

ORDINANCE NO. 117

VILLAGE OF CUSTER

**AN ORDINANCE GRANTING A LIMITED, NON-EXCLUSIVE REVOCABLE
ELECTRIC FRANCHISE TO NORDIC ELECTRIC, L.L.C.**

THE VILLAGE OF CUSTER ORDAINS:

Section 1. GRANT OF FRANCHISE.

The Village of Custer with offices located at E.U.S. 10, Custer, Michigan, 49405 ("Village") grants to Nordic Electric, L.L.C., with offices at 2010 Hogback Road, Suite 4, Ann Arbor, Michigan, 48105, a limited liability company ("Grantee"), a limited, non-exclusive revocable franchise to market electricity through and over existing and future electrical lines owned and operated 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 Village for a period of ten (10) years.

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 street, alley, public place, 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 Village from any and all judgments, damages, decrees, losses, costs and expenses which the Village may incur or which may be legally obtained against the Village for or by any 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 places in the Village 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 Village may establish reasonable standards of service, prevent unjust discrimination in service, and impose any other regulations as may be determined by the Village 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 Village now in effect, or which may be adopted.
- (D) Grantee shall reimburse the Village for the Village's costs associated with issuance of this Franchise, including reasonable and documented attorney fees.

Section 3. RATES.

Grantee may charge its customers for electricity and electrical services at a rate that is mutually agreeable tot Grantee and its customers, subject to their agreement that they will abide by applicable federal and state laws and Michigan Public Service Commission regulations.

Section 4. 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 X, C and U hazards in an amount to be no less than One Million Dollars (\$1,000,000.00)

The Village 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 Village. If so requested by the Village, Grantee shall provide the Village with a certificate of insurance evidencing such coverage and maintain a current certificate on file with the Village.

Section 5. INTERPRETATION.

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

Section 6. LIMITATIONS.

Nothing in this Ordinance shall be construed as a waiver by Grantee of any rights under state or federal law. Grantee shall, as to all other conditions and elements not addressed or fixed by this Ordinance, remain subject to rules and regulations applicable to electric service by the Michigan Public Service Commission, or its successor. If so requested by the Village, Grantee shall provide the Village with copies of all documents which Grantee sends to the Michigan Public Service Commission and copies of all orders, decisions, or correspondence Grantee receives from the Michigan Public Service Commission that relates to this Franchise. Grantee shall permit Village inspection and examination of all records that relate to this Franchise that Grantee is required to maintain or file under Michigan Public Service Commission rules and regulations.

Section 7. ASSIGNMENT

This Franchise may not be sold, leased, assigned, transferred or used by any party other than the Grantee without the consent of the Village.

Section 8. ACCEPTANCE

Upon acceptance and publication this Ordinance shall constitute a contract between the Village and Grantee.

Section 9. REVOCATION

This Franchise shall be revocable, upon sixty (60) days written notice to the Grantee, by the Village, in the event of Grantee's misuse or failure to comply with the provisions of this Franchise.

Section 10. 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 11. CONSIDERATION.

In consideration of the Village granting this Franchise, Grantee agrees to reimburse the Village for actual expenses incurred by it or its legal counsel for reviewing this Franchise in an amount not to exceed Two Thousand Dollars (\$2,000.00) payable within thirty (30) days of the effective date of this Franchise.

That the above and foregoing Ordinance was introduced at a regular meeting of the Village Council of the Village of Custer on the 7th day of March, 2000, and was duly adopted at a meeting of the Village Council of the Village of Custer on the 7th day of March, 2000.

President

Margaret L. Grinnold
Clerk

DATE INTRODUCED	<u>3-7-2000</u>
DATE ADOPTED	<u>3-7-2000</u>
DATE PUBLISHED	<u>3-13-2000</u>
DATE EFFECTIVE	<u>3-15-2000</u>