

ORDINANCE NO. 46

CONSUMERS POWER COMPANY GAS AND/OR ELECTRIC FRANCHISE ORDINANCE

AN ORDINANCE, granting to CONSUMERS POWER COMPANY, its successors and assigns, the right, power and authority to lay, maintain and operate gas mains, pipes and services, and to construct, maintain and commercially use electric lines consisting of towers, masts, poles, crossarms, guys, braces, feeders, transmission and distribution wires, transformers and other electrical appliances on, along, across and under the highways, streets, alleys, bridges and other public places, and to do a local gas and/or electric business in the CHARTER TOWNSHIP OF HAMPTON, BAY COUNTY, MICHIGAN, for a period of thirty years.

THE CHARTER TOWNSHIP OF HAMPTON, BAY COUNTY, MICHIGAN ORDAINS:

SECTION 1. GRANT TERM. The Charter Township of Hampton, Bay County, Michigan, hereby grants to the Consumers Power Company, a Michigan corporation, its successors and assigns, hereinafter called the "Grantee" the right, power and authority to lay, maintain and operate gas mains, pipes and services, and to construct, maintain and commercially use electric lines consisting of towers, masts, poles, crossarms, guys, braces, feeders, transmission and distribution wires, transformers and other electrical appliances on, along, across and under the highways, streets, alleys, bridges and other public places, and to do a local gas and/or electric business in the Charter Township of Hampton, Bay County, Michigan for a period of thirty years.

SECTION 2. CONSIDERATION. In consideration of the rights, power and authority hereby granted, said Grantee shall faithfully perform all things required by the terms hereof.

SECTION 3. CONDITIONS. No street, alley, bridge, highway or other public place used by said Grantee shall be obstructed longer than necessary during the work of construction or repair, and shall be restored to the same order and condition as when said work was commenced. All of Grantee's structures and equipment shall be so placed on either side of the highways as not to unnecessarily interfere with the use thereof for highway purposes. All of Grantee's wires carrying electricity shall be securely fastened so as not to endanger or injure persons or property in said highways. The Grantee shall have the right to trim trees if necessary in the conducting of such business, subject, however, to the supervision of the highway authorities.

SECTION 4. HOLD HARMLESS. Said Grantee shall at all times keep and save the Charter Township free and harmless from all loss, costs and expense to which it may be subject by reason of the negligent construction and maintenance of the structures

and equipment hereby authorized. In case any action is commenced against the Charter Township on account of the permission herein granted, said Grantee shall, upon notice, defend the Township and save it free and harmless from all loss, cost and damage arising out of such negligent construction and maintenance.

SECTION 5. FRANCHISE NOT EXCLUSIVE. The rights, power and authority herein granted are not exclusive. The right to do a gas business and the right to do an electric business hereunder are several, and such rights may be separately exercised, owned and transferred. Either manufactured or natural gas may be furnished hereunder.

SECTION 6. EXTENSIONS. Said Grantee shall from time to time extend its gas and electric systems to and within said Charter Township, and shall furnish gas or electricity to applicants residing therein in accordance with applicable laws, rules and regulations.

SECTION 7. RATES. The Grantee shall be entitled to charge the inhabitants of said Charter Township for gas and/or electricity furnished therein, the rates as approved by the Michigan Public Service Commission, to which Commission or its successors authority and jurisdiction to fix and regulate gas and electric rates and rules regulating such service in said Charter Township, are hereby granted. Such rates and rules shall be subject to review and change at any time upon petition therefor being made by either said Charter Township acting by its Township Board, or by said Grantee.

SECTION 8. REVOCATION. The franchise granted by this ordinance is subject to revocation upon sixty (60) days written notice by the party desiring such revocation.

SECTION 9. MICHIGAN PUBLIC SERVICE COMMISSION, JURISDICTION. Said Grantee shall, as to all other conditions and elements of service, both gas and electric, not herein fixed, be and remain subject to the reasonable rules and regulations of the Michigan Public Service Commission or its successors, applicable to gas or electric service in said Charter Township.

SECTION 10. EFFECTIVE DATE. This ordinance shall take effect upon the day after the date of publication thereof, provided however, it shall cease and be of no effect after thirty days from its adoption unless within said period the Grantee shall accept the same in writing filed with the Township Clerk. Upon acceptance and publication hereof, this ordinance shall constitute a contract between said Charter Township and said Grantee.

We hereby certify that the foregoing ordinance was duly enacted by the Township Board of the Charter Township of Hampton, Bay County, Michigan, on the 28th day of August, 1989.