

ORDINANCE 2022-01

AN ORDINANCE GRANTING TO THE OKLAHOMA GAS AND ELECTRIC COMPANY, AN OKLAHOMA CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE RIGHT TO PRODUCE, TRANSMIT AND DISTRIBUTE ELECTRICITY WITHIN THE CITY LIMITS AND TO SELL ELECTRICITY THEREIN FOR ALL PURPOSES FOR WHICH IT MAY BE USED, TO THE CITY OF MARIETTA, LOVE COUNTY, OKLAHOMA, ITS INHABITANTS AND THE PUBLIC GENERALLY, AND THE RIGHT TO CONSTRUCT, MAINTAIN AND OPERATE A SYSTEM OF POLES, WIRES, CONDUITS AND OTHER FACILITIES AND EQUIPMENT IN, UPON, ACROSS, UNDER AND OVER THE STREETS, ALLEYS, PUBLIC GROUNDS OR WAYS IN THE CITY FOR SUCH PURPOSES FOR A PERIOD OF TWENTY-FIVE (25) YEARS FROM THE APPROVAL AND ACCEPTANCE OF THIS ORDINANCE; PROVIDING COMPENSATION TO THE CITY; AND ORDERING AN ELECTION.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARIETTA, OKLAHOMA:

SECTION 1. The Word "City" as hereinafter used shall mean and designate the City of Marietta, Love County, Oklahoma, and the word "Company" as hereinafter used shall mean and designate the Oklahoma Gas and Electric Company, a corporation organized and existing under and by virtue of the laws of the State of Oklahoma and its successors and assigns.

SECTION 2. (a) The City hereby grants to the Company the right, privilege and authority to produce, transmit, distribute and sell electricity within the corporate limits of the City for all purposes for which it may be used, to the City, its inhabitants and the public generally, and the right, privilege and authority to construct, maintain and operate a system of poles, wires, conduits, transformers, substations, and other facilities and equipment in, upon, across, under and over the streets, alleys, public grounds or ways in each and every part of said City for the purpose of producing, transmitting, distributing and selling electricity to the City, its inhabitants, and to the public generally.

(b) The franchise hereby granted shall be effective from and after the date of approval of this Ordinance by the qualified electors of the City and acceptance by the Company, and shall remain in full force and effect for a period of twenty-five (25) years. Nothing in this Ordinance shall be construed to prevent the City from granting an electric franchise to any other person, firm, or corporation.

SECTION 3. The Company shall construct, operate and maintain its property in such manner as will, consistent with necessity, not obstruct nor impede traffic unduly.

SECTION 4. The Company shall defend and indemnify the City against all liability for injury to any person or property caused by the negligence of the Company in the construction, operation and maintenance of its property within the City.

SECTION 5. Electric service provided hereunder to the City, its inhabitants, and to the public generally, and rates charged therefor shall be in accordance with orders, rules and regulations of the Corporation Commission of the State of Oklahoma or other governmental authority having jurisdiction.

SECTION 6. The Company shall have the right to assign this franchise and the assignee by written acceptance thereof shall be bound by all the provisions hereof. An authenticated copy of such assignment and acceptance shall be filed with the Clerk of the City.

SECTION 7. (a) From and after the approval and acceptance of this franchise, and in consideration of the granting of this franchise, the Company agrees to pay and shall pay to the City an annual franchise fee in an amount equal to three percent (3%) of its gross revenues arising from the sale of electricity within the corporate limits of the City, such payment to be made on or before the 25th day of July of each year, after deducting therefrom any amount due the Company from the City.

(b) The Company shall abide by any order, rule or regulation of the Corporation Commission of the State of Oklahoma requiring the listing separately of all or any portion of such franchise fee on electric bills to customers.

(c) Such franchise fees paid by the Company to the City shall be in lieu of all other franchise, excise, license, occupation, privilege, inspection, permit, or other fees, taxes or assessments, except ad valorem taxes.

SECTION 8. The Company shall furnish to the City without charge each fiscal year during the term hereof electric current to be used exclusively by the City for operation of traffic signal lights and buildings occupied and operated by the City for municipal purposes, to be applied by the Company as a credit to billings to the City, provided that such electric current shall not exceed one-half of one percent (0.5%) of the kilowatt-hours sold by the Company to customers within the corporate limits of the City during the preceding fiscal year.

SECTION 15. A special election is hereby called for the purpose of submitting this Ordinance to the qualified electors of the City residing within its corporate limits for their approval or disapproval, provided the Company shall pay the cost of such election. The election shall be held on the 10th day of January, 2023, between the hours of 7:00 a.m. and 7:00 p.m. The Vice Mayor authorized and directed to issue an election proclamation calling such election and is further directed to take all steps that may be necessary for holding the election and for the submission of this Ordinance to the qualified electors of the City. If a majority of the qualified electors of the City voting thereon fail to approve this franchise at said election, no rights shall accrue hereunder.

SECTION 10. In case the franchise hereby granted is approved at said election, the Company shall, within thirty (30) days from the date of such approval, file with the Clerk of the City, in writing, its acceptance. In the event the Company fails to accept within the said period, such failure shall be deemed a rejection of the franchise.

SECTION 11. The franchise hereby granted shall, on its effective date, supersede and terminate any previous franchise granted to or held by the Company.

PASSED AND APPROVED this 14th day of June, 2022.

CITY OF MARIETTA, OKLAHOMA

By Kenit McKinney
Council President

ATTEST:

Dotti Gunn

City Clerk



MINUTES OF THE COUNTY ELECTION BOARD

The County Election Board of Love County, State of Oklahoma, met in special session in the office of the County Election Board of said County, State of Oklahoma, at Marietta, in said County, State of Oklahoma, on the 13th day of January, 2023, at o'clock 5p.

Present:

Conie Delashaw Chairman
Carol Wolfe Secretary

Member

Absent:

Trent Daniel

The Board met for the purpose of canvassing the returns of a special election held in the City of Marietta, Love County, State of Oklahoma, on the date and for the purpose as hereinafter set out.

The Board, after carefully canvassing the returns of said election, found and hereby declares of record that it found that said election was conducted as stated in the proclamation of the Mayor of the City Council of the City of Marietta calling such election, with all vacancies filled according to law, in all respects as required by law; that said election was conducted by ballot in the form prescribed; that the polls were opened at 7 o'clock a.m. and remained open continuously until and were closed at 7 o'clock p.m. on the 10th day of January, 2023, the hours and day designated in said proclamation calling such election; that the votes cast by the duly registered and qualified voters of said Town at said election on the following proposition, to wit:

"Shall a franchise be granted to the Oklahoma Gas and Electric Company, a corporation, its successors and assigns giving it the right to produce, transmit and distribute electricity within the City and to sell electricity therein for all purposes for which it may be used, to the City, its inhabitants and the public generally, and the right to construct, maintain and operate a system of poles, wires, conduits and other facilities and equipment in, upon, across, under and over the streets, alleys, public grounds or ways in the City for such purposes, for a period of twenty-five (25) years; providing compensation to the City; in accordance with the terms of Ordinance Number 2022-01, passed and approved by the City Council of the City of Marietta, Oklahoma, on the 14th day of June, 2022?"

were as follows:

Votes Cast For the Franchise Ordinance	<u>90</u>
Votes Cast Against the Franchise Ordinance	<u>11</u>
Total Number of Ballots Counted	<u>101</u>
Total Number of Ballots Spoiled	<u>1</u>
Total Number of Ballots not Used	<u>698</u>
Total Number of Ballots Received	<u>800</u>

We, the duly appointed members of the Love County Election Board, State of Oklahoma, do hereby certify that the above and foregoing is a true and correct number of votes cast in the special election, for the City of Marietta, held on January 10, 2023. Results of said election are shown above. Dated at Marietta this 13th day of January, 2023.


Chairman

Member

ATTEST:


Secretary

