

MICHIGAN CONSOLIDATED GAS COMPANY GAS FRANCHISE ORDINANCE

ORDINANCE NO. 68

AN ORDINANCE, granting to MICHIGAN CONSOLIDATED GAS COMPANY, its successors and assigns, the right, power, and authority to lay, maintain, and operate gas mains, pipes and services on, along, across and under the highways, streets, alleys, bridges and other public rights of way and to do a local gas business in the VILLAGE OF EMPIRE, LEELANAU COUNTY, MICHIGAN for a period of thirty years.

THE VILLAGE OF EMPIRE ORDAINS:

Section 1. Grant of Gas Franchise and Consent to Laying of Pipes, Etc. Subject to all the terms and conditions mentioned in this ordinance, consent is hereby given to Michigan Consolidated Gas Company, a corporation organized under the laws of the State of Michigan (the "Company"), and to its successors and assigns, to lay, maintain, operate, and use gas pipes, mains, conductors, service pipes, and other necessary equipment in the highways, streets, alleys and other public rights of way in the Village of Empire, Leelanau County, Michigan, and a franchise is hereby granted to the Company, its successors and assigns, to transact local business in said Village of Empire for the purposes of conveying gas into and through and supplying and selling gas in said Village of Empire and all other matters incidental thereto.

Section 2. Installation and Extension of System. If the provisions and conditions herein contained are accepted by the Company, as in Section 6 hereof provided, then within not more than one (1) year following the later of the date upon which this ordinance takes effect and the date upon which the Company receives

such regulatory approval as may be necessary for the Company to convey gas to the Village of Empire and to construct and operate its facilities therein, the Company shall determine the area within the Village of Empire to be served initially and commence the installation of a gas distribution system within such area, and the Company shall thereafter proceed to complete said initial installation as soon as reasonably practicable; provided, however, that the Company shall not be held responsible for delays due to weather or labor conditions, inability to procure necessary materials, or other causes beyond its control; and provided further that such initial installation and any extensions shall be subject to the Main Extension provisions, the Area Expansion Program provisions (if and where applicable), and other applicable provisions now or from time to time hereafter contained in the Company's Rules and Regulations for Gas Service as filed with the Michigan Public Service Commission or successor agency having similar jurisdiction.

Section 3. Use of Streets and Other Public Places.

The Company, its successors and assigns, shall not unnecessarily obstruct the passage of any of the highways, streets, alleys, or other public places within said Village of Empire and shall within a reasonable time after making an opening or excavation, repair the same and leave it in as good condition as before the opening or excavation was made. The Company, its successors and assigns, shall use due care in exercising the privileges herein contained and shall be liable to said Village for all damages and costs which may be

recovered against said Village arising from the default, carelessness or negligence of the Company or its officers, agents and servants.

No road, street, alley or highway shall be opened for the laying of trunk lines or lateral mains except upon application to the Highway Commissioner or the Village Council, or other authority having jurisdiction in the premises, stating the nature of the proposed work and the route. Upon receipt of such application, it shall be the duty of the Highway Commissioner or the Village Council, or such other authority as may have jurisdiction, to issue a permit to the Company to do the work proposed.

Section 4. Standards and Conditions of Service; Rules, Regulations and Rates. The Company is now under the jurisdiction of the Michigan Public Service Commission to the extent provided by statute; and the rates to be charged for gas, and the standards and conditions of service and operation hereunder, shall be the same as set forth in the Company's schedule of rules, regulations, and rates as applicable in the several cities, villages, and townships in which the Company is now rendering gas service, or as shall hereafter be validly prescribed for the Village of Empire under the orders, rules, and regulations of the Michigan Public service Commission or other authority having jurisdiction in the premises.

Section 5. Successors and Assigns. The words "Michigan Consolidated Gas Company" and "the Company", wherever used herein, are intended and shall be held and construed to mean and include

both Michigan Consolidated Gas Company and its successors and assigns, whether so expressed or not.

Section 6. Effective Date: Term of Franchise Ordinance; Acceptance by Company. This ordinance shall take effect the day following the date of publication thereof, which publication shall be made within fifteen (15) days after the date of its adoption, and shall continue in effect for a period of thirty (30) years thereafter, subject to revocation at the will of the Village of Empire at any time during said thirty (30) year period; provided, however, that when this ordinance shall become effective the Village Clerk shall deliver to the Company a certified copy of the ordinance accompanied by written evidence of publication and recording thereof as required by law, and the Company shall, one hundred eighty (180) days after receipt of the above documents, file with the Village Clerk its written acceptance of the conditions and provisions hereof.

Section 7. Effect and Interpretation of Ordinance. All ordinances and resolutions, and parts thereof, which conflict with any of the terms of this ordinance are hereby rescinded. In the case of conflict between this ordinance and any such ordinances or resolutions, this ordinance shall control. The catch line headings which precede each Section of this ordinance are for convenience in reference only and shall not be taken into consideration in the construction or interpretation of any of the provisions of this ordinance.

Ayes: Siedlaczek, Trago, Taghon, Esch, Vanderberg,
Scott

Nays: None


Absent: Mukavetz

Date Passed: April 18, 1995

Attested, by Order of the Village of Empire



Patricia Zoyhowski, Village Clerk



Marie Scott, Village President