

ORDINANCE NO. 12 (Amended)

CONSUMERS ENERGY COMPANY ELECTRIC FRANCHISE ORDINANCE

AN ORDINANCE, granting to CONSUMERS ENERGY COMPANY, its successors and assigns, the right, power and authority 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, under, along and across the highways, streets, alleys, bridges, waterways, and other public places, and to do a local electric business in the CITY OF GRANT, NEWAYGO COUNTY, MICHIGAN, for a period of thirty years.

THE CITY OF GRANT ORDAINS:

SECTION 1. GRANT, TERM. The CITY OF GRANT, NEWAYGO COUNTY, MICHIGAN, hereby grants the right, power and authority to the Consumers Energy Company, a Michigan corporation, its successors and assigns, hereinafter called the "Grantee," 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 for the purpose of transmitting, transforming and distributing electricity on, under, along and across the highways, streets, alleys, bridges, waterways, and other public places, and to do a local electric business in the CITY OF GRANT, NEWAYGO 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 highway, street, alley, bridge, waterway 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. The Grantee shall at all times keep and save the City free and harmless from all loss, costs and expense to which it may become subject by reason of the construction, maintenance and operation of the structures and equipment hereby authorized. In case any action is commenced against the City on account of the authority herein granted, said Grantee shall, upon notice, defend the City and save it free and harmless from all loss, cost and damage arising out of said authorization. Providing further, that this hold harmless agreement shall not apply to any loss, cost, damage or claims arising solely out of the negligence of the City,

its employees or its contractors. Furthermore, in the event that any loss, cost, damage or claims arise out of the joint negligence of the City, its employees or its contractors, this hold harmless agreement shall not apply to the proportional extent of the negligence of the City, its employees or its contractors.

SECTION 5. EXTENSIONS. Said Grantee shall construct and extend its electric distribution system within said City, and shall furnish electric service to applicants residing therein in accordance with applicable laws, rules and regulations.

SECTION 6. FRANCHISE NOT EXCLUSIVE. The rights, power and authority herein granted, are not exclusive.

SECTION 7. RATES. Said Grantee shall be entitled to charge the inhabitants of said City for electric 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 electric rates and rules regulating such service in said City, are hereby granted for the term of this franchise. Such rates and rules shall be subject to review and change at any time upon petition therefor being made by either said City, acting by its City Council, 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 not herein fixed, be and remain subject to the reasonable rules and regulations of the Michigan Public Service Commission (MPSC) or its successors, applicable to electric service in said City. Grantee shall also continue to provide the City with copies of filings and other documents as required by law or MPSC regulations.

SECTION 10. REPEALER. This ordinance, when accepted and published as herein provided, shall repeal and supersede the provisions of a electric ordinance adopted by the City Council on January 4, 1971 entitled:

AN ORDINANCE, granting to CONSUMERS POWER COMPANY, its successors and assigns, the right, power and authority to construct, maintain, and use electric lines consisting of poles, masts, towers, crossarms, guys, braces, feeders, transmission and distribution wires, transformers, and other electrical appliances on, along and across the highways, streets, alleys, bridges and other public places in the VILLAGE OF GRANT, NEWAYGO COUNTY, MICHIGAN, and to do a local electric utility business therein, for a period of thirty years.

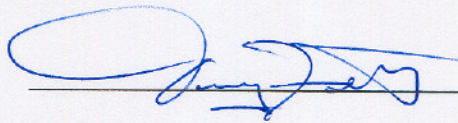
and amendments, if any, to such ordinance whereby a electric franchise was granted to Consumers Power Company.

SECTION 11. CHARTER/PREEMPTION. Grantee, its successors and assigns, shall, in the operation of this franchise, be expressly subject to the terms and provisions of the Charter of the City of Grant and said Charter terms and provisions shall control unless otherwise preempted by law, statute or regulation.

SECTION 12. COMPLIANCE WITH LAWS. Grantee shall comply with all applicable laws, statutes, ordinances, rules and regulations regarding the installation, construction or use of its electrical system, whether federal, state or local, now in force or which hereafter may be promulgated. Furthermore, Grantee shall secure all necessary permits, licenses and approvals from all appropriate departments, agencies, commissions or boards of the City or other governmental entities as required by law before any installation is commenced. Nothing herein shall be construed as a waiver by Grantee of any of its existing or future rights under state or Federal law.

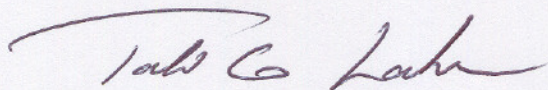
SECTION 13. EFFECTIVE DATE. This ordinance shall take effect twenty-one days after the date of its adoption; provided, however, it shall cease and be of no effect after thirty days from its adoption unless within said period the Grantee shall accept the same in writing filed with the City Clerk. Upon acceptance and publication hereof, this ordinance shall constitute a contract between said City and said Grantee.

We certify that the foregoing Franchise Ordinance was duly enacted by the City Council of the CITY OF GRANT, NEWAYGO COUNTY, MICHIGAN, on the 18th day of December, 2000.



Terry Fett, City Mayor

Attest:



Tobi Lake, City Clerk

ACCEPTANCE

TO THE CITY COUNCIL OF THE CITY OF GRANT, NEWAYGO COUNTY, MICHIGAN:

The Consumers Energy Company, hereby accepts the franchise granted to it by your City Council,
on the 18th day of December, 2000, which said franchise is entitled as follows:

AN ORDINANCE, granting to CONSUMERS ENERGY COMPANY, its successors and assigns, the right, power and authority 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, under, along and across the highways, streets, alleys, bridges, waterways, and other public places, and to do a local electric business in the CITY OF GRANT, NEWAYGO COUNTY, MICHIGAN, for a period of thirty years.

CONSUMERS ENERGY COMPANY

By 

Carl L. English, President and CEO
Natural Gas Strategic Business Unit

Dated: December 18, 2000.

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CONSUMERS ENERGY COMPANY

By s/ Carl L. English
President and CEO,
Natural Gas Strategic Business Unit

Dated: Dec 18, 2000.

CLERK CERTIFICATION

STATE OF MICHIGAN)
 : ss.
COUNTY OF GRANT)

I, Tobi Lake, City Clerk of the CITY OF GRANT, NEWAYGO COUNTY, MICHIGAN, DO HEREBY CERTIFY that the annexed is a true and correct copy of the ordinance granting Consumers Energy Company, a electric franchise, as adopted by the City Council at a regular meeting on the 18th day of December, 2000, after said Ordinance had previously been introduced at a regular meeting of the City Council on the 20th day of November, 2000.

I FURTHER CERTIFY that the acceptance, a copy of which is attached hereto, was filed with me as Clerk, on the 18th day of December, 2000; that I have compared the attached copies with the original records in my office, and that the same are true and correct transcripts therefrom.

I FURTHER CERTIFY that a copy of the foregoing ordinance was published, as appears by proof thereof on file in my office, in the Times Indicator, a newspaper circulated in the CITY OF GRANT, NEWAYGO COUNTY, MICHIGAN, on the 27th day of December, 2000; and that all of said proceedings were regular and in accordance with all legal requirements.

Tobi Lake
Tobi Lake, City Clerk

Dated: December 18, 2000