

ORDINANCE NO. 160

AN ORDINANCE TO BE ENTITLED:

"AN ORDINANCE RESTATING AND CLARIFYING THAT RESTATED AND AMENDED ORDINANCE NO. 75 PASSED AND APPROVED BY THE CITY COUNCIL OF TONTITOWN, ARKANSAS ON NOVEMBER 4, 1980 WHICH ORDINANCE GRANTED TO ARKANSAS WESTERN GAS COMPANY OR ITS ASSIGNEES THE RIGHT, PRIVILEGE AND FRANCHISE TO CONSTRUCT, MAINTAIN AND OPERATE A NATURAL GAS SYSTEM AND TO LAY GAS MAINS ALONG THE STREETS, AVENUES, ALLEYS, ROADS AND HIGHWAYS AND OTHER PUBLIC PLACES, FOR THE PURPOSE OF DISTRIBUTING AND SELLING NATURAL GAS AND PROVIDING THE REGULATION FOR THE CONDUCT OF SAID GAS DISTRIBUTION SYSTEM, AND FURTHER PURPOSES."

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TONTITOWN, ARKANSAS:

Section 1. That the City of Tontitown has heretofore granted to Arkansas Western Gas Company the exclusive right, privilege and authority within the present and all future expansions of the corporate limits of the City of Tontitown (1) to sell, furnish, transmit and distribute natural gas to all inhabitants and consumers within the said limits; and (2) subject to the terms, conditions and stipulations mentioned in the aforesaid ordinance, has given the right, permission and franchise to Arkansas Western Gas Company, a corporation organized and existing pursuant to the laws of the State of Arkansas, as grantee and to its successors, lessees, and assigns to lay, construct, equip, operate, repair, and maintain a system of gas mains, pipes, conduits, feeders and appurtenances for the purpose of supplying and distributing natural gas for light, fuel, power, and heat and for any other purpose, to the residents or inhabitants of said City; and further, pursuant to the aforesaid ordinance, has given to Arkansas Western Gas Company the right to lay, construct, operate and maintain a system of gas mains, pipelines, pipe conduits and feeders and the necessary attachments, connections, fixtures and appurtenances for the purpose of conveying, conducting or distributing natural gas from any point beyond said city limits in order to enable Arkansas Western Gas Company to distribute and sell natural gas to the City of Tontitown and to the residents or inhabitants thereof and to others.

The aforesaid ordinance also requires the collection of a two percent (2%) franchise tax remittable to the City of Tontitown and contains other provisions not pertinent to this clarifying ordinance.

Section 2. It is not the intent of Ordinance No. 75 to apply its provisions to the purchase of natural gas within the city limits of Tontitown, Arkansas by wholesale electric generation facilities provided that such facilities are the actual end users of such gas and do not intend to resell the gas to customers that are subject to the franchise fee. It is therefore ordained by the City Council of the City of Tontitown, Arkansas that the provisions of Ordinance No. 75 shall not apply to

wholesale electric generation facilities which are the actual end user of such gas and do not intend to resell the gas to customers that are subject to the franchise fee.

Section 3. If any section, paragraph, subdivision, clause, phrase or provision of this ordinance shall be adjudged invalid or unconstitutional, the same shall not affect the validity of this ordinance as a whole, or any part or provision, other than the part so decided to be invalid or unconstitutional.

ATTEST:

PASSED AND APPROVED the 5th day of March, 2002.

Fronco Fronco
Clerk

Daniel R. Watson
Mayor



The Arkansas Western Gas Company, a corporation, hereby accepts and agrees to the terms and conditions of Ordinance No. 160 this 14th day of March, 2002.

ARKANSAS WESTERN GAS COMPANY

By: Charles E. Starn
Senior Vice President