

ORDINANCE NO. 2011-6

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 CHARTER TOWNSHIP OF ELMWOOD, LEELANAU COUNTY, MICHIGAN, for a period of thirty years.

THE CHARTER TOWNSHIP OF ELMWOOD ORDAINS:

SECTION 1. GRANT, TERM. The CHARTER TOWNSHIP OF ELMWOOD, LEELANAU 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 CHARTER TOWNSHIP OF ELMWOOD, LEELANAU 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. Grantee shall notify the Charter Township prior to blocking or closing any public road, street or alley in said Charter Township except for emergencies, in which case Grantee shall notify the Charter Township as soon as practical. 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. Grantee shall permit joint use of, or attachment to, its poles and other appurtenances located within the streets, alleys and other public places of Grantor solely in accordance with the rules and regulations of the Michigan Public Service Commission and the Federal Communication Commission, as applicable. Furthermore, nothing herein shall restrict or impair Grantee's rights under any statutes or laws regarding the vacation or relocation of a public street.

SECTION 4. HOLD HARMLESS. Said Grantee shall at all times keep and save the Charter Township 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 Charter Township on account of the permission herein given, said Grantee shall, upon notice, defend the Charter Township 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 Charter Township, 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 Charter 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 Charter 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 Charter Township, acting by its Charter Township Board, or by said Grantee.

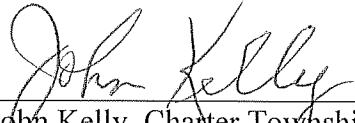
SECTION 8. REVOCATION. The franchise granted by this ordinance is subject to revocation upon sixty (60) days written notice by the party desiring such revocation.


SECTION 9. MICHIGAN PUBLIC SERVICE COMMISSION, JURISDICTION. Said Grantee shall, as to all other conditions and elements of service 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 Charter Township.

SECTION 10. REPEALER. This ordinance, when accepted and published as herein provided, shall repeal and supersede the provisions of the Consumer's Franchise Ordinance adopted by the Township on July 9, 1979.

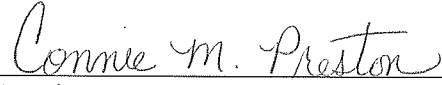
SECTION 11. EFFECTIVE DATE. This ordinance shall take effect upon the day after the date of publication thereof; provided, however, it shall cease and be of no effect after thirty days from its adoption unless within said period the Grantee shall accept the same in writing filed with the Charter Township Clerk. Upon acceptance and publication hereof, this ordinance shall constitute a contract between said Charter Township and said Grantee.

We certify that the foregoing Franchise Ordinance was duly enacted by the Charter Township Board of the CHARTER TOWNSHIP OF ELMWOOD, LEELANAU COUNTY, MICHIGAN, on the 8<sup>th</sup> day of August, 2011.

  
\_\_\_\_\_  
John Kelly, Charter Township Supervisor



Attest:

  
\_\_\_\_\_  
Connie Preston, Charter Township Clerk

CLERK CERTIFICATION

STATE OF MICHIGAN            )  
  ) ss.  
COUNTY OF LEELANAU        )

I, Connie Preston, Clerk of the CHARTER TOWNSHIP OF ELMWOOD, LEELANAU 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 Charter Township Board at a regular meeting on the 8<sup>th</sup> day of August, 2011, after said Ordinance had previously been introduced at a regular meeting of the Charter Township Board on the 9 day of August, 2011.

I FURTHER CERTIFY that the acceptance, a copy of which is attached hereto, was filed with me as Charter Township Clerk, on the 11<sup>th</sup> day of August, 2011; 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 *Leelanau Enterprise*, a newspaper circulated in the CHARTER TOWNSHIP OF ELMWOOD, LEELANAU COUNTY, MICHIGAN, on the 18<sup>th</sup> day of August, 2011; and that all of said proceedings were regular and in accordance with all legal requirements.

Connie M. Preston  
Connie Preston, Charter Township Clerk

Dated: 8-11, 2011

ACCEPTANCE

TO THE CHARTER TOWNSHIP BOARD OF THE CHARTER TOWNSHIP OF ELMWOOD,  
LEELANAU COUNTY, MICHIGAN:

The CONSUMERS ENERGY COMPANY, hereby accepts the franchise granted to it by your  
Charter Township Board on the 11<sup>th</sup> day of August, 2011, 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 CHARTER TOWNSHIP OF ELMWOOD, LEELANAU COUNTY,  
MICHIGAN, for a period of thirty years.

CONSUMERS ENERGY COMPANY

By Catherine M. Reynolds  
Catherine M. Reynolds, Vice President and  
Corporate Secretary

Dated: Aug. 11, 2011.