

**FRENCHTOWN CHARTER TOWNSHIP
NORDIC ELECTRIC FRANCHISE ORDINANCE
Ord. No. 189; Date of Adoption: January 2000**

An Ordinance granting a limited electric franchise to Nordic Electric, L.L.C.

THE CHARTER TOWNSHIP OF FRENCHTOWN HEREBY ORDAINS:

Section 1. Grant of Franchise.

Frenchtown Charter Township ("Township") 2744 Vivian Road, Monroe, Michigan, 48162 grants Nordic Electric, L.L.C., a limited liability company ("Grantee"), 2010 Hogback Road, Suite 4, Ann Arbor, State of Michigan, 48105, limited non-exclusive permission to market electricity through and over existing and future electrical lines operated and owned by another authorized public utility and to conduct a local electric business as an electric power marketer and third-party supplier of electricity in the Township for a period of five (5) years subject, however, to the term being revoked at will by the Township Board.

Section 2. Conditions.

(A) As an electric power marketer and third-party supplier of electricity, Grantee will not directly transmit or supply electricity, nor impair or attempt to control or occupy any streets, alleys, or public places, nor engage in any construction in any public street, alley, or other public place or right-of-way.

(B) Grantee shall indemnify and hold harmless the Township from any and all judgments, damages, decrees, losses, costs and expenses, including attorney fees, which the Township may incur or which may be legally obtained against the Township for or by reason of the wrongful or negligent construction, maintenance or repair of the structures and equipment, or the use and occupation of any highway, street, alley, or other public place in the Township by the Grantee pursuant to the terms of this Ordinance or resulting from the exercise by the Grantee of any of these privileges.

(C) The Township may establish reasonable standards of service, prevent unjust discrimination in service, and impose any other regulations as may be determined by the Township Board to be conducive to the safety, welfare and accommodation of the public. Grantee shall be and remain subject to all ordinances, rules and regulations of the Township now in effect, or which might be later adopted.

(D) Subject to Section 7 of this Ordinance, this Franchise is strictly limited to the general marketing and supplying of electricity and electrical services to the customers operating or residing within the Township listed in Appendix A to this Ordinance.

(E) Grantee shall reimburse the Township in the amount of \$3,500.00 within 30 days of the adoption of this Ordinance for the Township's administrative costs associated with the issuance of this Franchise, adoption of this Ordinance, and attorney fees.

Section 3. Rates.

Grantee may charge its customer(s) for electricity and electrical services at a rate that is mutually agreeable to Grantee and the customer, subject to the Grantee's agreement that it will abide by all applicable federal and state laws and Michigan Public Service Commission Regulations and further subject to the requirement that Grantee will comply with all truth in advertising requirements and will disclose to its customer(s) in Frenchtown Charter Township, any pass through pricing terms.

Section 4. Most Favored Nation.

If Grantee or any subsidiary company pays a fee, charge, or other payment of any kind on a periodic basis (e.g., monthly, quarterly, annually, etc.) for a franchise to any municipality in Michigan, then the Grantee shall pay to the Township a fee computed in the same manner as the fee is computed in the other municipality (e.g., if the fee in the other municipality is computed on a percentage of revenue, the same percentage shall be applicable and paid to the Township. If such fee in the other municipality is computed on the lineal measure of service, the same unit price shall be applicable and paid to the Township). A one-time charge prior to and for the installation of such new service shall not be considered a periodic fee unless the charge is unreasonably higher than that paid to other municipalities. If fees are paid by the Grantee to more than one municipality, then the computation of the fee for the Township shall be based upon the method producing the largest fee. The Township shall have the right, at its own expense, to audit the books and records or review audits of the books and records of the Grantee to determine whether and to what extent a fee is due. Any additional fee found due as a result of the audit or review shall be paid by the Grantee. If the additional fee is greater than two percent (2%) of the total annual fee which should have been paid for any calendar year, the Grantee shall pay the Township's cost for the audit.

Further, should Frenchtown Charter Township grant or issue a franchise to any other electric power marketer or third party supplier of electricity, and receive a fee, charge or other payment for a franchise, then the Grantee shall pay to the Township a fee computed as of the date of the franchise for which a fee was paid and in the same manner as the fee is computed for the subsequent franchisee of the Township. Further, should Frenchtown Charter Township determine in its sole discretion that the issue of a franchise fee should be revisited by the parties, Grantee agrees to meet with the Township to discuss payment of a reasonable franchise fee to the Township.

Section 5. Insurance.

(A) The Grantee and any contractor hired by the Grantee may not commence marketing electricity, as permitted by this Ordinance, until it has obtained the insurance required by this Section. All insurance coverage shall be with insurance carriers acceptable to the Township. If any insurance is written with a deductible or self-insured retention, the Grantee or its contractor shall be solely responsible for said deductible or self-insured retention. The purchase of insurance and the furnishing of a certificate of insurance shall not be a satisfaction of the Grantee's duty to indemnify the Township. The Grantee and any contractor shall procure and maintain during the term of the Franchise the following coverage:

(1) Workers Compensation Insurance in accordance with all applicable statutes of the State of Michigan. Coverage shall include Employers Liability Coverage.

(2) Commercial General Liability Insurance on an "occurrence" basis with limits of liability not less than \$1,000,000.00 per occurrence for Bodily Injury and Personal Injury, and \$1,000,000.00 per occurrence for Property Damage. Coverage shall include the following extensions:

1. Contractual Liability
2. Products and Completed Operations
3. Independent Contractors Coverage
4. Broad Form General Liability Extensions or Equivalent
5. Coverage for X, C and U Hazards

(3) Motor Vehicle Liability Coverage, including Michigan No-Fault Coverage for all vehicles used in the performance of the contract. Limits of Liability shall not be less than \$1,000,000.00 per occurrence combined single limit for Bodily Injury and Property Damage.

(4) Additional Insured. Commercial General Liability Insurance and Motor Vehicle Liability Insurance as described above shall include an endorsement stating that the following shall be an additional named insured:

"The Township, including all elected and appointed officials, boards, commissions, officers and employees."

(5) Cancellation Notice. Workers' Compensation Insurance, Commercial General Liability Insurance, and Motor Vehicle Liability Insurance as described above shall include an endorsement stating the following:

"It is hereby understood and agreed that this insurance policy may not be canceled by the insurer nor the intention not to renew be stated by the insurer until thirty (30) days after receipt by the Township, by certified or registered mail, of a written notice of such intention to cancel or not renew."

Said notice shall be sent to:

Frenchtown Charter Township
Attention: Township Clerk
2744 Vivian Road
Monroe, MI 48162

(B) The Grantee and any contractor of Grantee shall supply a copy of the insurance policy for any of the insurance coverages required under this section.

Section 6. Interpretation.

Nothing in this Franchise shall be construed to alienate the title of the public in and to any highway, street, alley or public place. Nothing in this Franchise shall be construed in any manner as a surrender by the Township of its legislative power with respect to the subject matter of this Agreement or with respect to any other matter or in any manner limiting the right of the Township to lawfully regulate the use of any highway, street, alley or public place in the Township.

Section 7. Extension of Service.

Grantee may from time to time seek to market electrical service to customers within the Township which are not listed in Appendix A, subject to all applicable ordinances, laws, statutes, rules and regulations. Grantee shall file with the Township Clerk, a request to amend Appendix A and the Township Board shall consider that request to amend Appendix A which must be done by resolution of the Township Board.

Section 8. Limitations.

Nothing in this Ordinance shall be construed as a waiver by Grantee of any of its rights under state or federal law. 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 service by the Michigan Public Service Commission, or its successor. Upon request by Township, Grantee shall provide the Township with copies of all documents which Grantee sends to the Michigan Public Service Commission. Grantee shall provide Township with copies of all orders, decisions, or correspondence Grantee receives from the Michigan Public Service Commission. Grantee shall permit Township inspection and examination of all records it is required to maintain or file under Michigan Public Service Commission rules and regulations.

Section 9. Assignment.

This Franchise may not be leased, assigned or transferred.

Section 10. Acceptance.

Upon adoption and publication, this Ordinance shall constitute a contract between the Township and the Grantee.

Section 11. Revocation.

This Franchise shall be revocable at will by the Township upon thirty (30) days written notice to the Grantee.

Section 12. Vacation of Rights of Way and Relocation of Facilities.

The Township has the right to vacate any public right of way as well as any right to use same possessed by the Grantee. Further, Township may require Grantee to relocate its lines and facilities at Grantee's own expense when it is deemed necessary by the Township for public health, safety, or welfare.

Section 13. Severability.

Any and all sections, terms, provisions, or clauses of this Franchise shall be deemed independent and severable. If any court of competent jurisdiction holds any section, term, provision or clause void or invalid, all remaining sections, terms, provisions, or clauses not held void or invalid shall continue in full force and effect.

Section 14. Effective Date.

This Ordinance shall become effective immediately after final passage and publication in a newspaper having general circulation in Frenchtown Charter Township, Monroe County, Michigan.

James K. Spas, Supervisor

Peggy L. Barton, Certified Municipal Clerk

**APPENDIX A
TO FRENCHTOWN CHARTER TOWNSHIP NORDIC ELECTRIC
FRANCHISE ORDINANCE
CUSTOMERS**

Grantee may supply electricity services to the following customers operating or residing within the Township:

Meijer's Inc. Warehouse
Meijer's Inc. Store
Monroe Public School Administration Building

The addition of customers to this list is governed by Section 7 and subject to approval of the Township Board.

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