

ORDINANCE NO. _____

**ZEELAND BOARD OF PUBLIC WORKS
ELECTRIC FRANCHISE ORDINANCE**

An Ordinance granting to THE ZEELAND BOARD OF PUBLIC WORKS, 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, other electrical appliances, and related telecommunications and data transmission facilities 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 Zeeland, Ottawa County, Michigan, for a period of 30 years.

THE CHARTER TOWNSHIP OF ZEELAND ORDAINS AS FOLLOWS.

SECTION 1. GRANT. The Charter Township of Zeeland, Ottawa County, Michigan (the “Township”) grants the right, power, and authority to the Zeeland Board of Public Works, its successors and assigns (the “Grantee”) to construct, maintain, and commercially use electric lines consisting of towers, masts, poles, crossarms, guys, braces, feeders, transmission and distribution wires, transformers, other electrical appliances, and related telecommunications and data transmission facilities (collectively the “Structures and Equipment”) for the purpose of transmitting, transforming, and distributing electricity on, under, along, and across the highways, streets, alleys, bridges, waterways, and other public places (collectively the “Public Ways”), and to do a local electric business in the Township for a period of 30 years. Such grant is in addition to and not in limitation to other rights which the Grantee may have in the Township.

SECTION 2. CONSIDERATION. In consideration of the rights, power, and authority granted, the Grantee shall faithfully perform all things required by the terms of this Ordinance.

SECTION 3. TERM. The franchise granted by this Ordinance shall be for a term of 30 years, subject to the right of revocation stated in this Ordinance.

SECTION 4. REVOCATION/FRANCHISE RATIFICATION. The franchise granted by this Ordinance is subject to revocation at will by the Township or by the Grantee upon 60 days written notice to the non-revoking entity. The Grantee shall have the right to have this Ordinance submitted to the voters in the Township at a regular or at a special election called for such purpose. If the franchise is submitted to the electors of the Township, at an election selected by the Grantee and paid for by the Grantee to the extent the Township incurs any additional expenses for the election, the franchise shall be irrevocable for the 30 year term if the franchise is ratified and approved by a majority of the electors voting on the issue.

SECTION 5. FRANCHISE NOT EXCLUSIVE. The rights, power, and authority granted by this Ordinance are not exclusive.

SECTION 6. CONDITIONS. The following conditions shall apply to the consent and franchise granted by this Ordinance.

- A. All of the Grantee's Structures and Equipment shall be constructed and maintained in accordance with the National Electrical Safety Code, and other applicable codes, and so placed on either side of the highways as not to unnecessarily interfere with their use for highway purposes.
- B. The Grantee and its contractors shall not unduly burden the use of any Public Way within the Township with regard to the location of its Structures and Equipment. No Public Way shall be obstructed longer than necessary during the work of construction or repair of the Structures and Equipment. All of Grantee's wires carrying electricity shall be securely fastened so as not to endanger or injure persons or property in the Public Ways.
- C. The Grantee and its contractors shall, within a reasonable period of time, restore, at the Grantee's sole cost and expense, any portion of the Public Ways that is in any way disturbed, damaged, or injured by the construction, operation, maintenance, or removal of the Structures and Equipment to a condition at least as good as that which existed prior to the work. In the event the Grantee and its contractors fail to so restore the Public Way promptly and after seven business days written notice from the Township to the Grantee of such failure, the Township shall be entitled to make the required restoration of the Public Way and the Grantee shall pay to the Township the costs for the restoration.
- D. The Grantee shall have the right to trim trees upon and overhanging the Public Ways as necessary to protect and prevent interference with its Structures and Equipment and access thereto. The right to trim trees shall be subject to the supervision of the highway authorities. Except in the event of an emergency or service restoration, the Grantee shall inform the Township prior to commencement of tree trimming work within the Public Ways under the jurisdiction of the Township.
- E. The Township has the right to use and to vacate any Public Ways within the Township. However, nothing in this subsection shall be construed as a waiver of the Grantee's current and future rights under state or federal laws. Where reasonably practicable, the Grantee shall permit joint use of, or attachment to, its poles and other appurtenances located in the Public Ways in accordance with applicable rules and regulations of any Township, state, or federal agency having jurisdiction. Furthermore, such joint use of poles and other appurtenances shall be conditioned upon entering into an agreement for the joint use and upon the payment of rental charges.

SECTION 7. INDEMNIFICATION. The Grantee shall defend, indemnify, and hold harmless the Township, its board, officers, agents, and employees from all claims, losses, liabilities,

demands, and expenses of any kind that result from or arise out of the acts or omissions of the Grantee, its officers, agents, employees, and contractors by reason of the Grantee's operations permitted by this Ordinance. However, this hold harmless provision shall not apply to any loss, cost, damage, claims, liabilities, demands, and expenses arising solely out of the negligence of the Township, its employees, contractors, board members, and agents. Furthermore, in the event that any loss, cost, damage, liabilities, demands, expenses, or claims arise out of the joint negligence of the Township and the Grantee, this hold harmless provision shall not apply to the proportional extent of the negligence of the Township, its employees, board members, agents, or contractors.

SECTION 8. INSURANCE. The Grantee represents that it now carries, and agrees it will continue to carry during the term of this Ordinance, Michigan Statutory Workers' Compensation, Excess Liability (including contractual liability) with minimum limits of \$2,000,000 per occurrence, and is self-insured for purposes of No-Fault Automobile Liability Insurance. Such coverages are subject to large deductibles or self-insured retentions in accordance with the Grantee's risk management practices. The risk management practice of maintaining large deductibles or self-insured retentions is considered prudent and consistent with other entities of similar size and operation as the Grantee. Certificates evidencing that the Grantee either maintains the above-mentioned insurance coverage or is an approved self-insurer shall be furnished to the Township if requested.

SECTION 9. EXTENSIONS. The Grantee shall construct and extend its electric distribution system and its related telecommunications and data transmission facilities within the Township, and shall furnish electric service and related telecommunication services to applicants owning property or residing in the Township in accordance with all applicable laws, rules and regulations.

SECTION 10. RATES. The Grantee shall be entitled to charge the inhabitants of the Township, for electric service furnished in the Township, the rates as approved by its governing body, according to the rules established by its governing body and this Ordinance, for the term of this franchise. The rates and rules shall be subject to review and change at any time upon petition being made by either the Township, acting by its Township Board, or by the Grantee, provided that any change of rates must be approved by the governing body of the Grantee. The rates charged by the Grantee for electric service in the Township shall not exceed the rates charged by the Grantee for electric service in any other local unit of government served by the Grantee.

SECTION 11. FRANCHISE FEE. If this franchise has been ratified and approved by a majority of the voters in the Township voting on the franchise ratification question pursuant to Section 4 of this Ordinance, the Grantee shall pay to the Township an amount equal to one percent of the Grantee's gross revenues (excluding sales tax and similar ad valorem taxes) from electric sales in the Township during the prior fiscal year.

SECTION 12. ACCEPTANCE. The franchise granted by this Ordinance and the terms and provisions of this Ordinance shall be unconditionally accepted by the Grantee.

SECTION 13. SEVERABILITY AND CAPTIONS. This Ordinance and its various parts, sections, subsections, sentences, phrases, and clauses, are declared to be severable. If any part, section, subsection, sentence, phrase, or clause is adjudged unconstitutional or invalid, the

remainder of the Ordinance shall not be affected. The captions included at the beginning of each section are for convenience only and shall not be considered a part of this Ordinance.

SECTION 14. REPEAL. All ordinances or parts of ordinances in conflict with this Ordinance are repealed to the extent of such conflict.

SECTION 15. EFFECTIVE DATE. This Ordinance was approved and adopted by the Township Board on _____, 202__, after a first reading on _____, 202__ and publication after such first reading. This Ordinance shall be effective the day after publication. The Grantee shall reimburse the Township for its actual publication expenses associated with this Ordinance within 30 days of receipt of the Township Clerk's billing statement for those expenses.

Tom Oonk
Township Supervisor

Kate Kraak
Township Clerk

CERTIFICATE

I, Kate Kraak, the duly elected Township Clerk for the Charter Township of Zeeland, Ottawa County, Michigan, certify that the foregoing Zeeland Board of Public Works Electric Franchise Ordinance was adopted at a meeting of the Zeeland Charter Township Board held on _____, 202__.

The following members of the Township Board were present at that meeting: _____

_____. The following members of the Township Board were absent: _____

_____. The Ordinance was adopted by the Township Board with _____

_____ members of the Board voting in favor, and _____ members of the Board voting in opposition. The Ordinance or a summary of the Ordinance was published in the _____ on _____, 202__.

Kate Kraak, Township Clerk