

ORDINANCE NO. 111

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 TOWNSHIP OF MARTIN, ALLEGAN COUNTY, MICHIGAN, for a period of ten years.

THE TOWNSHIP OF MARTIN ORDAINS:

SECTION 1. GRANT, TERM. The TOWNSHIP OF MARTIN, ALLEGAN 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 TOWNSHIP OF MARTIN, ALLEGAN COUNTY, MICHIGAN, for a period of ten 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 and right-of-way 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, its successors and assigns, shall use due care in exercising the rights and privileges herein contained and shall at all times keep and save the Township, its officers and employees free and harmless from all loss, costs and expense to which they may become subject by reason of the construction, maintenance and operation of the structures and equipment hereby authorized or any omission or any wrongful or actionable conduct of whatsoever kind or nature undertaken on the part of said Grantee, its agents, employees or representatives, pursuant, or in any way related, to the permission and/or authority granted herein or any activity expressly or impliedly contemplated hereby. In case any action is commenced against the Township, its officers or employees on account of the permission herein granted, said Grantee shall, upon notice, defend the Township, its officers and employees and save them free and harmless from all loss, cost and damage arising out of said permission. Provided, however, that this hold harmless agreement shall not apply to any loss, costs, damages or claims arising solely out of the negligence of the Township, its officers, employees or contractors. Furthermore, in the event that any loss, costs, damages or claims arise out of the

joint negligence of the Township, its officers, employees or contractors, this hold harmless agreement shall not apply to the proportional extent of the negligence of the Township, its officers, employees or contractors.

Township, its officers and employees shall not liable to Grantee or its successors or assigns for any interference with or disruption in the operation of Grantee's system, or for any damages arising out of Grantee's use of the public rights-of-way, except to the extent of gross negligence or willful misconduct by the Township, its agents, officers, employees or contractors.

SECTION 5.     EXTENSIONS. Said Grantee shall construct and extend its electric distribution system within said Township, 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 Township 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 Township, 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 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 not herein fixed, be and remain subject to the reasonable rules and regulations of the Michigan Public Service Commission or its successors, applicable to electric service in said Township.


SECTION 10.    REPEALER. This ordinance, when accepted and published as herein provided, shall repeal and supersede the provisions of an electric ordinance adopted by the Township on January 14, 1981 entitled:

AN ORDINANCE, granting to CONSUMERS POWER 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 and other public places, and to do a local electric business in the TOWNSHIP OF MARTIN, ALLEGAN COUNTY, MICHIGAN, for a period of thirty years.

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

SECTION 11.    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.

We certify that the foregoing Franchise Ordinance was duly enacted by the Township Board of the TOWNSHIP OF MARTIN, ALLEGAN COUNTY, MICHIGAN, on the 12<sup>th</sup> day of September, 2012.

  
Glenn Leep, Township Supervisor

Attest:

  
Carrie Coburn, Township Clerk