

MICHIGAN CONSOLIDATED GAS COMPANY GAS FRANCHISE ORDINANCE

ORDINANCE NO.       N/A      

AN ORDINANCE, granting to MICHIGAN CONSOLIDATED GAS COMPANY, its successors and assigns, the right, power, and authority to lay, maintain, and operate gas mains, pipes and services on, along, across and under the highways, streets, alleys, bridges and other public places, and to do a local gas business in the Bay Mills Indian Community in the TOWNSHIPS OF BAY MILLS AND SUPERIOR, CHIPPEWA COUNTY, MICHIGAN for a period of thirty years.

THE BAY MILLS INDIAN COMMUNITY ORDAINS:

Section 1. Grant of Gas Franchise and Consent to Laying of Pipes, Etc. Subject to all the terms and conditions mentioned in this ordinance, consent is hereby given to Michigan Consolidated Gas Company, a corporation organized under the laws of the State of Michigan (the "Company"), and to its successors and assigns, to lay, maintain, operate, and use gas pipes, mains, conductors, service pipes, and other necessary equipment in the highways, streets, alleys, and other public places in the Bay Mills Indian Community, Chippewa County, Michigan, and a franchise is hereby granted to the Company, its successors and assigns, to transact local business in Bay Mills Indian Community for the purposes of conveying gas into and through and supplying and selling gas in the Bay Mills Indian Community and all other matters incidental thereto.

Section 2. Installation and Extension of System. If the provisions and conditions herein contained are accepted by the Company, as in Section 6 hereof provided, then within not more than

one (1) year following the later of the date upon which this ordinance takes effect and the date upon which the Company receives such regulatory approval as may be necessary for the Company to convey gas to the Bay Mills Indian Community and to construct and operate its facilities therein, the Company shall determine the area within the Bay Mills Indian Community to be served initially and commence the installation of a gas distribution system within such area, and the Company shall thereafter proceed to complete said initial installation as soon as reasonably practicable; provided, however, that the Company shall not be held responsible for delays due to weather or labor conditions, inability to procure necessary materials, or other causes beyond its control; and provided further that such initial installation and any extensions shall be subject to the Main Extension provisions, the Area Expansion Program provisions (if and where applicable), and other applicable provisions now or from time to time hereafter contained in the Company's Rules and Regulations for Gas Service as filed with the Michigan Public Service Commission or successor agency having similar jurisdiction.

**Section 3. Use of Streets and Other Public Places.** The Company, its successors and assigns, shall not unnecessarily obstruct the passage of any of the highways, streets, alleys, or other public places within said the Bay Mills Indian Community and shall within a reasonable time after making an opening or excavation, repair the same and leave it in as good condition as before the opening or excavation was made. The Company, its

successors and assigns, shall use due care in exercising the privileges herein contained and shall be liable to the said Bay Mills Indian Community for all damages and costs which may be recovered against the Bay Mills Indian Community arising from the default, carelessness, or negligence of the company or its officers, agents, and servants. Michigan Law shall apply to any controversy or lawsuits arising out of the grant or use of the franchise by either party.

No road, street, alley, or highway shall be opened for the laying of trunk lines or lateral mains except upon application to the Bay Mills Indian Community or other authority having jurisdiction in the premises, stating the nature of the proposed work and the route. Upon receipt of such application, it shall be the duty of the Bay Mills Indian Community or such other authority as may have jurisdiction, to issue a permit to the Company to do the work proposed.

Section 4. Standards and Conditions of Service; Rules, Regulations and Rates. The Company is now under the jurisdiction of the Michigan Public Service Commission to the extent provided by statute; and the rates to be charged for gas, and the standards and conditions of service and operation hereunder, shall be the same as set forth in the Company's schedule of rules, regulations, and rates as applicable in the several cities, villages, and townships in which the Company is now rendering gas service, or as shall hereafter be validly prescribed for the Bay Mills Indian Community under the orders, rules, and regulations of the Michigan Public

service Commission or other authority having jurisdiction in the premises.

Section 5. Successors and Assigns. The words "Michigan Consolidated Gas Company" and "the Company", wherever used herein, are intended and shall be held and construed to mean and include both Michigan Consolidated Gas Company and its successors and assigns, whether so expressed or not.

Section 6. Effective Date: Term of Franchise Ordinance; Acceptance by Company. This ordinance shall take effect the day following the date of the signing of this document by the Bay Mills Indian Community and acceptance by Michigan Consolidated Gas Company and shall continue in effect for a period of thirty (30) years thereafter, subject to revocation at the will of the Bay Mills Indian Community at any time during said thirty (30) year period. The Company shall one hundred eighty days (180) after receiving the documents from the Bay Mills Indian Community, file with the Bay Mills Indian Community its written acceptance of the conditions and provisions hereof.

Section 7. Effect of Revocation or failure to renew. In the event that the Bay Mills Indian Community revokes this franchise prior to its expiration or fails to renew the franchise after it expires it shall purchase from the Company all the underground piping and associated equipment used or useful in the community at its present reproduction cost-new.

Section 8. Effect and Interpretation of Ordinance. All ordinances and resolutions, and parts thereof, which conflict with

any of the terms of this ordinance are hereby rescinded. In the case of conflict between this ordinance and any such ordinances or resolutions, this ordinance shall control. The catch line headings which precede each Section of this ordinance are for convenience in reference only and shall not be taken into consideration in the construction or interpretation of any of the provisions of this ordinance.

Ayes: 4

Nays: 0

Date Passed: April 28, 1995

Attested, by Order of the Bay Mills Indian Community

  
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Jeffrey D. Parker, Chairman