

AN ORDINANCE GRANTING A FRANCHISE TO CMS MARKETING SERVICES AND TRADING CO. TO CONDUCT A LOCAL ELECTRIC POWER BUSINESS FOR PUBLIC AND PRIVATE USE IN THE TOWNSHIP OF METAMORA

ORDINANCE Number 41

WHEREAS, CMS Marketing, Services and Trading Company, a Michigan Corporation, its successors and assigns, seeks a franchise to use existing and future electrical facilities to market energy, and to conduct local electric power business in the Township of Metamora, and

WHEREAS, the Township of Metamora, Lapeer County, Michigan, is empowered, pursuant to the Michigan Constitution of 1963, and its own Township, to grant public utility franchises by Ordinance,

NOW, THEREFORE, the Township of Metamora, Michigan Ordains:

Section 1. Grant of Rights

1. Term

The Township of Metamora grants to CMS Marketing, Services and Trading Company, a Michigan Corporation, its successors and assign (Grantee), subject to the terms and conditions set forth below, the right, power and authority to conduct local energy business in the Township of Metamora, Lapeer County, Michigan, for a period of thirty (30) years.

2. Use of In-Place Electric System

It is understood by the Township that Grantee shall supply electric customers in the Township with electric power delivered to _____ (local utility) transmission system at its various connection points by others supplying the Grantee with wholesale electrical power. It is further understood that (local utility) shall redeliver the Grantee's power to customers utilizing (local utility) existing power lines and equipment which (local utility) shall be solely responsible for installing and maintaining. As used in this Agreement, the term (local utility) includes its successors.

Section 2. Consideration

In consideration of the rights, power and authority granted by the Township, Grantee shall faithfully perform all duties required by the terms of this Ordinance and agree to reimburse the Township for expenses incurred by its legal counsel in reviewing and drafting this Franchise Ordinance, not to exceed \$1,000.00, payable within 30 days of acceptance of this Franchise by Grantee.

Section 3. Indemnity

Indemnification. Grantee shall indemnify and defend Grantor, its boards, commissions, officers, agents and employees, and all other public agencies, and their members, officers, agents, and employees, and all other public agencies, and their members, officers, agents, and employees, against any liability for injury to or death of any person or damage to any

property caused by Grantee, Grantee's officers, agents or employees, in the operation of its business.

B. Notice, Cooperation and Expenses. Township shall give Grantee prompt notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this Section. Nothing herein shall be deemed to prevent Township from cooperating with Grantee and participating in the defense of any litigation by Township's own counsel. Grantee shall pay all expenses incurred by Township in defending itself with regard to any such actions, suits or proceedings. These expenses shall include all out-of-pocket expenses such as attorney fees and shall also include the reasonable value of any services rendered by or on behalf of the Township attorney, and the actual expenses of Township's agents, employees or expert witnesses, and disbursements and liability assumed by Township in connection with such suits, actions or proceedings.

Section 4. Franchise Not Exclusive

The rights, power and authority granted herein are not exclusive.

Section 5. Transfer and Revocation

A. Transfer. Grantee shall not transfer, sell or assign the rights granted to it by this Ordinance, in whole or part, without the express written consent of the Township. Upon receiving adequate assurance of continuous service and financial standing of a proposed purchaser, transferee or assignee, standing of a proposed purchaser, transferee or assignee, Township's consent shall not be unreasonably withheld.

B. Revocation. The franchise granted by this ordinance is subject to revocation at will by 180 days written notice by the party desiring termination.

Section 6. Township Jurisdiction

Grantee shall be and remain subject to all Ordinances, rules and regulations of the Township 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 Michigan or Federal law or a limitation upon the existing or future powers of the Township pursuant to its Charter or Michigan or Federal law.

Section 7. Michigan Public Service Commission

A. Jurisdiction. Grantee shall, as to all other conditions and elements of service not addressed or fixed by this Ordinance, remain subject to the rules and regulations applicable to electric power supply and electric service marketers by the Michigan Public Service Commission, or its successor bodies.

B. Filing. Grantee shall permit Township inspection and examination of all records that it is required to maintain or file under Michigan Public Service Commission rules and regulations.

Section 8. Discrimination

The Grantee shall not discriminate against an employee or applicant for employment with respect to hire, tenure, terms conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, religion, national origin, age, sex, height, weight or marital status except where based upon a bonafide occupational qualification.

Section 9. Handicap Discrimination

The Grantee shall not discriminate against any employee or applicant for employment with respect to hire, tenure, conditions, or privileges of employment, or a matter directly or indirectly related to employment because of a handicap that is unrelated to the individual's ability to perform the duties of a particular job or position.

Section 10. Effective Date

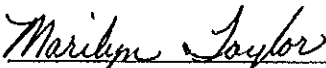
This Ordinance shall take effect as soon as the Grantee files an acceptance of the Ordinance in writing with the Township Clerk. If the Grantee fails to file an acceptance in writing with the Township Clerk within 45 days of adoption, the Ordinance shall cease and be of no effect. Upon acceptance and publication, the Ordinance shall become effective between the Township and Grantee.

I certify that the foregoing Franchise Ordinance was duly enacted by the Board of the Township of Metamora, Lapeer County, Michigan, on the 10th day of December, 2001.



David Best, Supervisor

Attest:



Marilyn Taylor, Clerk

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**NOTICE OF PUBLIC HEARING -
FRANCHISE ORDINANCE
Metamora Township Board
October 5, 2000
7:00 p.m.**

Notice is hereby given that the Metamora Township Board will hold a public hearing on Thursday, October 5, 2000, beginning at 7:00 p.m. at the Metamora Township Hall, 730 West Dryden Road, Metamora, MI 48455. The purpose of the hearing is to receive public comments on the proposed Ordinance #41 Granting Franchise to Public Utility.

A complete copy of the text of the proposed ordinance may be examined at the office of the Township Clerk, Mondays through Fridays except holidays, during regular Township Business Hours.

Written comments may be sent to the Township Board, at the address above, prior to the hearing. Oral comments will be taken during the hearing.

This notice is published pursuant to the requirements of Michigan Public Act 184 of 1943, as amended.

**Marilyn Taylor, Clerk
Township of Metamora**

40-1

STATE OF MICHIGAN }
COUNTY OF LAPEER } SS

Mark Haney, be
the editor

newspaper published in the English language for the dissemination of local or transmitted news and intelligence of a general character and legal news, which is a duly qualified paper, and that annexed hereto is a copy of a certain order taken from said newspaper, in which the order was published

September 27, 2000

Mark Haney

Subscribed and sworn to before me this 27th

day of September, 2000

Cheryl A. Childers
Notary Public, Lapeer County, Michigan



My commission expires _____

Prepared by
The County Press
1521 Imlay City Rd.
Lapeer, MI 48446

AFFIDAVIT OF PUBL

STATE OF MICHIGAN }
COUNTY OF LAPEER } SS

Mark Haney _____, be
the editor

newspaper published in the English
local or transmitted news and inte
legal news, which is a duly qualifie
copy of a certain order taken from
was published

December 19, 2001

Mark Haney

Subscribed and sworn to before me t
day of _____ December

My commission expires _____

OFFICIAL NOTICE

**METAMORA TOWNSHIP BOARD
FRANCHISE ORDINANCE #41
SUMMARY ADOPTED 12/10/01**

An ordinance granting a Franchise to CMS Marketing Services and Trading Co. To Conduct a Local Electric Power business for public and private use in the Township of Metamora.

ORDINANCE #41

WHEREAS, CMS Marketing, Services & Trading company, a Michigan Corporation, its successors & assigns, seeks a franchise to use existing & future electrical facilities to market energy, and to conduct local electric power business in the Township of Metamora, and

WHEREAS, the Township of Metamora, Lapeer County, Michigan is empowered, pursuant to the Michigan Constitution of 1963, and its own Township, to grant public utility franchises by Ordinance,

NOW THEREFORE, the Township of Metamora, Michigan Ordains:

- Section 1. Grant of Rights
 - 1. Term
 - 2. Use of In-Place Electric System
- Section 2. Consideration
- Section 3. Indemnity
- Section 4. Franchise Not Exclusive
- Section 5. Transfer & Revocation
- Section 6. Township Jurisdiction
- Section 7. Michigan Public Service Commission
- Section 8. Discrimination
- Section 9. Handicap Discrimination
- Section 10. Effective Dated

This Ordinance shall take effect as soon as the Grantee files an acceptance of the Ordinance in writing with the Township Clerk. If the Grantee fails to file an acceptance in writing with the Township Clerk within 45 days of adoption, the Ordinance shall cease and be of no effect. Upon acceptance and publication, the Ordinance shall become effective between the Township & Grantee.

CERTIFICATION OF TOWNSHIP CLERK

I, Marilyn Taylor, Metamora Township Clerk, hereby certify that the foregoing is a true copy of an Ordinance adopted by the Township Board at a regular meeting held on December 10, 2001 by the following vote:

Motion by Bedford, supported by Derderian.
Ayes: 5
Nays: 0
Absent: 0
Motion: Carried

Marilyn Taylor
Metamora Township Clerk

Township Board ordered notice of adoption & summary to be published one time in the Lapeer County Press on December 19, 2001. A true & complete copy of the above ordinance may be purchased or inspected at the offices of the Township Clerk, 730 West Dryden Road, Metamora, MI 48455.

51-1

CHERYL A. CHILDERS
Notary Public, Lapeer County, MI
My Comm. Expires July 18, 2004

Prepared by
The County Press
1521 Imlay City Rd.
Lapeer, MI 48446