

CITY OF PETOSKEY ELECTRIC FRANCHISE ORDINANCE

Adopted: Sept. 19 / 96

Effective: Sept. 30 / 96

An ordinance to grant to the City of Petoskey the right to use the Township highways, streets, alleys, bridges and other public places of the Township to construct, maintain and use electric lines and other electric appliances and to transact a local electric business in the Township for a period of five (5) years.

THE TOWNSHIP OF BEAR CREEK
EMMET COUNTY, MICHIGAN

ORDAINS:

Section 1. GRANT AND TERM - The Township of Bear Creek, Emmet County, Michigan, hereby grants to the City of Petoskey (Grantee), its successors and assigns, the right, power and authority to construct, maintain and use electric lines consisting of towers, masts, poles, cross arms, guys, braces, feeders, underground cables, transmission and distribution wires, transformers and other electrical equipment and appliances on, under, along and across the highways, streets, alleys, bridges and other public places and to transact a local electric business in the TOWNSHIP OF BEAR CREEK, EMMET COUNTY, MICHIGAN, for a period of five (5) years. This grant is in addition to and not in limitation of other rights which the City may have in the Township.

Section 2. CONDITIONS - 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, shall be done so as not to interfere with the use thereof, and when completed, the area shall be left in as good condition as when work was commenced. 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. All work and installation shall be done in a good and workmanlike manner.

Section 3. RATES - Rates charged to customers in the Grantor Township shall be equal to rates charged to customers in the Grantee city. However, in the event, for some unusual circumstances not common to service within the city, the capital cost to serve customers in the township is greater than the, capital cost of serving city customers, the township and city shall negotiate for the recovery of such additional costs from customers in the Grantor township.

In addition, if the Grantee is required to subsidize its electrical system from city funds not derived from the revenues of the electrical system, it may increase the rates to customers in the township proportionate to the city per capita subsidy during the period of such subsidy. Examples of such subsidy permitting such increases would be among others general obligation bond issue of the city, city taxation and/or general fund appropriations.

The Grantee City may establish customers in the township as a separate customer class to effect the foregoing.

Section 4. FRANCHISE NOT EXCLUSIVE - The rights, power and authority herein granted are not exclusive to the Grantee.

Section 5. TOWNSHIP JURISDICTION - The Grantee's property and actions in the Township pursuant to this ordinance shall be and remain subject to all ordinances, rules and regulations of the Township now in effect or which might subsequently be adopted to protect the health, safety and general welfare of the public, provided, however, that nothing herein shall be construed as a waiver by Grantee City of any of its rights under state or federal law.

Section 6. INDEMNIFICATION - Grantee City shall at all times keep and save Grantor township free and harmless for all loss, costs and expenses to which the township may be subject by reason of the within franchise. In the event any action or claim is commenced or filed against the Grantor township resulting from the within franchise, the Grantee City shall, upon notice, defend the township and save it free and harmless from loss, costs and damages arising out of such action or claim.

Section 7. UNDERGROUND LINES - All electric lines hereafter installed shall be located underground and not suspended between poles or other structures. Existing above ground lines may continue until replacement or upgrading is required at which time they shall similarly be located underground.

Section 8. EFFECTIVE DATE - This Ordinance shall take effect immediately upon its publication, provided however, that it shall cease and be of no effect after thirty days from its adoption unless within said period the Grantee City shall accept the same in writing filed with the Township Clerk. Upon acceptance by Grantee and the publication of the same, this ordinance shall constitute a contract between said Township and said Grantee.

BEAR CREEK TOWNSHIP

Judy Mays, Township Clerk

FRANCHISE

At a Special meeting of the Township Board of the Township of Bear Creek, Emmet County, Michigan, duly called and held on the 19th day of Sept., 1996, there were present:

Al Foster _____, Supervisor,
Judy Mays _____, Township Clerk,
_____, Township Treasurer,
LeRoy Sumner _____, Township Trustee,
Dennis Keiser _____, Township Trustee.

The following ordinance was offered by Keiser and supported by Mays.