

ORDINANCE NO. 2-22-1990

CONSUMERS POWER COMPANY GAS AND/OR ELECTRIC FRANCHISE ORDINANCE

AN ORDINANCE, granting to CONSUMERS POWER COMPANY, its successors and assigns, the right, power and authority to lay, maintain and operate gas mains, pipes and services, and to construct, maintain and commercially use electric lines consisting of towers, masts, poles, cross arms, 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 gas and/or electric business in the VILLAGE OF NASHVILLE, BARRY COUNTY, MICHIGAN, for a period of thirty years.

THE VILLAGE OF NASHVILLE ORDAINS:

SECTION 1. GRANT TERM. That wherever the word "Grantee" appears in this ordinance, it is hereby intended to designate, and shall be held to refer to the Consumers Powers Company, A Michigan corporation, its successors and assigns. The right, power and authority is hereby granted and vested in said Grantee to lay, maintain and operate gas mains, pipes and services and to construct, maintain and commercially use electric lines, consisting of towers, masts, poles, cross arms, 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 gas and/or electric business in the Village of Nashville, 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 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 good order and condition as when such work was commenced. All towers, masts, poles and other supports shall be set and all wires shall be suspended or buried in a careful and proper manner so as not to injure persons or property. The Grantee shall have the right to trim trees in necessary in the conducting of such business, subject, however, to the supervision of the Department of Public Works of the Village.

SECTION 4. HOLD HARMLESS. The Grantee shall at all times keep and save the Village free and harmless from all loss, costs and damage 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 granted, 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 gas and electric systems within said Village, and shall furnish gas or electricity to applicants residing therein in accordance with applicable laws, rules and regulations.

SECTION 6. RATES. The Grantee shall be entitled to charge the inhabitants of said Village for gas and/or electricity furnished therein, the rates as approved by the Michigan Public Service Commission or its successors, upon proper application by either said Grantee or the Village, acting by the Village Council

being made thereto, and the regularly filed rates as approved by said Michigan Public Service Commission or its successors, as applicable to said Village of Nashville, shall at all times be the lawful rates.

SECTION 7. FRANCHISE NOT EXCLUSIVE. The rights, power and authority herein granted, are not exclusive. The right to do a gas business and the right to do an electric business hereunder are several, and such rights may be separately exercised, owned and transferred. Either manufactured or natural gas may be furnished hereunder.

SECTION 8. 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, both gas and electric, not herein fixed, be and remain subject to the reasonable rules and regulations of the Michigan Public Service Commission or its successors, applicable to gas or electric service in said Village.

SECTION 10. EFFECTIVE DATE. This ordinance shall take effect immediately 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 the acceptance and publication hereof, this ordinance shall constitute a contract between said Village and said Grantee.

We hereby certify that the foregoing ordinance was duly enacted by the Village Council of the Village of Nashville, Barry County, Michigan, on the 22<sup>nd</sup> day of February, 1990.

John Hughes  
Village President

Rose Mary Heaton  
Village Clerk

Council member Ted Spoelstra moved that the ordinance as read, be adopted, which motion was supported by Council member Forrest Burd. The following was the vote thereon:

Yes: Hughes, Spoelstra, Burd, VanDerske, Toman, Filter, Hinckley

No: none.

The President thereupon declared said ordinance duly carried.

The acceptance of the above franchise ordinance, duly executed by Consumers Power Company was then filed with the Village Clerk, and upon motion, the same was received and ordered recorded.

I certify that the foregoing ordinance was published in the Maple Valley News, a newspaper of general circulation in the Village of Nashville, on the 6<sup>th</sup> & 13<sup>th</sup> day of March, 1990.

Rose Mary Heaton  
Village Clerk

## ACCEPTANCE

The Consumers Power Company does hereby accept the terms of the ordinance adopted on the 22<sup>nd</sup> day of February, 1990, by the Village Council of the Village of Nashville, Barry County, Michigan, which said ordinance is emitted as follows:

AN ORDINANCE, granting to CONSUMERS POWER COMPANY, its successors and assigns, the right, power and authority to lay, maintain and operate gas mains, pipes and services, and to construct, maintain and commercially use electric lines consisting of towers, masts, poles, cross arms, 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 gas and/or electric business in the VILLAGE OF NASHVILLE, BARRY COUNTY, MICHIGAN, for a period of thirty years.

IN WITNESS WHEREOF, said Consumers Power Company has caused this acceptance to be executed by its duly authorized officer, this 22<sup>nd</sup> day of February, 1990.

## CONSUMERS POWER COMPANY

By P A Elbert, Vice President

Marketing, Rates and Wholesale Power Transactions

I hereby certify that the acceptance, of which the foregoing is a true copy, was filed with me as Village Clerk, on the 22<sup>nd</sup> day of February, 1990.

Dated: February 23, 1990.

Rose Mary Heaton Village Clerk

STATE OF MICHIGAN    )  
 SS                            )  
 COUNTY OF BARRY    )

I, Rose Mary Heaton, Village Clerk of the Village of Nashville, Barry County, Michigan, do hereby certify that the annexed is a true and correct copy of all of the proceedings of the Village Council of said Village, with reference to the granting of a franchise to Consumers Power Company.

I further certify that the within acceptance of said franchise is a true and correct copy of the acceptance duly filed in my office: that I have compared the within copies of the original records in my office, and that the same are true and correct transcripts there from.

I further certify that the franchise ordinance was duly published, as appears by proof thereof on file in my office and that all of said proceedings were regular and in accordance with all legal requirements.

Dated: March 13, 1990.

Rose Mary Heaton  
 Village Clerk