

ORDINANCE NO. 95-11

AN ORDINANCE OF THE CITY OF HALLANDALE, FLORIDA,
GRANTING TO PEOPLES GAS SYSTEM, INC., A NON-
EXCLUSIVE GAS FRANCHISE FOR A PERIOD OF FIFTEEN
YEARS, AND IMPOSING PROVISIONS AND CONDITIONS
RELATING THERETO

WHEREAS, Peoples Gas System, Inc., has requested
of the City of Hallandale, Florida, a non-exclusive
franchise to operate and maintain a gas system within the
City; and

WHEREAS, the City Commission desires to grant a
non-exclusive franchise to Peoples Gas System, Inc., subject
to all of the terms, conditions, limitations and requirements
of this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY
COMMISSION OF THE CITY OF HALLANDALE, FLORIDA:

SECTION 1. DEFINITIONS.

For the purpose of the Ordinance, the following
terms and words shall have the meaning given herein.

A. "Grantee" shall mean Peoples Gas System,
Inc., referred to herein as "the Company".

B. "Grantor" shall mean the City of Hallandale,
Florida, herein referred to as "the City".

C. "Consumer" shall mean any person, firm, or
public or private corporation served by the Grantee.

D. "Streets" shall mean the public streets,
lanes, alleys, courts, bridges, or other public places in the
Grantor's corporate limits as they now exist, or as they may
be established at any time during the term of this franchise.

1 E. "Facilities or Equipment" shall mean pipe,
2 pipe lines, tube, main, service, markers, vent, vault,
3 manhole, meter, regulator, valve, conduit, appliance,
4 structure and appurtenances used or useful in the
5 distribution of gas, located or to be located in, upon,
6 along, across, under or over the street.

7 F. "Gas" shall mean natural gas which is
8 distributed in pipes. It shall not mean bottled gas or any
9 other fuel.

10 SECTION 2. GRANT OF AUTHORITY.

11 There is hereby granted to the Grantee the right
12 and privilege to erect, construct, operate and maintain a gas
13 plant and gas system in the City; to establish and maintain
14 gas mains, service pipes and any other appurtenances
15 necessary for the sale and distribution of gas in and along
16 the public rights-of-way of the City, including all streets,
17 easements, alleys, avenues, parks, and all other public
18 places.

19 SECTION 3. LIMITS OF THE FRANCHISE.

20 This franchise covers all of the corporate limits
21 of the City of Hallandale, Florida, and any areas
22 subsequently added or annexed thereto during the term of this
23 franchise.

24 SECTION 4. FRANCHISE DURATION.

25 This franchise is granted for a period of fifteen
26 (15) years from March 17, 1995.

1 SECTION 5. FRANCHISE CONSIDERATION.

2 The Grantee shall pay to the City monthly, a sum
3 equivalent to six (6) percent of its gross revenues derived
4 from the sale of natural gas to residential and commercial
5 customers within the City (except sales of interruptible gas
6 for industrial use as defined in the applicable tariff then
7 used by the Grantee).

8 Such Franchise Fee shall be due and payable by
9 Grantee on a monthly basis within thirty (30) days after the
10 last day of each month.

11 If in the future, during the term of this
12 agreement, the Grantee makes or agrees to make a franchise
13 payment to another local governmental authority within the
14 Company's operating area, that is equivalent to more than six
15 (6) percent of Gross Revenues, as defined hereinabove, the
16 Grantor reserves the right to amend this Ordinance to require
17 the Grantee to collect and pay the Grantor such a percentage
18 equal to the percentage paid to such local governmental
19 authority. The Grantee agrees to furnish to the City within
20 sixty (60) days from the effective date of any such franchise
21 or agreement, a copy of such franchise or agreement.

22 Said consideration shall be shown as a separate,
23 additional charge on utility bills. Revenues from gas sales
24 to the City or to other governmental agencies shall be
25 exempt. Nothing herein shall be construed to be a limitation
26 on the assessment and collection of all other valid taxes,
27 licenses and other impositions by the Grantor on and from the

1 Grantee in excess of the applicable percentage or revenue to
2 be paid.

3 SECTION 6. RESTRICTION AGAINST ASSIGNMENT.

4 The Grantee shall not lease, assign or otherwise
5 alienate this franchise or any renewal of this franchise,
6 except with the consent of the City Commission expressed by
7 Ordinance, and evidenced by a written assignment and consent
8 to same, recorded in the public records of Broward County,
9 Florida. The consent of the City Commission shall not be
10 unreasonably withheld, provided that the prospective
11 transferee is capable of performing all obligations of this
12 franchise, and that such transferee agrees with the City, in
13 writing, to comply with all provisions of this Franchise.

14 SECTION 7. FORFEITURE AND REVOCATION OF GRANT.

15 Violation by the Grantee of any of the covenants,
16 terms and conditions herein, or default by the Grantee in
17 observing or carrying into effect any of said covenants,
18 terms, and conditions shall authorize and empower the Grantor
19 to declare a forfeiture of and to revoke and cancel all
20 rights granted hereunder, provided, however, that before such
21 action by the Grantor shall become operative and effective,
22 the Grantee shall have been served by the Grantor with a
23 written notice setting forth all matters pertinent to such
24 violation or default, and describing the action of the
25 Grantor with respect thereto, and Grantee shall have a period
26 of sixty (60) days after the service of such notice within
27 which to rectify such violation or default; and provided

1 further that any violation or default resulting from a
2 strike, lockout, an act of God, or any other cause beyond the
3 control of the Grantee shall not constitute grounds for
4 revoking or cancelling any rights hereunder. In the event
5 that the Grantee, upon receipt of such written notice from
6 the Grantor, does not desist from such violation within the
7 60-day period, then the Grantee shall be deemed to have
8 forfeited all grants, privileges, rights and immunities given
9 by this franchise.

10 SECTION 8. CHANGES IN PROVISIONS HEREOF.

11 Minor changes in the terms and conditions hereof
12 may be made by written agreement between the Grantor and the
13 Grantee, provided, however, that this section shall not be
14 construed as conferring authority to make any changes in or
15 modifications of the provisions of this Ordinance which would
16 be repugnant to or inconsistent with basic factors or
17 principles underlying the terms and conditions hereof.

18 SECTION 9. USE OF STREETS.

19 Grantee is hereby authorized to use streets within
20 the City to erect, install, construct, repair, replace,
21 reconstruct and maintain Grantee's facilities as may be
22 necessary and pertinent to its operations authorized under
23 the franchise, subject to the conditions set forth below.

24 (a) Grantee shall be responsible for securing any
25 permits, licenses or agreements that may be necessary to the
26 Grantee or required by any private property owners, public
27 utilities or governmental agencies.

1 (b) Grantee's facilities shall be installed or
2 relocated, whichever is applicable, as to cause a minimum of
3 interference with the rights and reasonable convenience of
4 property owners adjoining any of the said streets. Grantee's
5 facilities shall be installed or relocated, whichever is
6 applicable, from time to time, so as to interfere as little
7 as possible with traffic over the streets, waterways, bridges
8 and public places of the City, and to allow a reasonable
9 egress from and ingress to abutting property. Prior to the
10 complete blocking of any street or public place, Grantee
11 shall consult with the City Engineer and City Chief of
12 Police, or their successors, and other proper City officials
13 toward the end of the least possible traffic interference.

14 (c) Grantee's facilities shall be installed or
15 relocated, whichever is applicable, in locations in the
16 right-of-way so as to cause a minimum of interference with
17 the utilization of the right-of-way by the City. The City
18 retains the right, on a case by case basis, to prohibit the
19 installation or relocation, whichever is applicable, of
20 Grantee's facilities in a particular location of a City
21 street, in the event the City in its sole and reasonable
22 discretion determines that such facilities will interfere
23 with the use of the City street by the City.

24 (d) Grantee shall place its facilities
25 underground whenever reasonably possible.

26 (e) Grantee's facilities shall be constructed,
27 installed, repaired, replaced and relocated by the Grantee

1 with the approval by permit of the proper City officials; and
2 the Grantee shall at its own expense replace without undue
3 delay any sidewalks, pavement, subgrade, soil, grass or
4 landscaping that may be displaced by the Grantee and restore
5 same to as good condition as same existed prior to such
6 construction, installation, repair or replacement of
7 Grantee's facilities.

8 Upon failure of the Grantee to do so within
9 ten (10) days after receipt by Grantee of written notice from
10 the City Engineer or his successor, the City may repair and
11 replace such portion of the sidewalk or street or other place
12 that may have been disturbed by said Grantee, and the cost of
13 the same including administrative and engineering costs shall
14 be paid by the Grantee. The proper City officials may allow
15 the Grantee a reasonable extension of the foregoing time
16 period for good cause shown.

17 In addition, in the event the City incurs any
18 damage or expense, as a result of any activity by the
19 Grantee, or its nonfeasance, misfeasance or malfeasance,
20 including interruption or relocation costs, Grantee shall
21 immediately reimburse the City upon demand.

22 Notwithstanding any provisions herein to the
23 contrary, in the event the City Engineer or his successor,
24 other proper City officials or Grantee construes a repair or
25 replacement to be an emergency, Grantee shall make such
26 repairs and replacements as soon as practical, or the City
27 may do so.

1 (f) Grantee shall endeavor to coordinate all
2 construction, installation or repairs of Grantee's facilities
3 with all governmental entities having jurisdiction over
4 Grantee, and utilities which provide services in the vicinity
5 of such activities of Grantee, in order to minimize any
6 adverse effects, disruption or disturbance.

7 (g) All street cuts made by Grantee under this
8 franchise shall be maintained by Grantee in accordance with
9 the standards determined and required by the City Engineer or
10 his successor as such standards are applied to all other
11 franchises of the City.

12 (h) Except as otherwise required by Section
13 337.043, Florida Statutes, whenever the City shall determine
14 through its City Commission that the public interest requires
15 facilities of the Grantee to be reconstructed, relocated,
16 altered or discontinued at Grantee's expense, it shall be the
17 obligation of Grantee within thirty (30) days after receipt
18 of written notice of such requirement from the City Engineer,
19 or within such other longer time period which is acceptable
20 to City, to comply with such City determination.

21 SECTION 10. COMPLIANCE WITH APPLICABLE LAWS AND
22 ORDINANCES.

23 The Grantee hereby agrees to abide by all the
24 rules and regulations and ordinances which the Grantor has
25 enacted or might enact in the future, and further agrees to
26 abide by any established policy which the Grantor or its duly
27 authorized representative has established or will establish

1 provided, however, it is not intended that the Grantor have
2 the right to unilaterally modify the terms and conditions of
3 this Franchise other than as herein provided and as is
4 required by the execution of the Grantor's police powers. It
5 is also expressly recognized that the authority of the
6 Grantor is subject to preemption by the State of Florida
7 Public Service Commission and by the United States Government.

8 SECTION 11. INDEMNIFICATION.

9 The parties hereto specifically agree and
10 understand that the award of this Franchise to Grantee and
11 all terms, promises, covenants, conditions and obligations
12 contained in this Franchise are sufficient consideration for
13 the indemnification provisions contained herein, in
14 accordance with Section 725.06, Florida Statutes.

15 For and in consideration of the sum of ten dollars
16 (\$10.00) and other good and valuable consideration, the
17 receipt and sufficiency of which are hereby acknowledged by
18 the parties hereto, and in consideration of the award of this
19 Franchise to Grantee, Grantee shall indemnify City as follows:

20 The Grantee shall indemnify, hold harmless and
21 defend the City, its officers, agents and employees against,
22 and assume all liability for, any and all claims, suits
23 actions, damages, liabilities, expenditures, or causes of
24 action of any kind arising from this Franchise and/or arising
25 from the construction, operation and maintenance of a gas
26 utility system and related facilities and/or the use of the
27 public streets for the purposes authorized herein and

1 resulting or occurring from any negligence, act, omission or
2 error of the Grantee, its agents or employees or arising from
3 the failure of the Grantee, its agents or employees to comply
4 with each and every covenant of the Franchise or with any
5 other ordinance or law regulating the use of the streets of
6 the City resulting in or relating to, bodily injury, loss of
7 life or limb or damage to property sustained by any person,
8 firm, corporation or other business entity. Grantee shall
9 save the City, its officers, agents and employees harmless
10 from and against all judgments, orders, decrees, attorney's
11 fees, costs, expenses and liabilities incurred in and about
12 any such claim, investigation or defense thereof, which may
13 be entered, incurred or assessed as a result of the
14 foregoing. Grantee shall defend, at its sole cost and
15 expense, any legal action, claim or proceeding instituted by
16 any person against the City, its officers, agents or
17 employees as a result of any claim, suit or cause of action
18 occurring from this franchise, for injuries to body, life,
19 limb, or property as set forth above.

20 SECTION 12. INSURANCE.

21 (a) At all times during the term of the
22 Franchise, Grantee shall obtain and pay all premiums for a
23 general comprehensive public liability insurance policy
24 indemnifying, defending and saving harmless the City, its
25 officer, boards, commissions, agents or employees, from any
26 and all claims by any person with regard to all damages
27 provided in the above section, with the combined single limit

1 coverage of three million dollars (\$3,000,000.00) per
2 occurrence.

3 (b) The insurance policy obtained by the Grantee
4 in compliance with this section shall be issued by a company
5 or companies acceptable to the City and a current certificate
6 or certificates of insurance, along with written evidence of
7 payment of all required premiums, shall be filed and
8 maintained with the City during the term of this Franchise.
9 Said policies shall name the City as an additional insured
10 and shall contain a provision that a written notice of
11 cancellation or reduction in coverage of said policy shall be
12 delivered to the City thirty (30) days in advance of the
13 effective date thereof. It is understood and agreed that the
14 continuance of operations by the Grantee without required
15 insurance will be considered a material breach of this
16 Franchise agreement by virtue of which the City may terminate
17 the same upon thirty (30) days' written notice to the Grantee.

18 (c) The insurance requirements of the Grantee
19 hereunder shall not be affected by any insurance which the
20 City may carry in its own name.

21 SECTION 13. JURISDICTION.

22 A. Local Jurisdiction. The Grantee is subject
23 to the Rules and Regulations of the Florida Public Service
24 Commission. In the event that the Florida Public Service
25 Commission (FPSC), or other State regulatory authority,
26 should be deprived of the authority to make Rules and
27 Regulations governing the Grantee, then the Grantor shall

1 have the right to fix reasonable and compensatory rates to be
2 paid for gas by the consumers, and provide for the extension,
3 repair, and maintenance of mains, service lines, and the
4 connection with the pipes of the consumers, and the
5 installing and testing of meters, and to regulate the quality
6 and pressure of gas, and to provide such other and further
7 regulations as shall be reasonably necessary and proper to
8 insure adequate service to consumers and to protect their
9 interests. However, until such deprivation of authority
10 occurs, the Grantor shall not, make or attempt to enforce any
11 rule, ordinance or restriction which conflicts with the Rules
12 and Regulations of the FPSC or the currently effective tariff
13 of the Grantee.

14 B. Change of Government. Any change of the
15 form of government of the Grantor as authorized by the
16 constitution and laws of the State of Florida shall not
17 affect the validity of this Franchise. Any successor
18 government to the Grantor shall, without the consent of the
19 Grantee, succeed to all right and obligations of the Grantor
20 provided in this Franchise.

21 SECTION 14. ACCOUNTS AND RECORDS.

22 The Grantor shall have access at all reasonable
23 hours to all of the Grantee's engineering, accounting,
24 customer and service records relating to the property and the
25 operations of the Grantee within the territorial limits of
26 the Grantor.

Such records shall be kept and maintained in accordance with generally accepted accounting principles. All of the said records shall, upon written request of the Grantor, be open for examination by the Grantor, and such records shall be retained by the Grantee for a minimum of three (3) years.

SECTION 15. CONSTRUCTION WORK.

The Grantor reserves the right to lay and permit to be laid electric conduits, water, gas and other pipelines or cables, sewers, and to do and permit to be done any underground work that may be deemed necessary or proper by the Grantor or other governmental entity having jurisdiction across, along or under any street, alley, public way, easement, or other public ground.

Whenever, by reason of establishing a grade or by reason of changes in the grade of any street, or by reason of the widening, grading, paving, or otherwise improving present or future streets, alleys, or other public ways or in the location or manner of construction of any Grantor-owned water pipes, electric conduits, sewers, or other underground structure, it shall be deemed necessary by the Grantor to alter, change, adapt, or conform the mains, service pipe, or other appurtenances of the Grantee, such alterations or changes shall be made by the Grantee as ordered in writing by the Grantor without claim for reimbursement against the Grantor. If the Grantor shall require the Grantee to adapt or conform its mains, service pipe, or other appurtenances,

1 or in any way to alter, relocate, or change its property to
2 enable any other person or corporation to use said street,
3 alleys, easements, or public places, the Grantee shall be
4 reimbursed by the person or corporation desiring or
5 occasioning such change for any loss, cost, or expense caused
6 by or arising out of such change, alteration, or relocation
7 of the Grantee's property.

8 SECTION 16. PROHIBITION OF DISCRIMINATORY
9 PRACTICES.

10 The Grantee, shall not as to rates, charges,
11 services, facilities, rules, regulations or in any other
12 respect, make or grant any undue preference or advantage to
13 any person nor subject any person to any undue prejudice or
14 disadvantage, provided that nothing in this Franchise shall
15 be deemed to prohibit to establishment of a graduated scale
16 of charges and classified rate schedules to which any
17 customer coming within such classification would be entitled.

18 SECTION 17. SEVERABILITY.

19 If any section, part of such section, paragraph,
20 sentence, or clause of this Ordinance shall be adjudged by a
21 court of competent jurisdiction to be invalid, such decision
22 shall not affect the validity of any other portion hereof,
23 but shall be restricted and limited in its operation and
24
25
26
27
28
29


1 effect to that specific portion hereof involved in the
2 controversy in which such decision shall have been rendered.

3 PASSED AND ADOPTED on 1st reading February 7, 1995.

4 PASSED AND ADOPTED on 2nd reading March 7, 1995.

5 EFFECTIVE DATE March 17, 1995.

9 ATTEST:

10 
11 CITY CLERK

8 
MAYOR-COMMISSIONER

	Vote AYE / NAY
E. Steinberg	✓ : _____
G. Stein	✓ : _____
H. Cohen	✓ : _____
A. Lanner	✓ : _____
A. Rosenberg	✓ : _____
AB-Absent	_____

* - Abstain-Conflict of Interest
forms to be filed.

orig - City Clerk
cc - City Mgr
Finance

CITY OF HALLANDALE
CITY CLERK



25 MAR 22

Peoples Gas

RECEIVED
CITY OF HALLANDALE

MAR 21 1995

LEGAL DEPARTMENT

March 20, 1995

Mr. Mark Goldstein, Assistant City Attorney
City of Hallandale
308 South Dixie Highway
Hallandale, Florida 33009

Dear Mr. Goldstein:

This letter will serve as our official acceptance of Ordinance No. 95-11,

"AN ORDINANCE OF THE CITY OF HALLANDALE, FLORIDA, GRANTING TO PEOPLES GAS SYSTEM, INC., A NON-EXCLUSIVE GAS FRANCHISE FOR A PERIOD OF FIFTEEN (15) YEARS, AND IMPOSING PROVISIONS AND CONDITIONS RELATING THERETO."

The new Franchise Fee will be collected from customers beginning with the April 1995 billings.

My sincere thanks to you Mr. Mark Antonio and other City staff members for the assistance and courtesies they extended during the franchise renewal negotiations. We look forward to continuing the same excellent relationship we have had with the City of Hallandale over the past thirty years.

If I can be of personal assistance to you or your staff in the future, please do not hesitate to contact me.

Sincerely yours,

Wayne E. Hoffman
Division Manager
South Florida Divisions

CC: Mr. Frank Sivard, Vice President, Accounting

PEOPLES GAS SYSTEM, INC.
"FLORIDA'S LEADING GAS UTILITY"