ACME TOWNSHIP ORDINANCE NO. 2009-02

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 ACME, GRAND TRAVERSE COUNTY, MICHIGAN, for a period of thirty years.

THE TOWNSHIP OF ACME ORDAINS:

SECTION 1. GRANT, TERM. The TOWNSHIP OF ACME, GRAND TRAVERSE 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 ACME, GRAND TRAVERSE 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.

(a) 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.

(b) The Grantee and its contractors and subcontractors shall construct and maintain the Grantee’s facilities in accordance with the National Electric Safety Code, as adopted by the Michigan Public Service Commission. Grantee shall have the right to trim trees upon and overhanging the streets, highways, alleys and public places so as to prevent the branches of such trees from coming into contact with the Grantee’s facilities in accordance with the clearance standards set forth in the National Electric Safety Code, as adopted by the Michigan Public Service Commission.
SECTION 4. **HOLD HARMLESS.** Said Grantee shall at all times indemnify the Township 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 indemnify it from all loss, cost and damage arising out of such negligent construction and maintenance.

SECTION 5. **COMPLIANCE WITH LAWS.** Grantee shall comply with all applicable laws, statutes, ordinances, rules and regulations regarding the installation, construction or use of its electrical system, whether federal, state or local, now in force or which hereafter may be promulgated. Furthermore, Grantee shall secure all necessary permits, licenses and approvals from all appropriate departments, agencies, commissions or boards of the Township or other governmental entities as required by law before any installation is commenced. Nothing herein shall be construed as a waiver by Grantee of any of its existing or future rights under state or Federal law.

SECTION 6. **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 7. **FRANCHISE NOT EXCLUSIVE.** The rights, power and authority herein granted, are not exclusive.

SECTION 8. **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 therefor being made by either said Township, acting by its Township Board, or by said Grantee.

SECTION 9. **REVOCATION.** The franchise granted by this ordinance is subject to revocation upon sixty (60) days written notice by the party desiring such revocation.

SECTION 10. **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 11. **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 August 13, 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 TOWNSHIP OF ACME, GRAND TRAVERSE 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 12. 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. 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 ACME, GRAND TRAVERSE COUNTY, MICHIGAN, on the 11th day of August, 2009.

________________________________________
Wayne Kladder, Township Supervisor

Attest:

____________________________________
Dorothy Dunville, Township Clerk
ACME TOWNSHIP ORDINANCE NO. 2009-02

CONSUMERS ENERGY COMPANY ELECTRIC FRANCHISE ORDINANCE

In consideration of the rights, powers and authority herein granted, said Grantor shall faithfully perform all terms, conditions and covenants contained herein.

SECTION 1. GRANT TERM. THE TOWNSHIP OF ACME, GRAND TRaverse COUNty, MICHIGAN hereby grants the right, power and authority to the Consumers Energy Company, its successors and assigns, hereafter 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 upon and over streets, highways, alleys, waterways, and public places, and to do a local electric business in the TOWNSHIP OF ACME, GRAND TRAVERSE COUNTY, MICHIGAN, for a period of thirty years.

THE TOWNSHIP OF ACME ORDAINS:

1. REPEALER. This ordinance, Public Service Commission Act of 1941, Public Act No. 296, 1951 Public Act No. 381, 1961 Public Act No. 209, 1979 Public Act No. 317, and all other laws, statutes, ordinances, rules and regulations regarding the installation, construction, and maintenance of lines and equipment on and over public places, shall be deemed superseded.

2. CONSIDERATION. In consideration of the rights, power and authority herein granted, said Grantor shall faithfully perform all terms required by the terms of this ordinance.

3. CONDITIONS.

a) The right, power and authority granted are subject to the condition that the same shall not be transferred to any other person or entity without the written consent of the Grantor.

b) The Grantee and its contractors and subcontractors shall construct and maintain the Grantee's lines in accordance with the National Electric Safety Code of the National Electrical Safety Foundation, and shall not interfere with the rights or privileges of the Township or private parties.

4. HOLD HARMLESS. Said Grantee shall at all times indemnify the Township from all loss, cost and damage arising out of such negligent construction or maintenance.

5. COMP SurFACE WITH LAWS. Said Grantee shall comply with all applicable laws, statutes, ordinances, rules and regulations regarding the installation, construction, maintenance and use of its electrical system, the construction, operation and maintenance of its structures and equipment, and the Installation, construction and maintenance of its lines, equipment, and other facilities.

6. EXTENSIONS. Said Grantee shall construct and extend its electric distribution system within the Township, and shall furnish electric service to applicants residing therein in accordance with applicable laws, rules and regulations.

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

8. 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, and as amended from time to time.

9. TERM. The term of this franchise shall commence on August 13, 2009, and shall remain subject to the reasonable rules and regulations of the Township and the Michigan Public Service Commission or its successors, applicable to electric service in said Township.

10. REVOCATION. The franchise granted by this ordinance is subject to revocation on thirty (30) days written notice by the party desiring such revocation.

11. DEFEASANCE. This ordinance, when accepted and published as herein required, shall automatically vest the Township with the same rights and privileges of an electric ordinance adopted by the Township on August 13, 1979, entitled "ACME TOWNSHIP ORDINANCE NO. 2009-02, CONSUMERS ENERGY COMPANY ELECTRIC FRANCHISE ORDINANCE," and all amendments, if any, to such ordinance whereby an electric franchise was granted.

12. EFFECTIVE DATE. This ordinance shall take effect upon the day after the adoption, and shall be in full force and effect on the same date as the ordinance which it amends. No electric franchise shall be issued for a term of less than three days from its adoption unless within said period the Grantee shall accept the same in writing filed with the Office of the Township Clerk, Acme Township Hall, Acme Township, Michigan. Failure to accept the same in writing shall be deemed to constitute a revocation of said franchise by the Township. Such failure to accept the same shall be deemed a refusal to enter into a contract with the Township and the Township shall not be bound thereafter to give the Grantee the same.

13. COMPLIANCE WITH LAWS. Said Grantee shall comply with all applicable laws, statutes, ordinances, rules and regulations regarding the construction, operation and maintenance of its lines and equipment, and the Installation, construction and maintenance of its lines, equipment, and other facilities.

14. NOTICF. Said Grantee shall, upon request, furnish evidence of the terms and conditions of its franchise.

15. AMENDMENTS. If any amendments are made to this ordinance, the same shall be recorded in the Township's office and shall be deemed a part of this ordinance.

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, and across the highways, streets, alleys, bridges, waterways, and other public places, and to do a local electric business in the TOWNSHIP OF ACME, GRAND TRAVERSE COUNTY, MICHIGAN, for a period of thirty years.