

## **SUMMARY**

This proposed ordinance repeals certain ordinances identified as "MICHIGAN CONSOLIDATED GAS COMPANY GAS FRANCHISE ORDINANCE" Effective Date October 4, 1994, by adopting a new ordinance, Ordinance No. 2010-01 *'Michigan Consolidated Gas Company Franchise Agreement'*, to permit the Michigan Consolidated Gas Company to operate a gas transportation and distribution business within the Township of Acme.

LEGAL NOTICE  
ACME TOWNSHIP  
NOTICE OF ADOPTION

**AN ORDINANCE to repeal an ordinance identified as “MICHIGAN CONSOLIDATED GAS COMPANY GAS FRANCHISE ORDINANCE” Effective Date October 4, 1994, by adopting a new ordinance, Ordinance No. 2010-01, ‘Michigan Consolidated Gas Company Franchise Agreement’, to permit the Michigan Consolidated Gas Company to operate a gas transportation and distribution business within the Township of Acme.**

**IT IS HEREBY ORDAINED BY THE PEOPLE OF THE TOWNSHIP OF ACME THAT:**

**Section 1.** The ordinance identified as “MICHIGAN CONSOLIDATED GAS COMPANY GAS FRANCHISE ORDINANCE” Effective Date October 4, 1994 which ordinance, reads as set forth on the attached Exhibit A, be amended by adopting a new ordinance, Ordinance No.2010-01, to read as follows:

*Michigan Consolidated Gas Company Franchise Agreement*

**Section 1. Definitions.**

For purposes of this Ordinance No. 2010-01, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Township means The Township of Acme, Grand Traverse County, Michigan or the territory within the township limits of The Township of Acme.

Michcon means Michigan Consolidated Gas Company, a corporation organized under the laws of the State of Michigan and its successors and assigns.

Ordinance shall mean this Ordinance No. 2010-01.

**Section 2. Grant of gas franchise to use public rights of way; non-exclusive.**

Subject to this part, applicable provisions of this ordinance, the Michigan Constitution of 1963, applicable state statutes, rules and regulations, and applicable federal statutes, rules and regulations, the Township hereby grants a non-exclusive franchise to use the Township's public highways, streets, alleys or other public places to Michcon, and its successors and assigns to lay, maintain, operate and use gas pipes, mains, conductors, service pipes and other necessary equipment. This franchise grants to Michcon the right and privilege, in its reasonable discretion, subject to regulations of the Michigan Public Service Commission, or successor agency having similar jurisdiction (i) to transact local business within the Township, (ii) to transport and distribute gas, and to install, maintain, operate and use all gas distribution facilities and other necessary equipment on, along, across, and under the highways, streets, alleys, bridges and other public places within the Township, (iii) to convey, supply and sell gas services within the Township, and (iv) to undertake all other incidental matters thereto.

**Section 3. Term.**

The franchise granted under this article shall continue in effect for a period of thirty (30) years from the effective date of this Ordinance, subject to revocation at the will of the Township.

**Section 4. Gas service and extension of system.**

This franchise grants Michcon and its successors and assigns the right to furnish gas services, pursuant to regulations of the Michigan Public Service Commission, or successor agency having similar jurisdiction, and in accordance with applicable laws, rules and regulations.

**Section 5. Use of streets and other public places.**

(a) Michcon shall not unnecessarily obstruct the passage of any of the highways, streets, alleys or other public places within the Township. In addition, within a reasonable time after making an opening or excavation and at its sole cost and expense, Michcon shall repair the same and leave it in as good as a condition as before the opening or excavation was made.

(b) Unless an emergency exists where Michcon determines that there is an immediate and serious threat to the health, service, safety or welfare of a customer, or the general public and which requires immediate action, Michcon shall not open or excavate in the right of way including any road, sidewalk, street, alley or highway in the Township for the purpose of installing or maintaining gas transportation or distribution facilities and other necessary equipment, except upon application to the Michigan Department of Transportation, the Grand Traverse County Road Commission, the Township, or other public authority having jurisdiction

over the public way, stating the nature of the proposed work and the route. Michcon shall obtain a permit from the Township or if required by law obtain a permit from the public authority having jurisdiction over the highway, street, alley, bridge and other public place for all proposed work within the Township and shall pay therefore such reasonable fees as may be legally required by such public authority to offset its direct costs of permitting

(c) The Township shall reimburse Michcon for the reasonable cost to repair or replace any Michcon property that Michcon demonstrates was damaged by the Township, its agents or contractors.

#### **Section 6. Indemnification.**

Michcon shall use due care in exercising the privileges in this Ordinance and, at its sole cost and expense, shall defend, indemnify and hold harmless the Township, and its employees and agents, from any liability which may be imposed upon or incurred by the indemnitee(s), for all damages and costs arising from the default, carelessness, or negligence of Michcon or any of its officers, agents, and servants that may arise out of, or be in any way connected with, the operation and maintenance or condition of Michcon's gas transportation or distribution system and other necessary equipment within the Township rights of way, or Michcon's failure to comply with any federal or state statute, regulation or rule, or any provision of this Ordinance.

#### **Section 7. Standards and conditions of service; rules, regulations and rates.**

Under this article, the rates to be charged for gas services within the Township, and the standards and conditions of service and operation within the Township, shall be the same as set forth in Michcon's schedule of rules, regulations, and rates as applicable in the cities, villages, and townships where Michcon is now supplying gas service, or as shall hereafter be validly prescribed for the Township under the orders, rules, and regulations of the Michigan Public Service Commission, or other authority having jurisdiction over the provision of such service within the Township.

#### **Section 8. Successors and assigns.**

Whether so expressed or not, the words "Michigan Consolidated Gas Company" and "Michcon" are intended and shall be held and construed to mean and to include both the Michigan Consolidated Gas Company and its successors and assigns.

#### **Section 9. Acceptance by Michcon.**

Michcon shall file a written acceptance of gas franchise with the Office of the Township Clerk within thirty (30) days after the effective date of this Ordinance.

**Section 10. Entire agreement.**

This article contains the entire agreement between the Township and Michcon which grants a gas franchise and thereby, the permission to use the public rights-of-way within the Township. Neither the Township nor Michcon makes any representations except those expressly or by reference set forth in this Ordinance.”

**Section 2.** All ordinances or parts of ordinances, in conflict with this ordinance are repealed.

**Section 3.** This ordinance is declared necessary to preserve the public peace, health, safety, and welfare of the People of The Township of Acme.

**Section 4.** This ordinance shall take effect immediately after the date of publication thereof, which shall be within 10 days after the date of its adoption, and shall continue in effect for a period of thirty years thereafter, subject to revocation at the will of the Township.

We certify that the foregoing Franchise Ordinance was duly enacted by the Township Board of the TOWNSHIP OF ACME, GRAND TRAVERSE COUNTY, MICHIGAN, on the 6th day of April, 2010.

Dorothy Dunville, Clerk

6042 Acme Road

Williamsburg, Mi 49690

(231) 938-1350

(231) 938-1510 fax

ddunville@acmetownship.org

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Ordinance shall mean this Ordinance No. 2010-01.

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Under this article, the rates to be charged for gas services within the Township, and the standards and conditions of service and operation within the Township, shall be the same as set forth in Michcon's schedule of rules, regulations, and rates as applicable in the cities, villages, and townships where Michcon is now supplying gas service, or as shall hereafter be validly prescribed for the Township under the orders, rules, and regulations of the Michigan Public Service Commission, or other authority having jurisdiction over the provision of such service within the Township.

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We certify that the foregoing Franchise Ordinance was duly enacted by the Township Board of the TOWNSHIP OF ACME, GRAND TRAVERSE COUNTY, MICHIGAN, on the 6th day of April, 2010.

Dorothy Dunville, Clerk  
6042 Acme Road  
Williamsburg, MI 49690  
(231) 938-1350  
(231) 938-1510 fax  
ddunville@acmetownship.org


# OF PUBLICATION

STATE OF MICHIGAN  
County of Grand Traverse

Tom Rochford being duly sworn deposes and says the annexed printed copy of notice was taken from the Traverse City RECORD EAGLE, a newspaper printed and circulated in said State and County, and that said notice was published in said newspaper on the following dates:

04/26/2010

that he or she is the agent of the printers of said newspaper, and knows well the facts stated herein



Subscribed and sworn to before me  
this 26th of April, 2010.

Kimberly M. Caniff  
Kimberly M Caniff  
Notary Public, State of MI  
County of Grand Traverse  
My Commission Expires April 6, 2014  
Acting in County of Grand Traverse