

ORDINANCE NO. 94

FRANCHISE

MICHIGAN GAS UTILITIES

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 ERIE, COUNTY OF MONROE, 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 ERIE, COUNTY OF MONROE, STATE OF MICHIGAN FOR A PERIOD OF THIRTY (30) YEARS.

THE TOWNSHIP BOARD OF THE TOWNSHIP OF ERIE, COUNTY OF MONROE, STATE OF MICHIGAN HEREBY ORDAINS:

Section 1. Granting of Franchise to Use Highways, Streets, Alleys and Public Places. The Township of Erie, County of Monroe, 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 franchise to use the highways, streets, alleys and other public places of the Township of Erie, County of Monroe, 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 Erie, County of Monroe, 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 2. Non-Disturbance of Public Travel; Restoration; Construction Maintenance. In laying its pipes, mains and other appurtenances and repairing and maintaining the 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 3. 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 4. 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 5. 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 Grantee, which acceptance shall be filed by the Grantee, in writing, within sixty (60) days after the enactment of this ordinance.

Section 6. Franchise Revocable; Irrevocability Upon Approval of 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 7. 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 8. Ordinance Effective Date. This ordinance shall take effect on the day following the date of publication of the ordinance.

Section 9. Publication. The Township Clerk is hereby directed to cause a true copy of this ordinance to be published in *The Monroe Evening News*, a newspaper circulating within the Township within 30 days hereof.

Section 10. Recording of Ordinance. Within one 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 Monroe County Clerk within one week after the publication.

Presented by: Burlen

Seconded by: Cousino

Voting in Favor: Dusseau

Cousino

Gordy

Burlen

Absent: Norts

Voting Against: 0

I hereby attest that the foregoing Ordinance was adopted by the Township Board of the Township of Erie, County of Monroe, State of Michigan at a regular meeting held on the 10th day of May, 1994.

Dated: May 10, 1994

Gayle A. Burlen
Gayle A. Burlen
Erie Township Clerk

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

Published in:

Monroe Evening News

Date of Publication:
(newspaper Proof of
Publication attached)

May 19, 1993

Date of Filing with the
Monroe County Clerk:

May 16, 1994

Ordinance No.: 94

Date recorded in the
Township Book of Ordinances: 5-20-94

Dated: 5-20-94

Gayle A. Burlen

Gayle A. Burlen
Erie Township Clerk