

12.700

**WOLVERINE POWER SUPPLY COOPERATIVE, INC.
ELECTRIC SERVICE FRANCHISE
Eff. October 29, 2000**

An ordinance granting to Wolverine Power Supply Cooperative, Inc., a Michigan not for profit corporation, 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 electric appliances, on, along, across and under the highways, streets, alleys, bridges and other public places, in the City of Gaylord, Otsego County, Michigan, for a period of thirty (30) years.

THE CITY OF GAYLORD, OTSEGO COUNTY, ORDAINS:

12.701

Sec. 1. GRANT TERM.

The City of Gaylord, Otsego County, State of Michigan, ("Grantor"), hereby grants to Wolverine Power Supply Cooperative, Inc., a Michigan not for profit corporation, its successors and assigns, ("Grantee") 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, along, across and under the highways, streets, alleys, bridges and other public places in the City of Gaylord, Otsego County, Michigan, for a period of thirty (30) years.

12.702

Sec. 2. CONSIDERATION.

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

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Sec. 3. CONDITIONS.

No street, alley, bridge, highway or other public place used by 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 the work was commenced. All of Grantee's structures and equipment shall be placed on either side of the highway(s) as not to unnecessarily interfere with the use of the highway(s) 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 the highways. Grantee shall have the right to trim trees if necessary in the conducting of such business, subject, however, to the supervision of highway authorities.

12.704

Sec. 4. HOLD HARMLESS.

Grantee shall, at all times, keep and save Grantor free and harmless from all loss, cost and expense to which Grantor may become subject by reason of Grantee's

negligent construction and/or maintenance of the structures and equipment authorized by this Ordinance. If any suit or action is commenced against the Grantor resulting from the permission(s) granted by this Ordinance, Grantee shall, upon receiving notice from the Grantor, defend the Grantor and save it free and harmless from all loss, cost and damage arising out of such negligent construction and maintenance, unless the suit or action arises from the sole negligence or intentional acts of the Grantor.

12.705 Sec. 5. FRANCHISE NOT EXCLUSIVE.

The rights, power and authority granted by this Ordinance are not exclusive. The rights to construct facilities granted by this Ordinance are several, and such rights may be separately exercised, owned and transferred.

12.706 Sec. 6. REVOCATION AND TERMINATION OF FRANCHISE; ACQUISITION OF UTILITY PROPERTY.

Unless made irrevocable pursuant to the provisions of Section 7 below, Grantor reserves the right to revoke this Franchise at the will of the Grantor's City Council. In the event Grantor revokes this Franchise, or upon the expiration hereof without renewal, Grantor may, (but is not required to) acquire by condemnation or other lawful means the property of the grantee within Grantor's boundaries. In case Grantor and Grantee shall fail to agree as to the fair market value for the property of the Grantee within Grantor's boundaries, each party shall select a competent and disinterested appraiser. In the event the two appraisers so selected shall fail, within a reasonable time, to reach agreement, then upon the request of either party, a judge of the Circuit Court for Otsego County shall appoint a third competent and disinterested appraiser and the decision of any two appraisers shall determine the price at which Grantor may, if it chooses, purchase the property of Grantee within Grantor's boundaries. The price so determined shall not include any value for this Franchise or any extension or renewal thereof.

12.707 Sec. 7. OPTION TO CONVERT TO IRREVOCABLE FRANCHISE.

Upon the request of the Grantee, and at Grantee's cost, this Franchise Ordinance may be submitted to a vote of the City's electorate according to the provisions of Article 10.1212, Section 12.10.b., of the City Code, for the purpose of making the terms of this Franchise Ordinance irrevocable. If this Franchise Ordinance is made irrevocable by approval of the required majority of the Grantor's electorate, the provisions of Section 6 above, as to revocation at the will of the Grantor's City Council, shall be deemed null and void.

12.708 Sec. 8. ASSIGNMENT OF FRANCHISE RIGHTS.

Grantee's rights under the terms of this Franchise shall not be assigned to any other party without the express, written consent of Grantor, which shall not be unreasonably withheld.

12.709 **Sec. 9. CITY JURISDICTION.**

Grantee shall be and remain subject to all applicable ordinances, rules and regulations of the City now in effect, or which might subsequently be adopted for the regulation of land uses or for the protection of the health, safety and general welfare of the public; provided, however, that nothing herein shall be construed as a waiver by Grantee of any of its existing or future rights under state or federal law.

12.710 **Sec. 10. REGULATORY JURISDICTION.**

Grantee shall, as to all other conditions and elements of service, not fixed by the provisions of this Ordinance, be and remain subject to the reasonable rules and regulations of the Federal Energy Regulatory Commission and/or the Michigan Public Service Commission or their successors, applicable to electric service within Grantor's boundaries.

12.711 **Sec. 11. EFFECTIVE DATE.**

This Ordinance shall become effective October 29, 2000, and after publication.