

ORDINANCE NO. 1-500

AN ORDINANCE GRANTING A FRANCHISE TO MICHIGAN GAS COMPANY TO CONSTRUCT, OPERATE AND MAINTAIN IN THE PUBLIC STREETS, HIGHWAYS, ALLEYS, AND OTHER PUBLIC PLACES IN THE CITY OF ISHPEMING, MARQUETTE COUNTY, MICHIGAN, ALL NEEDED AND PROPER GAS PIPES, MAINS, CONDUCTORS, SERVICE PIPES, AND OTHER APPARATUS REQUISITE FOR THE MANUFACTURE, TRANSMISSION AND DISTRIBUTION OF GAS FOR PUBLIC AND PRIVATE USE AND TO CONDUCT A LOCAL BUSINESS THEREIN

THE CITY OF ISHPEMING ORDAINS:

Section 1: Grant of Franchise.

Permission is hereby granted to Michigan Gas Company, a Michigan Corporation, and to its successors and assigns, to construct, operate and maintain in the public streets, highways, alleys, and other public places in the City of Ishpeming, Marquette County, Michigan, all needful and proper gas pipes, mains, conductors, service pipes, and other apparatus and facilities requisite for the manufacture, transmission and distribution of gas for all purposes to the City of Ishpeming, and the inhabitants thereof, and for conducting gas elsewhere to supply neighboring cities, villages, and other territories supplied with gas by said Grantee, subject, however, to all conditions and restrictions hereinafter contained. The Grant contained herein is a non-exclusive franchise.

Section 2: Conditions.

The conditions of the foregoing grant are as follows:

- a) The Grantee shall do no injury to any street, highway, alley or other public place, or to any shade tree, or in any manner disturb or interfere with any water transmission and distribution lines or with any public or private sewer now or hereafter laid or constructed by any authorized person or corporation.
- b) All construction work done under this grant shall be subject to inspection and approval by the designated representative of the City of Ishpeming as to location within the right-of-way. The Grantee shall pay cost of such inspection and approval.
- c) The Grantee, before entering upon any street, alley, easements for public utility purposes or other public place to install pipes, mains, or other apparatus, shall notify the City of Ishpeming or its designated representative of the proposed construction and shall, if the City so requires, file with the City a sufficient plan or map and shall obtain the representative's approval thereof before beginning construction.
- d) No street, alley, highway or public place shall be allowed to remain obstructed or encumbered by the construction work of said Grantee for a longer period than shall be reasonably necessary to execute such work, and the Grantee shall, at all times, protect all excavations, trenches and dangerous places made in constructing, maintaining, extending, and operating said system and business in such manner as to prevent accidents. Grantee shall also erect all necessary barriers, guards, and signals and shall maintain such signal lights as may be necessary to protect persons from danger on account of any such excavations, trenches and dangerous places.
- e) When any street, alley, highway or public place shall be opened or broken for the purpose of making excavations or trenches in construction, operating, extending, or maintaining said system and business, such street, alley, highway or public place shall be restored by said Grantee to the same or as nearly as possible the same condition

as before such breaking or opening. The restoration shall be done with all possible dispatch and promptness. The cost of repair of depressions, defects, or any other condition which may develop in any portion of the streets, alleys, highways, or other public property within three (3) years after construction work by Grantee or its agents or contractors shall be the responsibility of Grantee. The City shall give Grantee written notice of such condition, and Grantee shall have a period of ten (10) days after such notice to commence repairs. If Grantee does not commence repair work within said ten (10) day period, or within the period of any extension of time granted by the City, the City may have the work done and the City shall be reimbursed by Grantee for all reasonable costs incurred by the City.

- f) The Grantee shall indemnify, hold the City harmless, and defend it against any claim, action or demand that may be asserted against the City by reason of wrongdoing or negligence of the Grantee in the construction or maintenance of its gas mains, pipes or other apparatus, or any claim or actionable consequence resulting from this grant of Franchise.

Section 3: Rules, Regulations and Rates.

The rules and regulations applicable to the service, the quality of the gas furnished, and the rates charged therefor by the Grantee herein, its successors and assigns, shall be as fixed from time to time by the Michigan Public Service Commission or other such state authority as shall have jurisdiction of the subject matter, reserving, however, the right of the City to object thereto.

Section 4: Regulation of Streets, Alleys and Public Places.

Nothing in this grant shall be construed to alienate the title of the public in and to any street, highway, alley or public place, or any portion thereof, neither shall anything herein be construed in any manner as a surrender by the City of Ishpeming of its legislative power with respect to the subject matter hereof, or with respect to any other matter whatsoever; nor as in any manner limiting the right of said City of Ishpeming to regulate the use of any street, avenue, highway or public place within its jurisdiction.

Section 5: Assignment of Franchise.

The Grantee shall not assign this Franchise to any person, firm or corporation without the prior approval of the City Council and unless the assignee is, in the opinion of the management of Michigan Gas Company, financially able to carry out the Grantee's obligations under this Franchise and is authorized by the Michigan Public Service Commission, or such other state authority as shall then have jurisdiction of the subject matter so to do.

Section 6:

The Franchise granted herein shall be subject to the right of the City:

- a) To repeal the same for misuse or nonuse, or for failure to comply therewith;
- b) To require proper and adequate extension of plant and service and the maintenance thereof at the highest practicable standard of efficiency;
- c) To establish reasonable standards of service and quality of products, and prevent unjust discrimination in service or rates;
- d) To make independent audit and examination of accounts at any time, and to require reports annually;

e) To require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof;

f) To impose other regulations as may be determined by the Council to be conducive to the safety, welfare, and accommodation of the public.

Section 7: Effective Date.

This Ordinance shall take effect upon its final adoption by the City Council, publication, and the filing of the Grantee's written acceptance with the City Clerk, and the Franchise granted herein shall remain in effect for a period of thirty (30) years.

Adopted: October 5, 1988

Effective: November 2, 1988