

MAYOR AND COMMISSIONERS OF THE TOWN OF PERRYVILLE
Ordinance 2018-14

Introduced By: Mayor Ashby

Date Introduced: September 04, 2018

Amendments Adopted: N/A

Date Adopted: October 2, 2018

Date Effective: October 22, 2018

AN ORDINANCE concerning

Baltimore Gas and Electric Company Gas Service Authorization Extension

FOR the purpose of extending for a certain term authorization given to Baltimore Gas and Electric Company, its successors and assigns, to lay conductors or pipes for the transmission of gas under the streets, squares, lanes, alleys and roads of the Town of Perryville, paved or unpaved, and to connect the same with any manufacturing, public or private building, lamp or other structure or object, and with the place of supply; and generally related to provision of natural gas service in the Town of Perryville.

EXPLANATORY STATEMENT: By Ordinance adopted May 20, 1968, by The Commissioners of Perryville, the Commissioners assented to Baltimore Gas and Electric Company, its successors and assigns, laying conductors or pipes for the transmission of gas under the streets, squares, lanes, alleys and roads of the Town of Perryville, Maryland, paved or unpaved, and connecting the same with any manufacturing, public or private building, lamp or other structure or object, and with the place of supply, for a period of fifty (50) years. Such Ordinance, a copy of which is attached to this Ordinance, is referred to in this Ordinance as the "Perryville Assent Ordinance." Baltimore Gas and Electric Company has installed its pipes for the transmission of gas within the Town of Perryville as permitted under the Perryville Assent Ordinance. Baltimore Gas and Electric Company has requested that the Town of Perryville, as successor to The Commissioners of Perryville, extend the authorization given under the Perryville Assent Ordinance for an additional period of fifty (50) years, retroactively to May 20, 2018. The Mayor and Commissioners have agreed to such extension under the terms of this Ordinance. Now, therefore,

SECTION 1. BE IT ENACTED BY THE MAYOR AND COMMISSIONERS OF THE TOWN OF PERRYVILLE that the Perryville Assent Ordinance is hereby extended for an additional fifty (50) years retroactively to May 20, 2018.

SECTION 2. AND BE IT FURTHER ENACTED BY THE MAYOR AND COMMISSIONERS OF THE TOWN OF PERRYVILLE that the Mayor and Commissioners of the Town of Perryville ratify and confirm the assent of the Town of Perryville to Baltimore

Gas and Electric Company laying conductors or pipes for the transmission of gas under the streets, squares, lanes, alleys, and roads, paved or unpaved, within the present or future limits of the Town of Perryville, and connecting the same with buildings, other structures and the place of supply, in accordance with the terms and conditions set forth in the Perryville Assent Ordinance and this Assent Ordinance.

SECTION 3. AND BE IT FURTHER ENACTED BY THE MAYOR AND COMMISSIONERS OF THE TOWN OF PERRYVILLE that that at all times during the performance of any work covered by this Assent Ordinance, Baltimore Gas and Electric Company, at its sole cost and expense, shall obtain and keep in full force and effect the following required insurance coverage or equivalent self-insurance:

- i. Commercial general liability insurance on an “occurrence” basis naming the Town of Perryville, its elected officials, appointees, employees, agents, and representatives as certificate holders and additional insureds, for which the limits of liability shall be not less than three million dollars (\$3,000,000.00) combined single limit.
- ii. Workers’ compensation coverage as required by the State of Maryland.
- iii. Business automobile liability insurance naming the Town of Perryville, its elected officials, appointees, employees, agents, and representatives as certificate holders and additional insureds, for which the limits of liability shall be not less than five hundred thousand dollars (\$500,000.00) per occurrence, including coverage for owner, hired, and non-owned automobiles.

The Mayor and Commissioners of the Town of Perryville may require an increase in the limits of the required insurance coverage or equivalent self-insurance listed above not more often than every five (5) years to account for inflation and change in risks being insured against.

Baltimore Gas and Electric Company agrees to a waiver of subrogation for each type of insurance coverage or equivalent self-insurance listed above.

SECTION 4. AND BE IT FURTHER ENACTED BY THE MAYOR AND COMMISSIONERS OF THE TOWN OF PERRYVILLE that Baltimore Gas and Electric Company shall indemnify, defend and hold harmless the Town of Perryville, its elected officials, appointees, employees, agents, and representatives, against and from all third party claims, demands, suits or actions, including reasonable attorneys’ fees connected therewith, brought against the Town of Perryville, its elected officials, appointees, employees, agents, and representatives arising as a result of breach of Baltimore Gas and Electric Company’s covenants or agreements under this Assent Ordinance or any negligent or reckless act or willful misconduct of Baltimore Gas and Electric Company or its contractors and/or subcontractors in the performance of any covenants or agreements under this Assent Ordinance, except in any such case to the extent such claims, demands, suits, actions, fees or costs arise from the negligent or reckless act or willful misconduct of the Town of Perryville, its elected officials, appointees, employees, agents, and representatives.

SECTION 5. AND BE IT FURTHER ENACTED BY THE MAYOR AND COMMISSIONERS OF THE TOWN OF PERRYVILLE that that no sale, assignment, or lease of the assent granted in this Assent Ordinance shall be effective until (i) Baltimore Gas and Electric Company has notified the Town of Perryville in writing, (ii) the Town of Perryville has had ample opportunity to conduct public hearings on the proposed sale, assignment, or lease (such opportunity not to exceed 180 days), and (iii) the Mayor and Commissioners of the Town of Perryville have enacted an ordinance approving the proposed sale, assignment, or lease of the assent granted in this Assent Ordinance. Notwithstanding the foregoing, upon written notice to the Town of Perryville, Baltimore Gas and Electric Company may sell, assign, or lease the assent granted in this Assent Ordinance to any affiliate or in connection with a merger, consolidation, sale of all or substantially all of the equity interests of Baltimore Gas and Electric Company, or a sale of all or substantially all of the assets of Baltimore Gas and Electric Company to which this Assent Ordinance relates.

SECTION 6. AND BE IT FURTHER ENACTED BY THE MAYOR AND COMMISSIONERS OF THE TOWN OF PERRYVILLE that that the Town of Perryville may issue a written request to Baltimore Gas and Electric Company for the production of information reasonably necessary to ensure the Town of Perryville that Baltimore Gas and Electric Company is in compliance with the terms and conditions of this Assent Ordinance, and Baltimore Gas and Electric Company shall take reasonable steps to produce such requested information to the Town of Perryville within thirty (30) calendar days of receipt of the written request.

SECTION 7. AND BE IT FURTHER ENACTED BY THE MAYOR AND COMMISSIONERS OF THE TOWN OF PERRYVILLE that within two (2) business days of filing, Baltimore Gas and Electric Company shall provide the Town of Perryville with copies of any filings that it makes with the Maryland Public Service Commission concerning the assent granted to Baltimore Gas and Electric Company under this Assent Ordinance or its ability to comply with the terms and conditions of this Assent Ordinance. Baltimore Gas and Electric Company shall take all reasonable steps to defend and preserve the terms and conditions of this Assent Ordinance before the Maryland Public Service Commission.

SECTION 8. AND BE IT FURTHER ENACTED BY THE MAYOR AND COMMISSIONERS OF THE TOWN OF PERRYVILLE that Baltimore Gas and Electric Company shall use commercially reasonable efforts to have a representative on-site within two (2) hours of any request from the Town of Perryville, the Community Fire Company of Perryville, Maryland, any customer of Baltimore Gas and Electric Company or resident of the Town of Perryville regarding evidence of a possible gas leak (such as odor). In the event of any emergency requiring excavation or other construction in the vicinity of any subsurface gas line, pipe, conduit, or other equipment installed and maintained pursuant to this Assent Ordinance. BGE shall promptly investigate and respond as necessary and appropriate for the protection of the health, safety, or welfare of the residents of the Town of Perryville. Prior to undertaking any such excavation or other construction in the vicinity of any subsurface gas line, pipe, conduit, or other equipment installed and maintained pursuant to this Assent Ordinance, the Town of Perryville shall comply with the Maryland Underground Utilities Damage Prevention Law (commonly known as the Miss Utility Law) and any successor law.

SECTION 9. AND BE IT FURTHER ENACTED BY THE MAYOR AND COMMISSIONERS OF THE TOWN OF PERRYVILLE that Baltimore Gas and Electric Company shall be required to comply with the following training and notice obligations:

- i. At least one (1) time per calendar year, Baltimore Gas and Electric Company shall offer to provide training to personnel of the Community Fire Company of Perryville, Maryland, and other interested agencies of the Town of Perryville to enable such personnel to deal with natural gas emergencies. Baltimore Gas and Electric Company shall provide such training at additional times upon the request of the Town of Perryville.
- ii. Prior to undertaking any cuts or excavations in any streets, squares, lanes, alleys and roads of the Town of Perryville, pursuant to the authorization granted under this Assent Ordinance, Baltimore Gas and Electric Company shall obtain all applicable permits and comply with all applicable laws, including the Miss Utility Law and any successor law, required in connection with the work.

SECTION 10. AND BE IT FURTHER ENACTED BY THE MAYOR AND COMMISSIONERS OF THE TOWN OF PERRYVILLE that within sixty (60) calendar days after receipt of written request therefore from the Town of Perryville, Baltimore Gas and Electric Company shall provide the Town of Perryville with a written summary and proposed timetable of its planned construction or installation activities in the Town of Perryville, to the extent known at the time, during the succeeding twelve (12) month period. This requirement shall not have the effect of precluding Baltimore Gas and Electric Company from constructing or maintaining facilities that were not known or included in the annual notification.

SECTION 11. AND BE IT FURTHER ENACTED BY THE MAYOR AND COMMISSIONERS OF THE TOWN OF PERRYVILLE that in its exercise of the authorization granted under this Assent Ordinance, Baltimore Gas and Electric Company shall not unlawfully discriminate in employment or in the provision of services on the basis of any status or class protected by law. Baltimore Gas and Electric Company shall comply with all applicable requirements of the Americans with Disabilities Act and comparable Maryland law.

SECTION 12. AND BE IT FURTHER ENACTED BY THE MAYOR AND COMMISSIONERS OF THE TOWN OF PERRYVILLE that the following additional terms shall govern Baltimore Gas and Electric Company's exercise of the assent granted under this Assent Ordinance:

- i. If Baltimore Gas and Electric Company commits a substantial violation of a material provision of this Assent Ordinance, or fails to comply with the applicable regulations, rules and orders of the Maryland Public Service Commission, or other duly legally authorized regulatory body of the State of Maryland or of the Town of Perryville, and such violation or failure to comply continues for an unreasonable period after notice of the violation or failure is given in writing to the violator and a public hearing has been conducted, the Town of Perryville, by ordinance enacted after prior written notice of intended revocation and public hearing has been given to Baltimore Gas and Electric Company, may revoke the assent granted under this Assent Ordinance.

ii. If the assent granted under this Assent Ordinance is revoked pursuant to paragraph i of this Section, all rights of Baltimore Gas and Electric Company granted under this Assent Ordinance shall thereupon cease without any further action of the Town of Perryville to effect such revocation. Twenty-four (24) months after the date of such revocation, all of the right, title and interest of Baltimore Gas and Electric Company in and to all pipes, lines, conduits, and accessory equipment, including connections and service pipes, laid by it in the sidewalks, streets, alleys, roads, lanes, highways, squares or other public places in the Town of Perryville, shall terminate and cease and the same thereafter may be disposed of or used by the Town of Perryville in such manner as it may deem to be in its interests, unless within such twenty-four (24) month period Baltimore Gas and Electric Company has salvaged the pipes, lines, conduits, and accessory equipment, by removing the same under the supervision of and in accordance with the applicable ordinances and regulations of the Town of Perryville relating to the tearing up and repairing of the sidewalks, streets, alleys, roads, lanes, highways, squares or other public places in the Town of Perryville, or unless within such twenty-four (24) month period Baltimore Gas and Electric Company, with the consent of the Town of Perryville, which consent shall not be unreasonably withheld, has sold and/or leased the pipes, lines, mains, conduits, and accessory equipment to another company that will supply natural gas in the Town of Perryville.

iii. In lieu of, or in addition to, the revocation of the assent provided for in paragraphs i. and ii. of this Section, the Town of Perryville may take one or more of the following actions if Baltimore Gas and Electric Company has failed to perform a material duty or obligation under this Assent Ordinance and, if the failure to perform is susceptible to cure, does not cure the default or breach within a reasonable time specified in written notice from the Town of Perryville:

1. Seek specific performance of any provision that reasonably lends itself to such remedy, as an alternative to money damages.
2. Commence an action at law to seek monetary damages.
3. Seek other equitable relief.

iv. The Town of Perryville shall be entitled to an award of expenses and attorney fees if the Town of Perryville substantially prevails in an action or proceeding to enforce the provisions, terms, or conditions of this Assent Ordinance.

SECTION 13. AND BE IT FURTHER ENACTED BY THE MAYOR AND COMMISSIONERS OF THE TOWN OF PERRYVILLE that Baltimore Gas and Electric Company shall, by its proper officers, within sixty (60) days from the effective date of this Ordinance, signify in writing its acceptance of all terms, conditions, regulations, and restrictions contained in this Assent Ordinance, in default of which this Ordinance and the assent granted by this Assent Ordinance same shall become null and void without further action of the Mayor and Commissioners.

SECTION 14. AND BE IT FURTHER ENACTED BY THE MAYOR AND COMMISSIONERS OF THE TOWN OF PERRYVILLE that this Ordinance shall become effective at the expiration of twenty (20) days following approval by the Mayor and Commissioners.

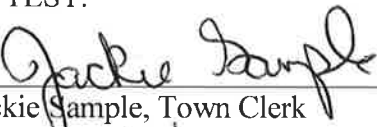
ADOPTED this 2ND day of October, 2018.

SEAL:

**MAYOR AND COMMISSIONERS OF
THE TOWN OF PERRYVILLE**

By: 
Robert R. Ashby, Jr., Mayor

ATTEST:


Jackie Sample, Town Clerk

Date: 10/2/18

ALL THE TERMS, CONDITIONS, REGULATIONS, AND RESTRICTIONS CONTAINED IN THE FOREGOING ASSENT ORDINANCE OF THE COMMISSIONERS OF PERRYVILLE ARE HEREBY ACCEPTED THIS 11th DAY OF October, 2018.

BALTIMORE GAS AND ELECTRIC COMPANY

By: 
Title: VP of Support Services

Attest:


Assistant Secretary

ORDINANCE # 105

AN ORDINANCE authorizing Baltimore Gas and Electric Company, its successors and assigns, to lay conductors or pipes for the transmission of gas under the streets, squares, lanes, alleys and roads of The Commissioners of Perryville, paved or unpaved, and to connect the same with any manufactory, public or private building, lamp or other structure or object, and with the place of supply, for a period of fifty (50) years.

Section 1. BE IT ORDAINED BY THE COMMISSIONERS OF PERRYVILLE that Baltimore Gas and Electric Company, its mortgagees, lessees, successors, and assigns, and they and each of them are hereby authorized and empowered to lay conductors or pipes for the transmission of gas under the streets, squares, lanes, alleys, and roads, paved or unpaved, within the present or future limits of the Town of Perryville, and to connect the same with any manufactory, public or private building, lamp or other structure or object, and with the place of supply, said authorization and power being for a period of fifty (50) years from and after the effective date of this Ordinance.

Section 2. BE IT FURTHER ORDAINED that the use of said streets, squares, lanes, alleys, and roads shall be subject to such reasonable and proper regulations and conditions as the Commissioners of Perryville may from time to time prescribe, subject, however, also to any law or ordinance that may be passed by the said The Commissioners of Perryville for the filling up and repaving of any street, square, lane, alley, or road under which the said conductors or pipes may be laid; and subject also to the condition that the said Baltimore Gas and Electric Company shall remove or relocate, at its own expense, its conductors or pipes laid pursuant to this ordinance whenever required by the public safety, convenience, or welfare of the Town of Perryville, and whether in aid of a governmental or proprietary activity of said Town.

Section 3. BE IT FURTHER ORDAINED that the said conductors or pipes shall be so laid as in no way to interfere with the safety or convenience of persons traveling on or over the said streets, squares, lanes, alleys, and roads, or the drainage thereof.

Section 4. BE IT FURTHER ORDAINED that the laying of conductors and pipes under the provisions of this assent shall be subject to the supervision of the said The Commissioners of Perryville, and the said Company shall replace and promptly restore with the same quality of material that portion of any street, square, lane, alley, or road disturbed by it in the construction or maintenance of its gas system to the satisfaction of the said Commissioners of Perryville.

Section 5. BE IT FURTHER ORDAINED that the said Company shall maintain all conductors or pipes, and all other apparatus laid or constructed under the provisions of this assent, in good and safe order and condition; and shall at all times fully indemnify, protect, and save harmless the said The Commissioners of Perryville from and against all actions, claims, suits, damages, or charges, and against all loss and necessary expenditure arising from the laying, construction, maintenance, and repairing of the Company's gas system in said Town of Perryville, or from its negligence or failure to maintain the said conductors, pipes, and apparatus in good and safe order and condition.

Section 6. BE IT FURTHER ORDAINED that nothing herein contained shall be construed to grant unto said Baltimore Gas and Electric Company any exclusive right, or to prevent a grant of similar privileges to other companies.

Section 7. BE IT FURTHER ORDAINED that Baltimore Gas and Electric Company shall, by its proper officers, within sixty (60) days from the date of the granting of this assent, signify in writing its acceptance of all terms, conditions, regulations, and restrictions contained in this

Ordinance, in default of which the same shall become null and void and of no value.

ENACTED by The Commissioners of Perryville this 20 day of May, 1968.

Donald B. Kitcher, Pres
President

[Signature]

[Signature]

Robert S. Day

[Signature]
Board of Commissioners of Perryville

All the terms, conditions, regulations, and restrictions contained in the foregoing Ordinance of the Commissioners of Perryville are hereby accepted this 22nd day of May, 1968.

BALTIMORE GAS AND ELECTRIC COMPANY

Attest:

[Signature]
Secretary

By C. E. Utermohle, Jr.
President

True Copy Test:

[Signature]
Gertrude R. Martindale. Clerk-Treas.