

ORDINANCE NO. C-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING FRANCHISE ORDINANCE NO. C-7106 ADOPTED MAY 4, 1993, GRANTING TO SOUTHERN CALIFORNIA GAS COMPANY, A CORPORATION, THE RIGHT, PRIVILEGE AND FRANCHISE UPON TERMS AND CONDITIONS THEREIN SET FORTH TO LAY AND USE PIPES AND APPURTENANCES FOR TRANSMITTING AND DISTRIBUTING GAS FOR THE PURPOSES AS SPECIFIED THEREINAFTER UNDER, ALONG, ACROSS, OR UPON CERTAIN PUBLIC STREETS, WAYS, ALLEYS AND PLACES, AS THE SAME OR NOW OR MAY HEREAFTER EXIST, WITHIN THE CITY OF LONG BEACH

Robert E. Shannon
City Attorney of Long Beach
333 West Ocean Boulevard
Long Beach, California 90802-4664
Telephone (562) 570-2200

WHEREAS, a dispute arose between the City of Long Beach, as Grantor, and Southern California Gas Company, as Grantee, as to the proper index for calculation of the in-lieu franchise fee required in Franchise Ordinance No. C-7106; and

WHEREAS, a lawsuit in the Los Angeles Superior Court was filed by Grantee to seek declaratory relief as to the proper index for calculation of the in-lieu fee between the parties; and

WHEREAS, the City of Long Beach and Southern California Gas Company entered into a Settlement Agreement dated April 23, 2004, following City Council approval of the Settlement Agreement on April 20, 2004, which requires an amendment to Ordinance No. C-7106;

///

1 NOW, THEREFORE, the City Council of the City of Long Beach ordains as
2 follows:

3 Section 1. A new word shall be added as subsection "L" to Section One,
4 Definitions, of Ordinance No. C-7106, adopted May 4, 1993, which is intended to clarify but
5 not change the franchise terms and conditions to read as follows:

6 L. The word "parties" shall mean Grantee, Southern California Gas
7 Company, and its lawful successors or assigns and Grantor, the City of Long
8 Beach, as governed through the formal acts of the City Council.

9 Sec. 2. The third paragraph of Section Four (A)(2), Consideration, of
10 Ordinance No. C-7106, adopted May 4, 1993, is amended to read as follows:

11 "imputed value" means the value of the actual quantities of such non-
12 proprietary gas delivered within the City by Grantee during the period of calculation.
13 For purposes of this franchise agreement, City and Grantee intend that the imputed
14 value accurately reflect the value of such gas delivered as if it were sold on a
15 proprietary basis by Grantee, rather than transported on behalf of third parties. City
16 and Grantee agree that effective with the payment due for the fourth quarter of 2003
17 and through the remaining term of the franchise, the "imputed value" will be
18 calculated in a manner consistent with Section 6353(b) of the California Public
19 Utilities Code as it is implemented and authorized by the California Public Utilities
20 Commission. Currently this is the Grantee's adjusted core procurement rate or
21 "GCPA." Thus, the imputed value shall be determined by multiplying the actual
22 quantities of such non-proprietary gas times the GCPA. The parties agree that this
23 fairly represents the intent of the parties with respect to determining the imputed
24 value of gas for the remainder of the twenty-five year term of the franchise.

25 Sec. 3. A new paragraph shall be added to Section Seventeen, Notice, of
26 Ordinance No. C-7106, adopted May 4, 1993, which is intended to clarify but not change
27 the franchise terms and conditions to read as follows:

28 Any change in the terms and conditions of this franchise shall require written

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1 approval by the parties.

2 Sec. 4. The City Clerk shall certify to the passage of this ordinance by the
3 City Council and cause it to be posted in three conspicuous places in the City of Long
4 Beach, and it shall take effect on the thirty-first day after it is approved by the Mayor.

5 I hereby certify that the foregoing ordinance was adopted by the City Council of the
6 City of Long Beach at its meeting of _____, 2004, by the following
7 vote:

8 Ayes: Councilmembers: _____

9 _____

10 _____

11 _____

12 Noes: Councilmembers: _____

13 _____

14 Absent: Councilmembers: _____

15 _____

16 _____
17 City Clerk

18
19
20 Approved: _____

21 _____
22 Mayor

23
24
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