

ORDINANCE NO. 2005-1

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, cross arms, 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 BURR OAK, ST. JOSEPH COUNTY, MICHIGAN, for a period of thirty years.

THE TOWNSHIP OF BURR OAK ORDAINS:

SECTION 1. GRANT, TERM. The TOWNSHIP OF BURR OAK, ST. JOSEPH 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, cross arms, 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 BURR OAK, ST. JOSEPH 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. Said Grantee shall at all times keep and save the 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 Township on account of the permission herein given, 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. 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 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 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 therefore 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 a electric ordinance adopted by the Township on December 9, 1974 entitled:

AN ORDINANCE, granting to **CONSUMERS POWER COMPANY**, it's successors, and assigns, the right, power and authority to construct, maintain and commercially use electric lines consisting of towers, masts, poles, cross arms, 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 BURR OAK, ST. JOSEPH COUNTY, MICHIGAN**, 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. EFFECTIVE DATE. The 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 Township and said Grantee.

We certify that the foregoing Franchise Ordinance was duly enacted by the Township Board of the **TOWNSHIP OF BURR OAK, ST. JOSEPH COUNTY, MICHIGAN**, on the 3rd day of January, 2005.

Kenneth W. Lancaster, Twp Supervisor

ttest:

Tina Cronkhite, Township Clerk

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ACCEPTANCE

TO THE TOWNSHIP BOARD OF THE
TOWNSHIP OF BURR OAK, ST. JOSEPH COUNTY,
MICHIGAN

The CONSUMERS ENERGY COMPANY, hereby accepts the franchise granted to it by your Township Board on the 3rd day of January, 2005, which said franchise is entitled as follows:

AN ORDINANCE, granting to CONSUMERS ENERGY COMPANY, it's successors and assigns, the right, power and authority to construct, maintain and commercially use electric lines consisting of towers, masts, poles, cross arms, 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 BURR OAK, ST. JOSEPH COUNTY, MICHIGAN, for a period of thirty years.

CONSUMERS ENERGY COMPANY

By: _____
John G. Russell, President
Electric and Gas
Consumers Energy Company

Dated: January 3, 2005

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CLERK CERTIFICATION

STATE OF MICHIGAN)
) ss.
COUNTY OF ST. JOSEPH)

I, Tina Cronkhite, Clerk of the TOWNSHIP OF BURR OAK, ST JOSEPH COUNTY, MICHIGAN, DO HEREBY CERTIFY that the annexed is a true and correct copy of the ordinance granting Consumers Energy Company, an electric franchise, as adopted by the Township Board at a regular meeting on the 3rd day of January, 2005.

I FURTHER CERTIFY that the acceptance, a copy of which is attached hereto, was filed with me as Township Clerk, on the 3rd day of January , 2005, that I have compared the attached copies with the original records in my office, and that the same are true and correct transcripts there from.

I FURTHER CERTIFY that a copy of the foregoing ordinance was published, as appears by proof thereof on file in my office, in the Sturgis Journal, a newspaper circulated in the TOWNSHIP OF BURR OAK, ST. JOSEPH COUNTY, MICHIGAN, on the 15th day of January, 2005; and that all of said proceedings were regular and in accordance with all legal requirements.

Dated: February 1, 2005

Tina Cronkhite, Township Clerk

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