

ORDINANCE #629

AN ORDINANCE TO AMEND TITLE XV, CHAPTER 151 OF THE MARQUETTE CITY CODE BY REPEALING CHAPTER 151 AND ADOPTING A NEW CHAPTER 151 ENTITLED *GAS FRANCHISE ORDINANCE*.

PURPOSE:

An Ordinance granting to SEMCO Energy Gas Company, its successors and assigns, the right to acquire, construct, maintain, and operate in the streets, alleys and public places of the City of Marquette and its successors, pipes, mains, services, and appurtenances for the transmission and distribution of gas to the City of Marquette and the inhabitants thereof for heat and other purposes and for the transmission of the same within, through or across said City of Marquette, County of Marquette, and State of Michigan, for a period of thirty (30) years.

THE CITY OF MARQUETTE ORDAINS:

SECTION 1: GRANT OF FRANCHISE

The SEMCO Energy Gas Company, its successors and assigns (hereinafter called "Grantee") are hereby granted the right, privilege, franchise, and authority to acquire, construct, maintain, and operate in, under, across, and along the streets, thoroughfares, alleys, bridges and public places (as the same now exist or may hereafter be laid out) of the City of Marquette, County of Marquette, State of Michigan (hereinafter called "Municipality") pipes, mains, services and appurtenances for the transmission and distribution of gas, by any means, with all the necessary or desirable appurtenances for the purpose of supplying gas to the said Municipality and the inhabitants thereof, for heat, or any other purposes for which gas is now or may hereafter be used, and the distribution of the same within, through or across said Municipality, subject to such reasonable regulations as the Commission of said Municipality shall prescribe from time to time, and subject to compliance with all applicable building, zoning, and police regulations and ordinances now or hereafter in effect in said Municipality. The rights, privileges, and franchise hereby granted shall be in force and effect for a period of thirty (30) years from the date of passage of this franchise; provided, however, the franchise is subject to revocation upon sixty (60) days written notice by the party desiring such revocation.

SECTION 2: FRANCHISE NOT EXCLUSIVE

The rights, privileges and franchise hereby granted shall not be construed to be exclusive and the Commission of said Municipality hereby reserves the power to grant similar rights, privileges and franchise to any other person or persons, firm or firms, corporation or corporations.

SECTION 3: HOLD HARMLESS

Grantee shall save the Municipality harmless from any and all liability arising in any way from Grantee's negligence in constructing, maintaining, or operating pipes, mains, services and appurtenances for distributing gas. If any action is commenced against the Municipality alleging that Grantee was negligent in its performance hereunder, Grantee shall upon notice defend the Municipality and save it free and harmless from all loss, cost and damage arising out of such negligence.

SECTION 4: CONDITIONS

Grantee shall construct all pipes, mains, services and appurtenances so as to interfere as little as possible with the proper lawful use of the streets, alleys and public places. The location of all pipes, mains, services, and appurtenances shall be subject to the Municipality's reasonable regulations. To

the extent required by the Municipality's ordinances and written policies, the Grantee, before entering upon any street, highway, alley or other public place for the purpose of erection and construction any pipes, mains, services and/or appurtenances, except for emergency service, shall notify the Municipality or its representatives of the proposed construction and shall, if the Municipality so requests, file with the Municipality a sufficient plan and specification showing the nature and extent of the proposed erection and construction.

Whenever Grantee begins constructing any pipes, mains, and services and appurtenances or equipment, Grantee shall promptly and diligently complete the work and shall leave the streets, alleys, and public places where such work is done in as good condition of repair as before such work was commenced. If the Grantee fails to complete restoration within a reasonable time after constructing any pipe, main, service, appurtenance or equipment to the Municipality's reasonable satisfaction, then the Municipality may, at its option, cause such restoration to be done and the Grantee shall, in such event, pay to the Municipality the costs thereof in the itemized amounts reported by the Municipality to the Grantee. Such payment shall be made within thirty (30) days after mailing of the itemized report to the Grantee.

If the Municipality directs Grantee to relocate Grantee's pipes, gas mains or any other part of Grantee's distribution system located within the streets for the purpose of street construction or improvement, or for the installation or improvement of Municipal utilities, Grantee shall relocate the same at Grantee's sole expense within a reasonably practiced timeframe after receiving a written request from said Municipality. If the Municipality directs Grantee to relocate Grantee's pipes, mains or systems to accomplish one or more of its proprietary functions, Grantee shall relocate same, at the expense of the Municipality or its third-party contractor(s).

SECTION 5: SUCCESSORS AND ASSIGNS


Whenever in this franchise reference is made to Municipality or to the Grantee, it shall be deemed to include the respective successors or assigns of either and all rights, privileges and obligations herein contained by or on behalf of said Municipality or by or on behalf of said Grantee shall be binding upon and inure to the benefit of the respective successors or assigns of said Municipality or of said Grantee, whether so expressed or not.

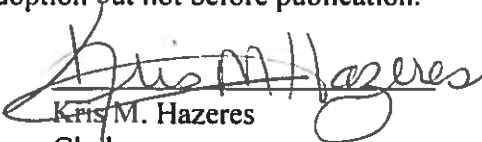
SECTION 6: ACCEPTANCE

This franchise shall be accepted by the Grantee within sixty (60) days from the date of the adoption of this ordinance.

SECTION 7: EFFECTIVE DATE

This Ordinance shall take effect ten days after adoption but not before publication.


David J. Campana, Mayor
Mayor


Kris M. Hazeres
Clerk

Adopted: December 12, 2016

Published: December 16, 2016