

OPERATING AGREEMENT

This agreement is entered into this 1st day of April, 2011, between the City of Shawneetown, Illinois, hereinafter referred to as **OWNER**, and Consumers Gas Company, hereinafter referred to as **OPERATOR**.

WITNESSETH

WHEREAS, the **OWNER** has certain natural gas distribution facilities as required to provide natural gas service to the City of Shawneetown, Illinois and

WHEREAS, the **OWNER** is a duly constituted municipal governing unit authorized by the laws of the State of Illinois to provide utility service to its residential and business community, and

WHEREAS, the **OWNER** believes that adequate natural gas service at reasonable cost can best be provided by contracting for the operating of the gas system with a responsible operator who would provide trained personnel and operating equipment for **OWNER'S** gas system as well as for gas systems for other nearby utilities, master meter operators and pipelines, and

WHEREAS, the **OWNER** agrees to and is informed of the intent of the **OPERATOR** to contract with and perform similar services for other nearby utilities, master meter operators and pipelines as a part of the overall operation, and

WHEREAS, the **OPERATOR** is normally engaged in the business of operating utilities and providing overall supervision, equipment, management, and operating personnel, and

WHEREAS, the **OPERATOR** has offered to enter into this Agreement to provide such services for the **OWNER**,

NOW THEREFORE, in consideration of the several covenants, undertakings, and agreements herein to be performed by all parties, said parties agree as follows:

I. **THE OPERATOR AGREES TO:**

- A. Furnish operating, supervisory, and office personnel necessary to operate the system in a safe, and efficient manner.
- B. Supply necessary tools and work equipment.
- C. Procure and furnish all materials needed for system's operation extension and maintenance. **OPERATOR** will be reimbursed for the cost of material items in the manner set out in Paragraph III, D.6 below. (The **OWNER** at its own option may purchase and warehouse all materials used for extension and maintenance.) In that event, **OPERATOR** will be reimbursed at an hourly fee for men and equipment as set out in Paragraph III, D.6 below for installation of city-owned material.
- D. Grant to the **OWNER** the right and privilege of examining **OPERATOR'S** books and records as applicable to **OWNER'S** operation at any time upon reasonable notice of such desire.
- E. Perform the following services:
 - 1. Supervise system operations, including system operating pressures.
 - 2. Conduct all surveys, inspections and tests in accordance with Part 192, Minimum Federal Pipeline Safety Regulations and with the laws of the State of Illinois.
 - 3. Establish a meter change-out and maintenance schedule. The charges for this program will be billed to **OWNER** on a cost-plus basis set out in Paragraph III, D.5.
 - 4. Make necessary service and emergency calls to the customer's premises to provide safe and adequate service. Leak calls shall be made to customers' premises, and customers shall be notified to repair or cause to be repaired, malfunctioning equipment and facilities.
 - 5. Prepare and submit to the **OWNER** necessary permits and applications as may be required for system extension,

replacement, or abandonment. Any cost that may occur for said permits will be paid by the **OWNER**. Applications to the Federal Energy Regulatory Commission and state regulatory agencies are excluded from this paragraph.

6. Have all gas operators qualified to handle gas operations.
7. Represent the **OWNER** at the GUA and attend all GUA meetings.

II. **OWNER AGREES TO:**

- A. Read its own meters monthly and send bills to its customers. Each month a report should be submitted to the **OPERATOR**. The report shall include the number of customers billed.
- B. Maintain a set of Piping and Appliance Codes, and reasonable customer service rules and regulations in conjunction with and upon the advice of the **OPERATOR**, and assist the **OPERATOR** in enforcing such Codes and Rules. The Rules and Codes shall include house piping codes, turn-off notices, collection policies, delinquent notices, re-establishment of service and other rules which constitute good business practice.
- C. Prohibit other individuals, companies, and corporations from performing similar services or work on the gas system and related facilities without written consent of **OPERATOR**.
- D. Pay for the following:
 1. All natural gas purchased.
 2. Taxes, permits, etc., pertaining to the ownership of a natural gas system.
 3. Labor and materials used by **OPERATOR** to extend, repair or maintain **OWNER'S** system as provided for in Paragraph III, D.6 below.
 4. Construction programs, when expressly authorized by **OWNER**.
 5. Engineering and other fees when expressly authorized by **OWNER**.

6. Salaries and/or cost of employees and agents not authorized by **OPERATOR**.
7. Financial examinations, audits, etc., prepared by outside accountants at the request of **OWNER**.

III. **COMPENSATION:** In consideration of the services rendered, the **OWNER** shall pay **OPERATOR** within 20 (twenty) days after the close of each monthly period, a fee to be computed as follows subject to provisions set out in Section IV.

- A. **Distribution System Fee:** \$10.00 per month for each retail meter read and billed during the month. This base fee covers the following items:
 1. Routine customer turn on and turn offs.
 2. Pipeline locates (JULIE response).
 3. Service calls for suspected leaks, etc.
 4. Normal supervision (servicepersons and office secretary).
 5. All surveys, inspections and tests required by State and Federal Pipeline Safety Codes. Materials used to complete this service will be billed to **OWNER** on a cost-plus basis as set out in Paragraph III, D.6 below.
 6. Providing normal 24-hour standby service.
 7. Any reconnections after shut-off for non-payment.
- B. **Customer Requested Meter Tests:** If a customer requests to have his or her meter tested other than the normal meter change out and maintenance program as referred to in Paragraph 1, 3, the cost will be \$25.00 to the customer payable before any testing is done. If the meter is found to be out of tolerance (which is 2.0% + or -) the customers fee of \$25.00 will be refunded and the **OWNER** will be billed for the rest.
- C. The **OPERATOR** shall not be held responsible for damage to **OWNER'S** gas system above or below ground caused by other persons or equipment. If damage occurs, and the lines were

properly located by the **OPERATOR**, and the **OPERATOR** is called in by the **OWNER** to make repairs, the **OWNER** will be billed for the repair on a cost-plus basis set out in Paragraph III, F below. The **OWNER** can then choose to seek compensation from the party causing said damage. If damage occurs, and the lines were improperly located by the **OPERATOR**, then the **OPERATOR** will make repairs at its own expense.

D. Construction done with prior approval from **OWNER** will be paid by **OWNER** to **OPERATOR** and be charged according to the following schedule.

1. New meter set up to and including size 250: \$250.00 (This includes setting of meter and house regulator, connecting meter at service line, checking house piping, and lighting of pilots.) If a meter or regulator is reset which already belongs to the **OWNER**, the cost of the meter or regulator will be deducted from the meter set charge.

2. Meter sets larger than 250 and other units of construction approved by **OWNER** shall be installed and billed to **OWNER** on the schedule of charges in Paragraph 6 below.

3. Service lines on the **OWNER'S** side of the meter will be charged as follows:

Plastic pipe up to one (1) inch nominal size at \$4.00 per lineal foot with a minimum of \$125.00. This price will include pipe, fittings and labor.

An additional tapping fee of \$75.00 for each service line, which includes tap, meter cock, and other related material, will be charged for new lines.

4. Road boring: \$6.00 per foot of length.

Main extensions, service lines, and road casings in excess of one (1) inch in nominal size will be negotiated by the **OWNER** and **OPERATOR** prior to any construction. An agreement will be reached before construction is started as to cost of materials and labor on a per foot basis.

5. Cost of relocation and/or maintenance of natural gas facilities caused by order of **OWNER** or other governmental body, or by action or proposed action of independent contractors shall be paid to the **OPERATOR** by the **OWNER** on the schedule of charges in Paragraph 6 below.
6. Charges to the **OWNER** by **OPERATOR** for materials, labor, tools, and equipment not detailed above shall be as follows:
 - a. Labor including truck @ \$70.00 per hour
 - b. Labor excluding truck @ \$35.00 per hour
 - c. Trencher @ \$40.00 per hour plus labor.
 - d. Backhoe @ \$40.00 per hour plus labor.
 - e. Welding Machine @ 10.00 per hour plus labor.
 - f. Rental equipment at cost plus labor.
 - g. Materials at cost plus 15% plus any freight charges.

IV. TERMS OF AGREEMENT AND PRICE ADJUSTMENTS:

- A. This agreement shall be for a period of five years beginning the 1st day of April, 2011. This Agreement will automatically extend beyond term for additional periods of one year unless written notice of termination is given by either party at least ninety (90) days prior to the expiration date.
- B. All prices herein included will be subject to revision annually, based upon a percentage increase or decrease as reflected by "All Items Index" information from the U.S. Department of Labor, CPI-U, published by the Department of Labor Statistics. Said revision will be equal to either the percentage change of the latest twelve months monthly index averaged and compared to like figures from the twelve months prior to **3%, whichever is less**.

For subsequent extensions thereafter, revisions will be equal to the percentage change of the last twelve months monthly averaged and compared to like figures from the twelve month prior. While both parties recognize the necessity of tying operating costs to the changing economy, the burden of supply statistics applicable to the change shall be placed upon the **OPERATOR**.

V. It is expressly understood and agreed that the **OPERATOR** is acting as an independent contractor, and not as an agent for, or partner or co-adventurer with, the **OWNER**, and that the relations between **OPERATOR** and **OWNER**, shall be governed exclusively by the terms in this Agreement.

IN WITNESS WHEREOF, the parties have hereto affixed their hand and seal at Shawneetown, Illinois, this 26 day of April, 2011.

CITY OF SHAWNEETOWN:

CONSUMERS GAS COMPANY:

OWNER

OPERATOR

BY: *Way Stotts*
Acting MAYOR

BY: *[Signature]*
PRESIDENT



ATTEST:

Nancy Larkin
CITY CLERK