

**DTE ENERGY MARKETING, INC., FRANCHISE ORDINANCE**

**TOWNSHIP OF MANCELONA**

**COUNTY OF ANTRIM, STATE OF MICHIGAN**

**ORDINANCE NUMBER 14**

**Adopted:** June 19, 2000

**Effective:** June 29, 2000

**DTE ENERGY MARKETING, INC., FRANCHISE ORDINANCE**

An Ordinance to grant to DTE Energy Marketing, Inc., a revokable, nonexclusive public utility franchise to serve the Township.

**TOWNSHIP OF MANCELONA**

**Antrim County, Michigan**

ORDAINS:

**SECTION I**

TITLE

This Ordinance shall be known as the DTE Energy Marketing, Inc. Franchise Ordinance.

**SECTION II**

**GRANT OF ELECTRIC FRANCHISE RIGHTS**

The Township of Mancelona grants permission to DTE Energy Marketing (hereinafter referred to as "Grantee") subject to the terms and conditions set forth below the right and authority to conduct an electric power business in the Township. Grantee shall supply electric customers in the Township with power delivered to Consumers Energy transmission system at it various interconnection points by others supplying the Grantee with wholesale power. Consumers Energy shall deliver the Grantee's power to customers utilizing Consumers Energy

existing power lines and equipment which Consumers Energy shall be solely responsible for installing and maintaining. The terms and conditions of such electric power supply shall be set by contract between Grantee and its customers, subject to regulations by the Michigan Public Service Commission (MPSC).

A. Term. The terms of this franchise shall be for fifteen (15) years.

B. Use of Public Ways. Grantee shall do no injury to the streets, highway or alleys nor shall it disturb any trees or interfere with gas lines, telecommunications cables or sewer lines anywhere in the Township. The Grantee may not use the public ways of the Township to construct power lines or install and maintain any other electrical equipment and the Grantee shall not dig on the public way or in any way disturb or alter the public way, unless otherwise agreed through the right-of-way permit process. Grantee shall not unnecessarily obstruct the passage of any of the public highways, streets, alleys, or other public places within the Township and shall, within a reasonable time after any construction, repair, disturbance, or alteration of any kind to any such public right-of-way or place, repair or restore the same to its original condition. All local delivery of electric power to the Grantee's customers shall utilize existing Consumers Energy lines and equipment which shall be maintained by Consumers Energy.

### **SECTION III**

#### **INSURANCE AND INDEMNITY**

A. Insurance. Grantee shall obtain and maintain in full force and effect the following insurance covering all insurable risks associated with its exercise of the rights granted by this Ordinance: Comprehensive General Liability, including Completed Operations Liability, Independent Contractors Liability, Contractual Liability coverage and coverage for property damage from perils of explosion, collapse, or damage to

underground utilities, commonly known as XCU coverage, in an amount not less than One Million Dollars (\$1,000,000.00).

The Township shall be named as an additional insured in all applicable policies. All insurance policies shall provide that they shall not be canceled or modified unless thirty (30) days prior written notice is given to the Township. Grantee shall provide the Township with a certificate of insurance evidencing such coverage and maintain a current certificate on file with the Township. All insurance shall be issued by insurance carriers licensed to do business by the State of Michigan or by surplus line carriers on the Michigan Insurance Commission approved list of companies qualified to do business in Michigan. All insurance an surplus line carriers shall be rated A+ or better by A.M. Best Company.

B. Indemnification. Grantee shall, to the fullest extent permitted by law, at its sole cost and expense, indemnify and hold harmless the Township, all subsidiary entities of the Township and their respective officers, boards, commissions, employees and agents, attorneys and contractors from and against; any and all liability, negligence, obligations, damages, judgments, penalties, claims, liens, costs, attorney fees, charges, losses and expenses which may be imposed upon, incurred by or asserted against the same by reason of any act or omission by the Grantee, its personnel or agents in the conduct of its electric business in the Township.

C. Notice. Cooperation and Expenses. Township shall give Grantee prompt notice of the making of any claim or the commencement of any action, suit, or proceeding covered by the provisions of this Section. Nothing herein shall be deemed to prevent Township from cooperating with the Grantee and participation in the defense of any litigation by the Township's own counsel.

## **SECTION IV**

### **FRANCHISE NOT EXCLUSIVE**

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

## **SECTION V**

### **REVOCACTION**

The franchise granted hereby is subject to revocation at any time at the will of either party.

## **SECTION VI**

### **MICHIGAN PUBLIC SERVICE COMMISSION JURISDICTION**

A. Jurisdiction. The Grantee shall remain subject to the rules and regulations applicable to electric supply as provided for by the Michigan Public Service Commission (MPSC).

B. Filing. Grantee shall provide the Township with copies of all documents which the Grantee sends to the MPSC and copies of all orders, decisions or correspondence Grantee receives from MPSC related to the municipality granting the franchise. The Grantee shall permit the Township to inspect and examine all records it is required to maintain or file under MPSC rules and regulations.

C. Grantee's Rates. Grantee's rates will be determined by negotiated contracts between Grantee and Grantee's customers. Such contracts and rates will be held confidential and will be filed with the Michigan Public Service Commission (MPSC) in accordance with Commission filing requirements.

## **SECTION VII**

### **SALES AND ASSIGNMENT**

The franchise herein granted may not be sold, assigned, sublet or used by anyone other than the Grantee without the consent of the Township acting by its Township Council.



**SECTION VIII**

**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, color, religion, national origin, age, sex, height, weight, or marital status except where based upon a bona fide occupational qualification.

**SECTION IX**

**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 X**

**EFFECTIVE DATE**

This franchise shall take effect upon the date after publication of this ordinance granting the franchise.

**SECTION XI**

**CONSIDERATION**

In consideration of the Township granting this franchise the Grantee agrees to reimburse the Township for actual expenses incurred for costs of publication of the ordinance and attorney fees, not to exceed \$ 300.00 payable within thirty (30) days of the adoption of the Ordinance. Grantee shall agree, by separate document, to be bound by the terms contained in this Ordinance.

**SECTION XII**

**COMPLIANCE WITH TOWNSHIP CHARTER, ORDINANCES  
AND REGULATIONS**

The Grantee agrees to comply with all current and future provisions of the Township ordinances and administrative regulations, and with any and all Federal, State and Local statutes, laws, ordinances, codes, or regulations.

**SECTION XIII**

This Ordinance shall become effective after the date of publication.

Dated: June 19, 2000

  
\_\_\_\_\_  
Margaret Chapman, Clerk  
Mancelona Township

JUL 05 2000

**THE TOWNSHIP OF Mancelona HEREBY GRANTS BY ORDINANCE AND THIS AGREEMENT DTE ENERGY MARKETING, INC. A NONEXCLUSIVE REVOKABLE FRANCHISE TO CONDUCT A LOCAL ELECTRIC POWER BUSINESS FOR PUBLIC USE WITHIN THE TOWNSHIP OF Mancelona.**

This franchise and agreement is made and entered into this nineteenth day of June, 2000, by and between the Incorporated Township of Mancelona, by its Mayor and City Manager, and DTE Energy Marketing, Inc.

WHEREAS, DTE Energy Marketing, a Michigan corporation, seeks a nonexclusive public utility franchise to conduct a local electric power business in the Township of Mancelona, Michigan, and to participate in the Michigan Public Service Commission Open Access Program; and

WHEREAS, the Township of Mancelona, Antrim County, Michigan is empowered, pursuant to the Michigan Constitution of 1963, and Township Charter, Chapter \_\_\_\_\_, to grant public utility franchises:

NOW THEREFORE, the Township of Mancelona, Michigan hereby grants DTE Energy Marketing a nonexclusive revocable franchise as follows:

Section 1. Grant of Electric Franchise Rights.

The Township of Mancelona (City) grants permission to DTE Energy Marketing (Grantee) subject to the terms and conditions set forth below, the right and authority to conduct an electric power business in the Township. Grantee shall supply electric customers in the Township with power delivered to Consumers Energy transmission system at its various interconnection points by others supplying the Grantee with wholesale power. Consumers Energy shall deliver the Grantee's power to customers utilizing Consumers Energy existing power lines and equipment which Consumers Energy shall be solely responsible for installing and maintaining. The terms and conditions of such electric power supply shall be set by contract between Grantee and its customers, subject to regulations by the Michigan Public Service Commission (MPSC).

- A. Term. The term of this franchise shall be for fifteen (15) years.
- B. Use of Public Ways Grantee shall do no injury to the streets, highways or alleys nor shall it disturb any, trees or interfere with gas lines, telecommunication cables or sewer lines anywhere in the Township. The Grantee



may not use the public ways of the Township to construct power lines or install and maintain any other electrical equipment and the Grantee shall not dig on the public way or in any way disturb or alter the public way, unless otherwise agreed through the right-of-way permit process. Grantee shall not unnecessarily obstruct the passage of any of the public highways, streets, alleys, or other public places within the Township, and shall, within a reasonable time after any construction, repair, disturbance, or alteration of any kind to any such public right-of-way or place, repair or restore the same to its original condition. All local delivery of electric power to the Grantee's customers shall utilize existing Consumers Energy lines and equipment which shall be maintained by Consumers Energy.

Section 2. Insurance and Indemnity.

- A. Insurance. Grantee shall obtain and maintain in full force and effect the following insurance covering all insurable risks associated with its exercise of the rights granted by this agreement: Comprehensive General Liability, including Completed Operations Liability, Independent Contractors Liability, Contractual Liability coverage and coverage for property damage from perils of explosion, collapse, or damage to underground utilities, commonly known as XCU coverage, in an amount not less than One Million Dollars (\$1,000,000.00).

The Township shall be named as an additional insured in all applicable policies. All insurance policies shall provide that they shall not be canceled or modified unless thirty (30) days prior written notice is given to the Township. Grantee shall provide the Township with a certificate of insurance evidencing such coverage and maintain a current certificate on file with the Township. All insurance shall be issued by insurance carriers licensed to do business by the State of Michigan or by surplus line carriers on the Michigan Insurance Commission approved list of companies qualified to do business in Michigan. All insurance and surplus line carriers shall be rated A+ or better by A. M. Best Company.

- B. Indemnification. Grantee shall, to the fullest extent permitted by law, at its sole cost and expense, indemnify and hold harmless the Township, and all subsidiary entities of the Township and their respective officers, boards, commissions, employees and agents, attorneys and contractors from and against; any and all liability, negligence, obligations, damages, judgements, penalties, claims, liens, costs, attorney fee's, charges, losses and expenses which may be imposed upon, incurred by or asserted against the same by reason of any act or omission by the Grantee, its personnel or agents in the conduct of its electric business in the Township.
- C. Notice. Cooperation and Expenses. Township shall give Grantee prompt notice of the making of any claim or the commencement of any action, suit



or proceeding covered by the provisions of this Section. Nothing herein shall be deemed to prevent Township from cooperating with the Grantee and participation in the defense of any litigation by the Township own Counsel.

Section 3. Franchise Not Exclusive.

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

Section 4. Revocation.

The franchise granted and agreement is subject to revocation at any time at the will of either party.

Section 5. Michigan Public Service Commission Jurisdiction.

- A. Jurisdiction. The Grantee shall remain subject to the rules and regulations applicable to electric supply as provided for by the Michigan Public Service Commission (MPSC).
- B. Filing. Grantee shall provide the Township with copies of all documents which the Grantee sends to the MPSC and copies of all orders, decisions or correspondence Grantee receives from MPSC related to the municipality granting the franchise. The Grantee shall permit the Township to inspect and examine all records it is required to maintain or file under MPSC rules and regulations.
- C. Grantee's Rates. Grantee's rates will be determined by negotiated contracts between Grantee and Grantee's customers. Such contracts and rates will be held confidential and will be filed with the Michigan Public Service Commission (MPSC) in accordance with Commission filing requirements.

Section 6. Sales and Assignment.

The franchise herein granted may not be sold, assigned, sublet or used by anyone other than the Grantee without the consent of the Township acting by its Township Council.

Section 7. 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, color, religion, national origin, age, sex, height, weight, or marital status except where based upon a bona fide occupational qualification. A breach of this covenant shall be regarded as material breach of this agreement.

Section 8. 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. A breach of this covenant shall be regarded as a material breach of this agreement.

Section 9. Effective Date.

This franchise and agreement shall take effect upon the date after publication of the ordinance granting the franchise.

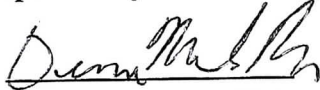
Section 10. Consideration.

In consideration of the Township granting this franchise and agreement, the Grantee agrees to reimburse the Township for actual expenses incurred for costs of publication of the ordinance and attorney fee's, not to exceed (\$300.00) payable within thirty (30) days of the adoption of the Ordinance.

Section 11. Compliance with Township Charter, Ordinances and Regulations.

The Grantee agrees to comply with all current and future provisions of the Township Charter, ordinances and administrative regulations, and with any and all Federal, State and Local statutes, laws, ordinances, codes, or regulations.

**Acceptance by DTE Energy Marketing:**

By: 

Dated: 5/30/2000

**Acceptance by Mancelona Township:**

By: 

Dated: 6-19-2000

**MANCELONA TOWNSHIP**

**ORDINANCE CERTIFICATION**

At a regular meeting of the Township Board, Township of Mancelona, Antrim County, Michigan, held in the Mancelona Township Hall, located at 202 W. State St., Mancelona, Antrim County, Michigan, on June 19, 2000, at 7:00 p.m.:

PRESENT: Charles Johnson, Yousef Jabara, Gerald Patrick, Margaret Chapman, and C. Sue Robinson

ABSENT: none

Ordinance No. 14, the DTE Energy Marketing Inc., Franchise Ordinance, was considered by the Board and upon motion made and seconded, the Township Board duly adopted said Ordinance upon the following vote:

YES: Charles Johnson, Yousef Jabara, Gerald Patrick, Margaret Chapman, and C. Sue Robinson

NO: none

I, Margaret Chapman, as Mancelona Township Clerk, hereby certify that said Ordinance was adopted by the Mancelona Township Board at said meeting as set forth above; that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act; that a copy of said Ordinance was published in the Antrim County News on June 28, 2000, and that a true and complete copy of said Ordinance can be inspected or obtained at the office of the Mancelona Township Clerk in the Mancelona Township Hall.

  
MARGARET CHAPMAN, Clerk  
Mancelona Township