



Ordinance Number 23-AMENDED

CONSUMERS ENERGY COMPANY ELECTRIC FRANCHISE ORDINANCE

THE VIALLGE OF FREEPORT ORDAINS:

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, cross-arms, guys, braces, feeders, transmission and distribution wires, transformers and other electrical appliances on, along and across the streets, alleys and other public places in the Village of Freeport, Barry County, Michigan, and to do a local electric business therein, for a period of thirty years.

THE VILLAGE OF FREEPORT ORDAINS:

SECTION 1. GRANT, TERM. The VILLAGE OF FREEPORT, BARRY 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, fceders, 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 VILLAGE OF FREEPORT, BARRY 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 Village 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 Village on account of the permission herein given, said Grantee shall, upon notice, defend the Village 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 Village, 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 Village 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 Village, 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 Village, acting by its Village Council, or by said Grantee.

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

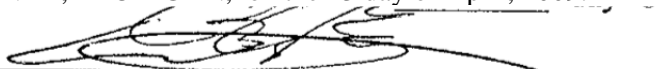
SECTION 9. MICHIGAN PUBLIC SERVICE COMMISSION. JURISDICTION. Said Grantee shall, as to all other conditions and elements of service not herein fixed, be and remain subject to the reasonable rules and regulations of the Michigan Public Service Commission or its successors, applicable to electric service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

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 Village on May 5, 1979, 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 VILLAGE OF FREEPORT, BARRY 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 II. 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 Village Clerk. Upon acceptance and publication hereof, this ordinance shall constitute a contract between said Village and said Grantee.

We certify that the foregoing Franchise Ordinance was duly enacted by the Village Council of the VILLAGE OF FREEPORT, BARRY COUNTY, MICHIGAN, on the 13 day of April, 2009.


Wade Brown, Village President

Attest:


Yvonne Aspinall, Village Clerk

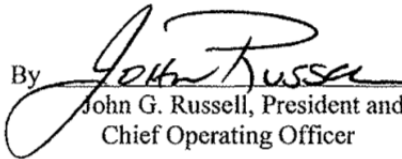
ACCEPTANCE

TO THE VILLAGE COUNCIL OF THE VILLAGE OF FREEPORT, BARRY COUNTY,
MICHIGAN:

The CONSUMERS ENERGY COMPANY, hereby accepts the franchise granted to it by your Village Council on the 13 day of April 1, 2009, 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 VILLAGE OF FREEPORT, BARRY COUNTY, MICHIGAN, for a period of thirty years.

CONSUMERS ENERGY COMPANY

By  _____
John G. Russell, President and
Chief Operating Officer

Dated: April 13, 2009.

CLERK CERTIFICATION

STATE OF MICHIGAN) ss.
COUNTY OF BARRY)

I, Yvonne_ M. Aspinall, Clerk of the VILLAGE OF FREEPORT, BARRY 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 Village Council at a regular meeting on the 13th day of April, 2009.

I FURTHER CERTIFY that the acceptance, a copy of which is attached hereto, was filed with me as Village Clerk, on the 13 day of April , 2009; 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 *Sun and News*, a newspaper circulated in the VILLAGE OF FREEPORT, BARRY COUNTY, MICHIGAN, on the 28th day of March , 2009; and that all of said proceedings were regular and in accordance with all legal requirements.


Yvonne Aspinall, Village Clerk

Dated: April 13 , 2009