

## BUSINESS REGULATIONS

### §10-801 Article 8. Gas & Electric Distribution Companies §10-802

**§10-801 GAS DISTRIBUTION COMPANIES; REGULATION.** This Article shall apply to any person, firm or corporation supplying natural gas service to the City of Crete, Nebraska and the inhabitants thereof. Any such person, firm or corporation shall be hereinafter referred to as the Gas Distribution Company, or Company.

The Gas Distribution Company shall provide two (2) classes of service to its customers as hereinafter specified and defined:

A. FIRM GAS SERVICE: Firm gas service is defined as gas service that is supplied on a non-interruptible basis. Firm gas service shall be made available to all customers whose maximum space heating requirements are less than one thousand (1,000) cubic feet per hour.

B. INTERRUPTIBLE GAS SERVICE; Interruptible gas service is defined as gas service that is supplied on an interruptible basis. It shall be subject to curtailment or interruption on demand of the Gas Distribution Company whenever necessary to protect the service of its firm gas customers.

The Gas Distribution Company shall not charge more for such gas service than the applicable gas rates that are set by ordinance and on file with the Municipal Clerk. Such Gas Distribution Company may, however, enter into written contracts with any customer or class of customer making application therefor without discrimination for special gas service for commercial and industrial uses at such rates and on such conditions as the contracting parties may agree.

**§10-802 GAS DISTRIBUTION COMPANIES; TAX.** There is hereby assessed an occupation tax against all persons distributing natural gas for sale in an amount equal to five (5%) per cent on the gross receipts derived from the business of distributing and selling natural gas within the City, exclusive of such sales to governmental agencies, departments or other bodies whether they be Federal, State, or local. Payment shall be made to the Clerk semiannually on or before May 31 of each year for the preceding six (6) month period ending April 30th, and on or before November 30th of each year for the preceding six (6) month period ending October 31. If the tax is not paid when due, nine (9%) per cent per annum on the amount in default shall be added to the tax. Any person subject to the tax imposed by this article shall file with the clerk a verified statement covering such tax period. The statement shall show the gross receipts derived from the distribution and sale of natural gas within the

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City, exclusive of such governmental agencies, departments or other bodies. The duly authorized representatives of the City, may, upon request and during business hours, inspect the books and records of any person subject to the tax imposed by this Article for the purpose of verifying such statement or statements files with the Clerk. (Ord. 1577; 06/17/03, Ord 1650; 05/16/06)

**§10-803 ADOPTION OF NATURAL GAS REGULATION ACT.** The provisions of Article 46, Chapter 19 of the Municipal Natural Gas Regulation Act as set forth in the Revised Statutes of Nebraska 1943, 1987 Supplement thereto and any amendments made thereto, except as otherwise provided for in this ordinance are hereby adopted by this reference thereto and made a part of this ordinance as fully as if set forth at length herein, except as otherwise provided in this ordinance.

**§10-804 OTHER RATE CHANGES.** In the event the FRANCHISEE desires to change its rates for natural gas service within the City other than to reflect an adjustment for the cost of purchased gas, the FRANCHISEE will present to the City copies of present and proposed rate schedules and information supporting the proposed rates to be charged for natural gas service within the City. The rate schedule and information submitted with the rate schedules shall be referred to as the Rate Filing. Any such Rate Filing shall be deemed filed upon receipt of the same and the filing fee by the City Clerk. A filing fee in the amount of one thousand (\$1,000.00) dollars shall be paid to the CITY with the Rate Filing. Such fee shall be considered as an operating cost of the FRANCHISEE and shall not be separately itemized on any customer bill.

The Governing Body of the City shall have the right to select and engage rate consultants, accountants, auditors, attorneys, engineers and other experts as deemed necessary or desirable to advise and represent the Governing Body in evaluating any proposed rate change. FRANCHISEE shall reimburse the City within ninety (90) days of the presentation of a bill by the city for the reasonable costs of those services only to the extent that said costs exceed the filing fee for the Rate Filing.

If the proposed rates sought by the FRANCHISEE in its Rate Filing have not been passed on final reading by the City Council within ninety (90) days after it was filed, or as such time may be extended by agreement between FRANCHISEE and CITY in order to supply additional information if requested by the CITY, the

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proposed rates shall be put into effect as interim rates and shall be collected subject to refund pursuant to Section 18-415 of the Nebraska Revised Statutes, 1943, as the same may be amended from time to time. Such Interim rates shall remain in effect pending final determination by the CITY, which determination shall be made within one (1) year, or in the event of litigation, final rate determination by the courts.

The rates proposed to be charged for non-contract firm natural gas service within the CITY shall be based upon the utility's cost of providing service to the CITY or the representative costs in that part of utility's service area which includes the CITY. The period for which the cost of service is to be recognized is to be projected twelve (12) month period commencing not later than the proposed effective date of the increase. The cost of service shall be determined in a manner consistent with regulated public utility practices and shall include (1) appropriate costs as defined and set forth in the Federal Energy Regulatory Commission Uniform System of Accounts Prescribed for Natural Gas Companies FERC Accounts, and (2) a reasonable return on the utility's rate base.

In determining a reasonable return, a rate (percentage) shall be employed that is representative of the cost of debt, preferred stock, and common equity capital. The rate base shall consist of the applicable net investment in utility plant (as defined in the FERC Accounts), allowance for working capital, and such other items as may reasonably be included; less such investment as may, unless otherwise prevented by law, be attributed to other than investor capital.

The FRANCHISEE'S appropriate costs and items of rate base shall include allocated or apportioned expenses and rate base items, when such allocations or apportionments are reasonably representative of assigned common costs and arise from the manner in which the FRANCHISEE'S operations are conducted or from an avoidance of excessive and costly financial record keeping.

Rate Filings, not including changes reflecting the cost of gas, shall be limited to a maximum of one (1) in any twelve (12) calendar month period.

**§10-805 ELECTRIC DISTRIBUTION COMPANIES; TAX:** There is hereby assessed an occupation tax against all persons distributing electricity for sale in an amount equal to three (3%) per cent of the gross receipts derived from the business of distributing and selling electricity within the city, exclusive of such sales to governmental agencies, departments or other

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bodies whether they be Federal, State, or local. Payment shall be made to the Clerk semiannually on or before May 31 of each year for the preceding six (6) month period ending April 30, and on or before November 30th of each year for the preceding six (6) month period ending October 31. If the tax is not paid when due, nine (9%) percent per annum on the amount in default shall be added to the tax. Any person subject to the tax imposed by this article shall file with the clerk a verified statement covering such tax period. The statement shall show the gross receipts derived from the distribution and sales of electricity within the City, exclusive of such governmental agencies, departments or other bodies. The duly authorized representative of the City, may, upon request and during business hours, inspect the books and records of any person subject to the tax imposed by this Article for the purpose of verifying such statement or statements filed with the Clerk. Nothing herein shall prohibit said payments being made on a quarterly or monthly basis by agreement of the parties or from the payment being based on the previous fiscal year. (Ord. 1578; 06/17/03)