

1993 MICHIGAN GAS UTILITIES FRANCHISE ORDINANCE

TOWNSHIP OF BAINBRIDGE

BERRIEN COUNTY, MICHIGAN

Ordinance

No. 35

No. 25

Adopted: December 6, 1993

Effective: December 16, 1993 for 30 years

AN ORDINANCE GRANTING TO UTILICORP UNITED, INC., A DELAWARE CORPORATION, DOING BUSINESS IN THE STATE OF MICHIGAN UNDER THE ASSUMED NAME MICHIGAN GAS UTILITIES, ITS SUCCESSORS AND ASSIGNS, THE RIGHT, POWER, AUTHORITY AND PERMISSION TO USE THE HIGHWAYS, STREETS, ALLEYS AND OTHER PUBLIC PLACES OF THE TOWNSHIP OF BAINBRIDGE, COUNTY OF BERRIEN, STATE OF MICHIGAN, FOR THE PURPOSE OF LAYING AND MAINTAINING GAS PIPES, MAINS, CONDUITS, VALVES, DRIPS AND ALL NECESSARY APPURTENANCES IN, UNDER AND ALONG THE HIGHWAYS, STREETS, ALLEYS AND OTHER PUBLIC PLACES, OF SAID TOWNSHIP, AND THE RIGHT, POWER AND PERMISSION TO CONDUCT AND OPERATE A GENERAL GAS BUSINESS AND DISTRIBUTION SYSTEM IN SAID TOWNSHIP OF BAINBRIDGE, COUNTY OF BERRIEN, STATE OF MICHIGAN, FOR A PERIOD OF THIRTY (30) YEARS.

THE TOWNSHIP BOARD OF THE TOWNSHIP OF BAINBRIDGE, COUNTY OF BERRIEN, STATE OF MICHIGAN, HEREBY ORDAINS:

SECTION I

Granting of Franchise to Use Highways, Streets, Alleys, and Public Places

The Township of Bainbridge, County of Berrien, State of Michigan (hereinafter called "Grantor"), hereby grants to UtiliCorp United, Inc., a Delaware Corporation doing business in the State of Michigan, under the assumed name Michigan Gas Utilities (hereinafter called "Grantee"), its successors and assigns, a non-exclusive franchise to use the highways, streets, alleys and other public places of the Township of Bainbridge, County of Berrien, State of Michigan, for the purpose of constructing, maintaining and operating a gas distribution system in said Township with full right, power and authority to establish, construct, maintain, extend and operate a plant, stations, mains, pipes, conduits, valves, drips and all other appurtenances, apparatus and appliances within the corporate limits of the Township of Bainbridge, County of Berrien, State of Michigan, for the purpose of supplying and distributing to said Township and its inhabitants gas for heating and other purposes and, for such purposes, to enter upon and use the highways, streets, alleys, and public lands of said Township and lay, maintain, operate, repair and extend therein, through and thereunder such mains, pipes, conduits, valves, drips, apparatus, appliances and other appurtenances as may be necessary and proper for the distribution of gas throughout and beyond said Township and for the purpose of conducting and operating a gas business in said Township subject to the terms and conditions hereinafter provided.

SECTION II

Non-Disturbance of Public Travel; Restoration; Construction Maintenance

In laying pipes, mains and other appurtenances and repairing and maintaining same, Grantee shall interfere as little as possible with public travel. After opening any portion of the highways, streets, alleys or other public place, Grantee shall within a reasonable time restore the same as nearly as possible to the same condition as prevailed before opening. While any portion of the highways, streets, alleys or other public place is open, Grantee shall maintain reasonable barriers and lights at night and other warnings to the users of said highways, streets, alleys or other public place.

SECTION III

Hold Harmless

Grantee shall at all times hold Grantor harmless from any loss, damage and expense of any kind on account of the laying, constructing, maintenance, and use of said mains, pipes, conduits and other appurtenances.

SECTION IV

Rates Established by Michigan Public Service Commission

The rates to be charged by Grantee and all rules of service shall be those which are established from time to time by the Michigan Public Service Commission or such other body which shall succeed to the jurisdiction, rights, powers and authority of said Commission.

SECTION V

Term; Effective Date

The rights granted in this franchise shall continue in full force and effect for a period of thirty (30) years from the effective date thereof. The effective date of this franchise shall be the date of the acceptance of the franchise by the Grantee, which acceptance shall be filed by the Grantee, in writing, within sixty (60) days after the enactment of this ordinance.

SECTION VI

Franchise Revocable; Irrevocability Upon Approval and Electors

The franchise herein granted shall be revocable at the will of the governing body of this Township, PROVIDED, however, that the same shall become irrevocable if and when confirmed by a majority of the electors voting upon the question at the next general election or at any special election called for that purpose. Such special election shall be held at the request of said Grantee.

SECTION VII

Expenses of Election Paid by Grantee

In the event of a special election, the expenses thereof shall be deposited with the Clerk of this Township by the Grantee.

SECTION VIII

Ordinance Effective Date

This Ordinance shall take effect on the day following the date of publication of the Ordinance.

SECTION IX

Publication

The Township Clerk is hereby directed to cause a true copy of this Ordinance to be published in the Tri-City Record, a newspaper circulating within the Township within thirty (30) days hereof.

SECTION X

Recording of Ordinance

Within one (1) week after the publication of this Ordinance, the Township Clerk shall record the Ordinance in the Book of Ordinances kept by the Clerk for such purpose. Such record shall include the date of passage hereof, the names of the members voting hereon and how each member voted. An attested copy of the Ordinance shall also be filed with the Berrien County Clerk within one (1) week after the publication.

PRESENTED BY: Trustee Kurt Weber

SECONDED BY: Trustee Donald Baiers

VOTING IN FAVOR OF: Trustee Donald Baiers
Trustee Kurt Weber
Treasurer James Lull
Clerk Beverly Korocho
Supervisor L. C. Smith, Jr.

VOTING AGAINST: None

I hereby attest that the foregoing Ordinance was adopted by the Township Board of the Township of Bainbridge, County of Berrien, State of Michigan, at a regular meeting held on the 6th day of December, 1993.

Dated: December 7, 1993.

Beverly Koroch
Bainbridge Township Clerk

I further certify that the foregoing Ordinance was published and filed as follows:

Published In: Tri-City Record

Date of Publication: 12-15-93

(Newspaper Proof of Publication Attached)

Date of Filing with the Berrien County Clerk: _____

Ordinance No. 35

Date recorded in the Township Book of Ordinances: 1-3-94

Dated: January 3, 1994

Beverly Koroch
Bainbridge Township Clerk

MINUTES: DECEMBER 6, 1993

**Motion by Weber/Baiers to approve a 30 year franchise with Michigan Gas Utilities.
Motion carried.**