

ORDINANCE NO. 2016-3-7

**AN ORDINANCE**

EXTENDING THE AUTHORIZATION TO

Ameren Illinois Company  
d/b/a/ **Ameren Illinois**

ITS SUCCESSORS AND ASSIGNS

TO CONSTRUCT, OPERATE AND MAINTAIN  
A GAS UTILITY SYSTEM

IN THE

**Village of Hamburg**

COUNTY OF CALHOUN

AND

STATE OF ILLINOIS

**PASSED** 3-7-2016

**EXPIRES** 3-7-2034

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE RENEWING AN EXISTING FRANCHISE AND GRANTING FOR A PERIOD OF 20 YEARS TO AMEREN ILLINOIS, A CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE FRANCHISE, RIGHT, PERMISSION AND AUTHORITY TO CONSTRUCT, RECONSTRUCT, EXCAVATE FOR, PLACE, REMOVE, EXTEND, MAINTAIN, AND OPERATE A GAS UTILITY SYSTEM IN THE VILLAGE OF HAMBURG, COUNTY OF CALHOUN AND STATE OF ILLINOIS.

BE IT ORDAINED BY THE PRESIDENT AND THE BOARD OF TRUSTEES OF THE VILLAGE OF HAMBURG, COUNTY OF CALHOUN, AND THE STATE OF ILLINOIS, AS FOLLOWS:

SECTION 1 It is the intent of the parties by this Ordinance to extend for an additional term, subject to the terms and conditions here stated, the authorization to Ameren Illinois, its successors and assigns, to construct, operate and maintain a gas utility system within the Village as originally authorized by Ordinance No. 101 approved on February 2, 1966. The parties acknowledge that by so doing they are continuing an existing relationship authorizing the services of a utility for the provision of gas energy and other purposes within the Village for the benefit of its citizens and residents as well as other consumers of gas energy located within its corporate limits.

SECTION 2. There is hereby given and granted to Ameren Illinois, its successors and assigns (hereinafter referred to as the "Company"), the right, privilege and authority to construct, operate, maintain and/or extend within the corporate limits, as the same now exists or may hereafter be extended, of the Village of Hamburg (hereinafter referred to as "Municipality"), a gas utility system for the transmission, distribution and/or sale of gas energy and other purposes (the "System"), together with the right, privilege and authority to lay, erect, construct, install, operate and/or maintain all necessary mains, pipes, valves, equipment and/or other apparatus as may be necessary or convenient for the System, in, upon, along, over, under, through and/or across each and all of the streets, avenues, alleys, bridges, easements, rights of way and/or other public places as agreed upon by both parties.

SECTION 3. All mains, pipes, valves and apparatus shall, so far as practicable, be placed underground and shall be so located and laid as not to interfere unnecessarily with any pipes, conduits, sewers, drains, pavements, public places, or right-of-way existing at the time of such location, and said Company shall forthwith repair any damage caused to such improvements to the satisfaction of the official or officials of said Municipality having charge of the supervision thereof. There shall be no unnecessary obstruction to the streets, avenues, alleys, public places and right-of-way of said Municipality in the laying, installation, operation or maintenance of any of said mains, pipes, valves or other equipment. All facilities of Company in said Municipality shall be installed and maintained in accordance with the applicable rules and regulations of the Illinois Commerce Commission.

When any roadway within a right-of-way shall be graded, curbed, paved or otherwise changed or when there is a relocation of such right-of-way, so as to make the resetting or relocation of any mains, pipes, valves or other equipment placed or installed under this

Ordinance necessary, the Company shall make such resetting or relocation, at the Company's cost and expense. Municipality shall provide the Company with a suitable location for the resetting or relocation of such mains, pipes, valves or other equipment, and the Company's obligation shall be limited to resetting or relocating mains, pipes, valves or other equipment of the same type and configuration as the displaced mains, pipes, valve or other equipment. Company shall make such resetting or relocation within a reasonable time after receiving written notice of the need for the same from the authorized representative of the Municipality, and the establishment by the Municipality of the permanent grade at the new location. Except as expressly stated, nothing in this Section requires the Company to bear responsibility for any costs or expenses to relocate its mains, pipes, valves or other equipment for any other reason or cause.

SECTION 4. When any street, avenue, alley, bridge, easement, right of way and/or other public place, upon which or in which any facilities of Company have been placed, shall be graded, curbed, paved or otherwise changed by the Municipality so as to make the resetting or reconstruction of such facilities necessary, Company shall make such necessary change in construction at no cost to Municipality. Should it become necessary or should the Company desire to use conduits or other similar fixtures, Company shall make application to the Municipality for the establishment of permanent grades and such conduits or other similar fixtures shall not be installed until such permanent grades have been established. The Municipality agrees to establish promptly such permanent grades upon such application.

SECTION 5. The rates to be charged by the Company for gas service rendered under this Ordinance shall be such as are approved from time to time by the Illinois Commerce Commission of the State of Illinois and/or such other duly constituted governmental authority as shall have jurisdiction thereof. All Rules and Regulations of the Illinois Commerce Commission of the State of Illinois applicable to the rights, privileges and authority granted by this Ordinance, in the event of conflict herewith, shall govern.

SECTION 6. As a further consideration for the rights, privileges and authorities granted by this ordinance, the Company shall, in Year 1 of the agreement, furnish municipality compensation in the amount of \$2,000, beginning within 30 days of the acceptance of this ordinance by the municipality. In subsequent years payment will be made, after the anniversary date, in the amount of \$500, annually. Municipality may request a revision to the compensation amount after five years from the date of passage of this ordinance if Municipality has a reasonable belief that its population has increased or decreased by 3% or more. Municipality must request the revision at least 60 days prior to the next anniversary date. If Company confirms that the number of customers served by the System within Municipality's corporate limits has increased or decreased by 3% or more, the compensation amount will be revised by that percentage for the next and succeeding payments. Municipality may request similar revisions to compensation amounts under these criteria in additional five year periods throughout the term of this ordinance.

SECTION 7. The rights, privileges and authority hereby granted shall inure to and be vested in Company, its successors and assigns, successively, subject to all of the terms, provisions and conditions herein contained, and each of the obligations hereby imposed upon Company shall devolve and be binding upon its successors and assigns, successively, in the same manner.

SECTION 8. The Company shall indemnify and save harmless the Municipality and all contractors, officers, employees and representatives thereof from all claims, demands,

causes of action, liability, judgments, costs and expenses or losses for injury or death to persons or damage to property owned by, and Worker's Compensation claims against any parties indemnified herein, arising out of, caused by, or as a result of the Company's construction, erection, maintenance, use or presence of, or removal of any mains, pipes, valves or other appurtenances thereto, or equipment or attachments thereto. The foregoing indemnification shall not apply to the extent any such claim, demand, cause of action, liability, judgment, cost, expense or loss arises out of, is caused by, or results from the negligent or wrongful willful act or omission of the Municipality or any contractor, officer, employee or representative thereof.

SECTION 9. This Ordinance shall confer no right, privilege or authority on Company, its successors or assigns, unless Company shall within ninety (90) days after due notice to the Company of the enactment of this Ordinance, file with the Village Clerk an acceptance of the terms and provisions hereof; provided, however, that if such acceptance be not so filed within said period of ninety (90) days, all rights, privileges, and authority herein granted shall become null and void.

SECTION 10. All rights, privileges and authority given and granted by this Ordinance are granted for a term of 20 years from and after the acceptance of this Ordinance as hereinafter provided (the "Initial Term"), and thereafter on a year-to-year basis (each a "Subsequent Term") unless either the Company or Municipality notifies the other in writing of its desire to terminate this Ordinance at least six (6) months prior to the expiration of the Initial Term or any Subsequent Term.

SECTION 11. The Municipality acknowledges that Company is vested in rights, permissions and authority independent of this Ordinance. Neither acceptance of this Ordinance nor compliance with its provisions shall impair in any way or waive any right, permission or authority which Company may have independent of this Ordinance. In addition, neither use by Company of public property or places as authorized by this Ordinance nor service rendered by Company in said Municipality shall be treated as use solely of the rights, permission and authority provided for by this Ordinance and in no way shall indicate non-use of any right, permission or authority vested in the Company independent of this Ordinance. In the event the Municipality vacates any streets, avenues, alleys, easements, rights of way, bridges or other public places during the term of this Ordinance, Municipality agrees to reserve unto Company the rights, privileges and authority herein given and granted to the Company in upon, under, along, over and across each and all of such vacated premises which are at that time in use by the Company.

SECTION 12. All ordinances and parts of ordinances in conflict with this Ordinance or with any of its provisions are, to the extent of such conflict, hereby repealed.

SECTION 13. This Ordinance shall not relieve Company of the obligation to comply with any ordinance now existing in the Municipality or enacted in the future requiring Company to obtain written permits or other approval from the Municipality prior to commencement of construction of facilities within the streets thereof, except Company shall not be required to obtain permits or other approval from the Municipality for the maintenance, upgrading and repair of its facilities. Except in cases of emergency, prior to engaging in any excavation activity that is expected to create an obstruction or other hazardous condition in any street avenue, alley or public place, the Company shall notify Municipality of the location and extent of the planned excavation. In cases of emergency, Company shall notify Municipality of the location and extent of any such activity as soon as practicable after the emergency has been abated.

SECTION 14. If any provision of this Ordinance, or the application of such provision to particular circumstances, shall be held invalid, the remainder of this Ordinance, or the application of such provision to circumstances other than those as to which it is held invalid, shall not be affected thereby.

SECTION 15. If, at any time, during the term of this contract, Municipality permits another entity or person to provide gas distribution or similar services, and Company reasonably believes the other entity or person is granted more favorable treatment, terms, or conditions, then Company shall notify Municipality of such treatment, terms, or conditions. Alternatively, if Municipality reasonably believes the other entity or person grants Municipality more favorable treatment, terms, or conditions, then Municipality shall notify Company of such treatment, terms, or conditions. Upon receipt of such notice, Municipality and Company shall negotiate in good faith to amend this ordinance to provide Company or Municipality such more favorable treatment, terms or conditions on an equivalent basis. Such amendment shall take into consideration all circumstances that distinguish between Company and the entity or person receiving the more favorable or less favorable treatment, terms, or conditions.

SECTION 16. The Company shall be exempt from any special tax, assessment, license, rental or other charge during the term of this Ordinance, on all mains, pipes, valves, equipment and other apparatus placed under the streets, alleys, avenues, bridges, easements, rights of way or other public places within the corporate limits of Municipality.

SECTION 17. This Ordinance shall take effect and the rights, privileges and authority hereby granted and renewed shall vest in Company upon its filing of an acceptance with the Village Clerk according to the terms prescribed herein. This Ordinance shall be in full force from and after its passage, approval and ten (10) day period of publication in the manner provided by law.

Passed and approved this 7<sup>th</sup> day of MARCH, 2016.



\_\_\_\_\_  
President  
Village of Hamburg, Illinois

[SEAL]

ATTEST

  
\_\_\_\_\_  
Village Clerk

STATE OF ILLINOIS )  
VILLAGE OF HAMBURG ) SS  
COUNTY OF CALHOUN )

I, Kou Procto, Village Clerk within and for the Village of Hamburg,  
in the State and County aforesaid, do hereby certify that:

- (1) the foregoing constitutes a full, true and correct copy of Ordinance No. 2016-3-1  
of said Village as:
- (a) introduced before the Board of Trustees on the 7<sup>th</sup> day of  
MARCH, 2016; and
- (b) passed by the Board of Trustees and approved by the President on the  
7<sup>th</sup> day of MARCH, 2016, as fully as the same appears of  
record in my office;

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of  
the Village of Hamburg, Illinois, at my office in said Village this 7<sup>th</sup> day  
of MARCH, 2016.

[SEAL]

Kou Procto  
Village Clerk

**ACCEPTANCE**

Ameren Illinois, ("Company") in consideration of the rights and privileges granted by Ordinance No. 2016-3-7 of the Village of Hamburg, Illinois, passed MARCH 7, A.D. 2016, approved \_\_\_\_\_, A.D. 2016, and entitled "An Ordinance extending the authorization to Company, its successors and assigns, to construct, operate and maintain a gas utility system in the Village of Hamburg, County of Calhoun and State of Illinois", hereby accepts said Ordinance and all the provisions thereof.

In Witness Whereof, Ameren Illinois, Company as aforesaid has caused these presents to be signed by its President or a Vice President and attested by its Secretary or an Assistant Secretary and its corporate seal to be affixed this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 2016.

Ameren Illinois

By \_\_\_\_\_  
**Richard J. Mark**  
**President**

**(Corporate Seal)**

**Attest:**

\_\_\_\_\_  
**Assistant Secretary**