

VILLAGE OF DOWNERS GROVE
Report for the Village
5/1/2018

SUBJECT:	SUBMITTED BY:
NICOR Franchise Ordinance	Enza Petrarca Village Attorney

SYNOPSIS

An ordinance is requested authorizing Northern Illinois Gas Company d/b/a Nicor Gas Company to continue to construct, operate and maintain a system for the production, distribution and sale of natural gas in and through the Village of Downers Grove.

STRATEGIC PLAN ALIGNMENT

The goals for 2017-2019 include *Top Quality Infrastructure* and *Steward of Financial, Environmental and Neighborhood Sustainability*.

FISCAL IMPACT

Adoption of the ordinance will allow the Village to continue receiving a specified amount of natural gas for use in Village facilities at no direct cost.

UPDATE & RECOMMENDATION

This item was discussed at the April 17, 2018 Village Council meeting. Staff recommends approval on the May 1, 2018 active agenda.

BACKGROUND

The Village first approved an ordinance allowing Northern Illinois Gas Company now doing business as, Nicor to construct, operate and maintain in and throughout the Village, including publicly-owned property, a system for the production, distribution and sale of natural gas in 1968. The ordinance required that any improvements constructed and installed by Nicor shall be located so as not to interfere with or damage public improvement, and in the event any such damage occurred, Nicor would repair the damage to the satisfaction of the Village. The ordinance also contained a provision requiring Nicor to indemnify the Village for any injuries or damages caused by Nicor's use and occupation of any Village property. Upon adoption of the ordinance, Nicor supplied the Village with a specified amount of natural gas, to be used at no direct cost to the Village.

The term of that ordinance was for 50 years and expires this year. The new ordinance is substantially similar to the 1968 ordinance and to those Nicor has with other municipalities with the exception of the term. The term for this proposed ordinance is 25 years. Following the passage of this ordinance, the specified amount of natural gas to be used by the Village at no direct cost will increase.

ATTACHMENTS

Ordinance

VILLAGE OF DOWNERS GROVE
COUNCIL ACTION SUMMARY

INITIATED: Village Attorney DATE: May 1, 2018
(Name)

RECOMMENDATION FROM: _____ FILE REF: _____
(Board or Department)

NATURE OF ACTION:

STEPS NEEDED TO IMPLEMENT ACTION:

- Ordinance
- Resolution
- Motion
- Other

Motion to Adopt "AN ORDINANCE AUTHORIZING NORTHERN ILLINOIS GAS COMPANY (d/b/a NICOR GAS COMPANY) ITS SUCCESSORS AND ASSIGNS, TO CONSTRUCT, OPERATE AND MAINTAIN A GAS DISTRIBUTING SYSTEM IN AND THROUGH THE VILLAGE OF DOWNERS GROVE, ILLINOIS", as presented.

SUMMARY OF ITEM:

Adoption of this ordinance shall Authorize Northern Illinois Gas Company (d/b/a Nicor Gas Company) its successors and assigns, to construct, operate and maintain a gas distributing system in and through the Village of Downers Grove, Illinois.

RECORD OF ACTION TAKEN:

GAS ORDINANCE

AN ORDINANCE AUTHORIZING NORTHERN ILLINOIS GAS COMPANY (d/b/a NICOR GAS COMPANY) ITS SUCCESSORS AND ASSIGNS, TO CONSTRUCT, OPERATE AND MAINTAIN A GAS DISTRIBUTING SYSTEM IN AND THROUGH THE VILLAGE OF DOWNERS GROVE, ILLINOIS.

BE IT ORDAINED BY THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF DOWNERS GROVE, ILLINOIS:

SECTION 1. That the right, permission and authority be and the same are hereby granted to NORTHERN ILLINOIS GAS COMPANY (d/b/a NICOR GAS COMPANY), an Illinois corporation, its successors and assigns (hereinafter referred to as the “Grantee”), to construct, operate and maintain in and through the VILLAGE OF DOWNERS GROVE (hereinafter referred to as the “Municipality”), in the State of Illinois, for a term of Twenty-five (25) years, a system for the production, distribution and sale of gas for fuel, heating, power, processing and other purposes within and outside the corporate limits of the Municipality, and to construct, lay, maintain and operate such gas pipes, mains, conductors and other devices, apparatus and equipment as may be necessary or convenient for such system in, under, along and across each and all of the streets, alleys, avenues and other public places in the Municipality, subject to the conditions and regulations hereinafter set forth.

SECTION 2. All pipes, mains, conductors and other appliances, including connections with service pipes, hereafter laid in streets, alleys, avenues or other public places, shall be laid under the supervision of the Director of Public Works of the Municipality, or such

other duly authorized agent of the Municipality as the Board of Trustees may from time to time designate. All pipes, mains, conductors and other appliances shall be so located as not to injure unnecessarily any drains, sewers, catch basins, water pipes, pavements or other like public improvements, but should any drain, sewer, catch basin, water pipe, pavement or other like public improvement be injured by such location, the Grantee shall forthwith repair the damage caused by such injury to the satisfaction of the Director of Public Works of the Municipality , or such other duly authorized agent, and in default thereof the Municipality may repair such damage and charge the cost thereof to, and collect the same from, the Grantee. The Grantee shall be subject to all reasonable regulations which may now or hereafter be prescribed by general ordinance of the Municipality with respect to the use of the public streets, alleys, avenues and other public places of the Municipality.

SECTION 3. The Grantee shall indemnify, become responsible for and forever save harmless the Municipality from any and all judgments, damages, decrees, costs and expenses, including attorneys' fees, which the Municipality may legally suffer or incur, or which may be legally obtained against the Municipality, for or by reason of the use and occupation of any street, alley, avenue or other public place in the Municipality by the Grantee pursuant to the terms of this ordinance or legally resulting from the exercise by the Grantee of any of the privileges herein granted; except that the indemnity provided for in this Section 3 shall not apply to any liability, judgments, damages, decrees, costs and expenses determined by a court of competent jurisdiction to have resulted from the negligence or intentional acts or omissions of Municipality, its agents and employees.

SECTION 4. After the passage of this ordinance, and within thirty (30) days after passage, this ordinance, if accepted, shall be accepted by the Grantee by its filing with the

Village Clerk of the Municipality an unconditional written acceptance hereof, to be duly executed according to law, and a failure of the Grantee to so accept this ordinance within said period of time shall be deemed a rejection hereof by the Grantee, and the rights and privileges herein granted shall after the expiration of said period of thirty (30) days, if not so accepted, absolutely cease and determine, unless said period of time shall be extended by the Municipality by ordinance duly passed for that purpose and before the expiration of said period of thirty (30) days.

SECTION 5. All provisions of this ordinance which are obligatory upon, or which inure to the benefit of, said NORTHERN ILLINOIS GAS COMPANY (d/b/a NICOR GAS COMPANY) shall also be obligatory upon and shall inure to the benefit of any and all successors and assigns of said Company, and the word "Grantee" wherever appearing in this ordinance shall include and be taken to mean not only said NORTHERN ILLINOIS GAS COMPANY (d/b/a NICOR GAS COMPANY), but also each and all of such successors and assigns.

SECTION 6. This ordinance, if accepted by the Grantee as hereinabove provided, shall be in full force and effect as of March 7, 2018, and from and after the effective date shall supersede, cancel, repeal and be in lieu of any and all other existing or prior grants of right, permission and authority by said Municipality to said Grantee or any predecessor companies or assignors of the Grantee to construct, operate and maintain any system for the production, distribution and sale of gas for fuel, heating, power, processing and any other purposes within the corporate limits of this Municipality, and this ordinance shall likewise cancel all of the obligations under said existing or prior grants.

PASSED BY THE VILLAGE COUNCIL OF THE VILLAGE OF DOWNERS GROVE, ILLINOIS, THIS ____ DAY OF _____, 2018.

Village Clerk

APPROVED BY THE MAYOR OF THE VILLAGE OF DOWNERS GROVE, ILLINOIS, THIS ____ DAY OF _____, 2018.

Mayor

(Seal)

ATTEST:

Village Clerk

STATE OF ILLINOIS)
 COUNTY OF DUPAGE) SS.
 VILLAGE OF DOWNERS GROVE)

I, _____, Village Clerk of the Village of Downers Grove, Illinois, do hereby certify that the foregoing is a true and correct copy of an Ordinance duly passed by the Board of Trustees of said Village on the ____ day of _____, 2018, and duly approved by the Mayor of said Village on the ____ day of _____, 2018, the original of which Ordinance is now on file in my office.

I do further certify that I am the legal custodian of all papers, contracts, documents and records of said Village.

WITNESS my hand and the official seal of said Village this ____ day of _____, 2018.

Village Clerk
 Downers Grove, Illinois

(SEAL)