

ORDINANCE NO. 3435

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BROKEN ARROW INCREASING THE FRANCHISE FEE PAID BY OKLAHOMA NATURAL GAS COMPANY (ONG), A DIVISION OF ONE GAS, FROM 4% TO 4.25% OF THE GROSS RECEIPTS RECEIVED FROM THE DISTRIBUTION OF NATURAL GAS PURSUANT TO ORDINANCE NO. 2383, APPROVED BY VOTERS AT AN ELECTION HELD ON OCTOBER 9, 2001, AND GRANTING A 25-YEAR NON-EXCLUSIVE FRANCHISE TO ONG; REPEALING ALL ORDINANCES TO THE CONTRARY; AND DECLARING AN EMERGENCY

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BROKEN ARROW, OKLAHOMA:

SECTION I: The City Council of the City of Broken Arrow hereby finds as follows:

WHEREAS, on August 6, 2001, the City Council of the City of Broken Arrow adopted Ordinance No. 2383, which provided for a non-exclusive franchise with Oklahoma Natural Gas Company, a Division of ONEOK ("ONG"); and

WHEREAS, ONG is a provider of natural gas services to the citizens of Broken Arrow; and

WHEREAS, on October 9, 2001, the voting electorate of the City of Broken Arrow approved the non-exclusive franchise with ONG; and

WHEREAS, On October 25, 2001, ONG filed an acceptance of the non-exclusive franchise with the Broken Arrow City Clerk; and

WHEREAS, the non-exclusive franchise is for a period of twenty-five (25) years and expires on October 25, 2026; and

WHEREAS, the original franchise currently required ONG to pay a sum equal to 2% of the gross receipts received from the distribution of natural gas as a Franchise Fee and in exchange for the use of the City's public ways to distribute natural gas; and

WHEREAS, Ordinance No. 2383 provides that if ONG accepts a franchise with any City in the State of Oklahoma with a population in excess of 15,000, which provides for payment in excess of the Franchise Fee paid to the City of Broken Arrow, then ONG shall inform the City Council, and the City of Broken Arrow, by and through action of the Broken Arrow City Council may increase its fee to a representative percentage; and

WHEREAS, on June 3, 2013, through Ordinance No. 3248, the City Council availed itself of this Favored Nations Clause and increased the Franchise Fee to 3%, as a result of the City of Tulsa accepting a new Franchise Agreement; and

WHEREAS, prior to that time the Franchise Fee has remained constant for 11 years; and

WHEREAS, in late August, 2014, another city accepted a Franchise Agreement with ONG which provided for a 4% Franchise Fee; and

WHEREAS, information regarding this increase was recently provided to the City of Broken Arrow; and

WHEREAS, pursuant to this action and the terms of the franchise, the City Council of the City of Broken Arrow may increase the Franchise Fee from 4% to 4.25%; and

WHEREAS, this increase will result in an estimated annual increase in revenue of \$63,000.00; and

WHEREAS, increase of the Franchise Fee will allow the City to increase the nature and scope of its services thereby benefitting its residents; and

WHEREAS, increase in the Franchise Fee is for the overall benefit of the City of Broken Arrow and will promote the health, safety and welfare of the citizens of Broken Arrow.

SECTION II. That pursuant to Section 12(D) of Ordinance No. 2383, the Franchise Fee paid by Oklahoma Natural Gas is hereby increased from 4% to 4.25% of the gross receipts received from the distribution of natural gas.

SECTION III. That pursuant to Ordinance No. 2383 and correspondence from ONG, that ONG shall begin collecting the increased Franchise Fee within thirty (30) days of written notice of adoption of this Ordinance.

SECTION IV. Any ordinance or parts of ordinances found to be in conflict herewith are hereby repealed.

SECTION V. An emergency exists for the preservation of the public health, peace and safety and therefore this ordinance shall become effective from the time of its passage and approval.

PASSED AND APPROVED and the emergency clause ruled upon separately this 20th day of June, 2016.

Mayor

ATTEST:

(SEAL) City Clerk

APPROVED:

City Attorney