, the previous franchise ordinance is due to expire on its own terms on or about September 13, 2005; and

WHEREAS, the City must adopt a new franchise ordinance with Montana-Dakota Utilities Co., a division of MDU Resources Group, Inc., a corporation;

NOW, THEREFORE, BE IT ORDAINED by the City of Rapid City that Montana-Dakota Utilities Co., a division of MDU Resources Group, Inc., a corporation, is hereby granted a franchise to operate a public utility within the City of Rapid City subject to the following terms and conditions:

Section I. For convenience, herein, said municipal corporation is designated and referred to as "Municipality" and Montana-Dakota Utilities Co. is designated and referred to as "Grantee." Any reference to either includes their respective successors and assigns.

Section II. There is hereby granted to Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc., a corporation, its successors and assigns, subject to the limitations herein stated, the right and franchise to occupy and use the streets, alleys and public grounds of the municipality as now, or hereafter constituted, for the purpose of constructing, maintaining, and operating, within, upon, in and under the same, a gas distribution system for transmitting and distributing natural or manufactured gas, or a mixture of both, for public and private use.

Section III. Grantee shall maintain an efficient distribution system for furnishing natural or manufactured gas, or a mixture of both for public and private use at such reasonable rates as may be approved by the Public Utilities Commission of the state wherein said municipality is located and under such orders, rules or regulations as may be issued by any federal or state agency having jurisdiction thereof.

Section IV. This franchise shall not be exclusive and shall not be construed to prevent the Municipality from granting to any other party the right to use the streets, alleys, and public grounds of the Municipality for like purposes.

Section V. The Municipality reserves any right it may have, under its police power, or otherwise, to control or regulate the use of said streets, alleys, and public grounds by Grantee. Grantee will submit to the Public Works Director of the Municipality or his designee complete plans and specifications relative to all proposed major underground installations to be constructed by the Grantee and its agents in public right of way, and construction of said facilities will not be initiated until said Public Works Director or his designee has approved such plans and specifications or the same have been amended to comply with said Public Works Director's requirements.

Section VI. Grantee shall indemnify and save and hold the Municipality harmless from any loss or damage due to the construction, installation, and maintenance of its distribution system, and its use of the streets, alleys, and public grounds of the Municipality.

Section VII. Grantee shall have the right to assign this franchise to any party, or corporation, but all obligations hereunder shall be binding upon its successors and assigns.

Section VIII. Within thirty (30) days after Grantee is notified of passage and final approval of this Ordinance, Grantee shall file with the clerk or auditor of the Municipality its written acceptance of this franchise.

Section IX. This franchise shall continue and remain in full force and effect for a period of twenty (20) years from the date upon which this ordinance shall become effective as provided by law.

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer

(SEAL)

First Reading:

Second Reading:

Published:

Effective: