

Ordinance No. 858

An ordinance increasing the franchise fee on Natural Gas Providers operating in the City of Dyersville, Iowa

Be it ordained by the City of Dyersville, Iowa:

Section 1. The City of Dyersville, Iowa, (hereinafter referred to as the “Municipality”) hereby increases the franchise fee from 1% to 3% on every natural gas and every other person, firm or corporation, their successors and assigns, owning, operating, controlling, leasing or managing a natural gas plant or system and/or generating, manufacturing, selling, distributing or transporting natural gas (hereinafter referred to, collectively, as “Natural Gas Providers,” each, individually, an “Natural Gas Provider”). Natural Gas Providers shall increase the amount collected from their customers located within the corporate limits of the Municipality and pay to the Municipality an amount equal to three percent (3%) of gross receipts Natural Gas Providers derive from the sale, distribution or transportation of natural gas or electric delivered within the present limits of the Municipality. Gross receipts as used herein are revenues received from the sale, distribution or transportation of natural gas, after adjustment for the net write-off of uncollectible accounts and corrections of bills theretofore rendered.

Section 2. The amount paid by Natural Gas Providers shall be in lieu of, and Natural Gas Providers shall be exempt from, all other fees, charges, taxes or assessments which the Municipality may impose for the privilege of doing business within the Municipality, including, without limitation, excise taxes, occupation taxes, licensing fees, or right-of-way permit fees, and in the event the Municipality imposes any such fee, charge, tax or assessment, the payment to be made by Natural Gas Providers in accordance with this Ordinance shall be reduced in an amount equal to any such fee, charge, tax or assessment imposed upon the Natural Gas Providers. Ad valorem property taxes imposed generally upon all real and personal property within the Municipality shall not be deemed to affect Natural Gas Providers’ obligations under this Ordinance.

Section 3. Natural Gas Providers shall report and pay any amount payable under this Ordinance on a monthly basis. Such payment shall be made no more than thirty (30) days following the close of the period for which payment is due. Initial and final payments shall be prorated for the portions of the periods at the beginning and end of any franchise granted by the City of Dyersville, Iowa, to a Natural Gas Provider.

Section 4. Natural Gas Providers shall list the franchise fee collected from customers as a separate item on bills for utility service issued to their customers. If at any time the Iowa Utilities Board or other authority having proper jurisdiction prohibits such recovery, Natural Gas Providers will no longer be obligated to collect and pay the franchise fee until an alternate lawful franchise fee can be negotiated and implemented. In addition, with prior approval of City, Natural Gas

Providers may reduce the franchise fee payable for natural gas delivered to a specific customer when such reduction is required to attract or retain the business of that customer.

Section 5. Within ten (10) days of the date of this ordinance, the Municipality shall provide the Natural Gas Providers with a map of its corporate limits (the “Map”). The Map shall be of sufficient detail to assist Natural Gas Providers in determining whether their customers reside within the Municipality’s corporate limits. The Map along with Natural Gas Provider’s Geographic Information System (“GIS”) mapping information shall serve as the sole basis for determining Energy Provider’s obligation hereunder to collect and pay the franchise fee from customers; provided, however, that if the Municipality’s corporate limits are changed by annexation or otherwise, it shall be the Municipality’s sole responsibility to (a) update the Map so that such changes are included therein, and (b) provide the updated Map to the Natural Gas Providers. A Natural Gas Provider’s obligation to collect and pay the franchise fee from customers within an annexed area shall not commence until the later: (a) of sixty (60) days after such Natural Gas Provider’s receipt from the Municipality of an updated Map including such annexed area, or (b) such time after such Natural Gas Provider’s receipt from the Municipality of an updated Map including such annexed area as is reasonably necessary for such Natural Gas Provider to identify the customers in the annexed area obligated to pay the franchise fee.

Section 6. The Municipality shall provide copies of annexation ordinances to Natural Gas Providers on a timely basis to ensure appropriate Franchise fee collection from customers within the corporate limits of the city as set forth in Section 4 above.

Section 7. The Municipality shall have access to and the right to examine, during normal business hours, Natural Gas Provider’s books, receipts, files, records and documents as is reasonably necessary to verify the accuracy of payments due hereunder; provided, that the Municipality shall not exercise such right more than twice per calendar year. If it is determined that a mistake was made in the payment of any franchise fee required hereunder, such mistake shall be corrected promptly upon discovery such that any under-payment by an Natural Gas Provider shall be paid within thirty (30) days of recalculation of the amount due, and any over-payment by an Energy Provider shall be deducted from the next payment of such franchise fee due by such Natural Gas Provider to the Municipality; provided, that neither party shall have the obligation to correct a mistake that is discovered more than one (1) year after the occurrence thereof.

Section 8. Any and all Ordinances or portions thereof which are in conflict herewith are hereby repealed, specifically Ordinance 773.

Section 9. This Ordinance shall take effect and be in force from and after its passage and publication according to law.

Section 10. Passed and approved by the city council of the City of Dyersville, Iowa, on this ____ day of _____, 2023.

Jeff Jacque, Mayor

Attest:

Tricia L. Maiers, City Clerk