

ORDINANCE NO. 145

CONSUMERS ENERGY COMPANY ELECTRIC FRANCHISE ORDINANCE

AN ORDINANCE, granting to CONSUMERS ENERGY COMPANY, its successors and assigns, the right and authority to construct, maintain and commercially use electric lines and related facilities including but not limited to towers, masts, poles, crossarms, guys, wires and transformers on, under, along, and across public places including but not limited to highways, streets, alleys, bridges, and waterways, and to conduct a local electric business in the CHARTER TOWNSHIP OF SOUTH HAVEN, VAN BUREN COUNTY, MICHIGAN, for a period of thirty years.

THE CHARTER TOWNSHIP OF SOUTH HAVEN ORDAINS:

SECTION 1. GRANT and TERM. The CHARTER TOWNSHIP OF SOUTH HAVEN, VAN BUREN COUNTY, MICHIGAN, hereby grants to Consumers Energy Company, its successors and assigns, hereinafter called "Consumers" the right and authority to towers, masts, poles, crossarms, guys, wires and transformers on, under, along, and across public places including but not limited to highways, streets, alleys, bridges, and waterways, and to conduct a local electric business ("Electric System") in the CHARTER TOWNSHIP OF SOUTH HAVEN, VAN BUREN COUNTY, MICHIGAN, for a period of thirty years.

SECTION 2. CONDITIONS. No public place used by Consumers shall be obstructed longer than necessary during construction or repair, and shall be restored to the same order and condition as when work was commenced. All of Consumers' electric lines and related facilities shall be placed as not to unnecessarily interfere with the public's use of public places. Consumers shall have the right to trim or remove trees if necessary in the conducting of such business.

SECTION 3. VACATION OR RELOCATION. The Township may require Consumers to vacate or relocate any portion of the Electric System at Consumers' expense if such vacation or relocation is necessary to secure the public health and welfare or is otherwise required by the Township in the exercise of a governmental function.

SECTION 4. COMPLIANCE WITH LAWS. Consumers shall comply with all federal, state, and local laws, statutes, ordinances, rules, and regulations regarding the installation, construction, ownership or use of its Electric System. Notwithstanding the foregoing, should any ordinance of the Township in effect on the effective date of this ordinance conflict with this ordinance or the rights granted herein, this ordinance shall control.

SECTION 5. HOLD HARMLESS. Consumers shall 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 lines and related facilities hereby authorized. In case any action is commenced against the Charter Township on account of the permission herein given, Consumers shall, upon notice, defend the Charter Township and its representatives and hold them harmless from all loss, costs and damage arising out of such negligent construction and maintenance.

SECTION 6. EXTENSIONS. Consumers shall construct and extend its electric distribution system within said Charter Township, and shall furnish electric service to applicants residing therein in accordance with applicable laws, rules and regulations.

SECTION 7. FRANCHISE NOT EXCLUSIVE. The rights, power and authority herein granted, are not exclusive.

SECTION 8. RATES and CONDITIONS. Consumers shall be entitled to provide electric service to the inhabitants of the Charter Township at the rates and pursuant to the conditions as approved by the Michigan Public Service Commission. Such rates and conditions shall be subject to review and change upon petition to the Michigan Public Service Commission.

SECTION 9. REVOCATION. The franchise granted by this ordinance is subject to revocation upon sixty (60) days written notice by either party. Upon revocation this ordinance shall be considered repealed and of no effect past, present or future.

SECTION 10. MICHIGAN PUBLIC SERVICE COMMISSION JURISDICTION. Consumers remains subject to the reasonable rules and regulations of the Michigan Public Service Commission applicable to electric service in the Charter Township and those rules and regulations preempt any term of any ordinance of the Charter Township to the contrary.

SECTION 11. REPEALER. This ordinance, when enacted, shall repeal and supersede the provisions of any previous Consumers' electric franchise ordinance adopted by the Charter Township including any amendments.

SECTION 12. EFFECTIVE DATE. This ordinance shall take effect on \_\_\_\_\_.

We certify that the foregoing Franchise Ordinance was duly enacted by the Charter Township Board of the CHARTER TOWNSHIP OF SOUTH HAVEN, VAN BUREN COUNTY, MICHIGAN, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Ross Stein, Charter Township Supervisor

Attest:

I, \_\_\_\_\_, Clerk of the CHARTER TOWNSHIP OF SOUTH HAVEN, VAN BUREN COUNTY, MICHIGAN, DO HEREBY CERTIFY that the ordinance granting Consumers Energy Company, an electric franchise, was properly adopted by the Charter Township Board of the CHARTER TOWNSHIP OF SOUTH HAVEN, VAN BUREN COUNTY, MICHIGAN, and that all proceedings were regular and in accordance with all legal requirements.

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Brenda Bertorelli, Charter Township Clerk

Dated: \_\_\_\_\_, 20\_\_