

Village of Calumet

County of Houghton, State of Michigan

ORDINANCE NO. 161

An Ordinance, granting to SEMCO Energy Gas Company, a division of SEMCO Energy, Inc., a Michigan corporation, its successors and assigns, the right, power and authority to lay, maintain and operate gas mains, pipes and services on, along, across and under the highways, streets, alleys, bridges, waterways, and other public places, and to conduct a local gas business in the Village of Calumet, located in Houghton County, Michigan, for a period of thirty years.

THE VILLAGE OF CALUMET, HOUGHTON COUNTY, MICHIGAN, ORDAINS:

The Village of Calumet ordains:

Section 1. GRANT OF FRANCHISE. The Village of Calumet, located in Houghton County, Michigan (the “Village”), hereby grants to SEMCO Energy Gas Company, a division of SEMCO Energy, Inc., a Michigan corporation, its successors and assigns (the “Grantee”), the right, power and authority to construct, lay, operate, maintain and replace in the public streets, highways, alleys and other public places in the Village of Calumet, Michigan, all needful and proper gas pipes, mains, conductors, service pipes and other apparatus and facilities requisite for the manufacture, transmission and distribution of gas (collectively “the Grantee’s System”) for all purposes to the Village of Calumet, and the inhabitants thereof, and for conducting gas elsewhere to supply neighboring municipal corporations supplied with gas by said Grantee, for a period of thirty years. Except in the case of an emergency which is reasonably determined to threaten life, bodily injury or significant property damage, Grantee shall give to the Village written notice of at least ninety (90) days of any project of the Grantee which involves the construction of any improvement to, or replacement of any portion or part of, the Grantee’s System. Grantee shall use its best efforts to not unreasonably interfere with, damage or disrupt the public streets, highways, alleys and other public places (collectively, “the Public Improvements”) in the Village of Calumet, Michigan, in the construction, laying, operating, maintaining or replacing of the Grantee’s System or anything related thereto. If the Grantee damages or disrupts any part of the Public Improvements, the Grantee shall promptly restore such part of the Public Improvements to as good order and condition as when Grantee commenced work and entirely at the expense of Grantee.

Section 2. CONSIDERATION. In consideration of the rights, power and authority hereby granted, Grantee shall faithfully perform all things required by the terms hereof.

Section 3. CONDITIONS. No highway, street, alley, bridge or other public place used by Grantee shall be obstructed longer than necessary during the work of construction or repair, and shall be restored to as good order and condition as when Grantee commenced the work. All of Grantee's pipes and mains shall be so placed in the highways and other public places as not to unnecessarily interfere with the use thereof for highway purposes. Grantee will use its best efforts

to not unreasonably interfere with or disrupt any public utility apparatus or facilities operated by the Village and, to the extent Grantee interferes with or disrupts any such public utility apparatus or facilities, Grantee shall promptly restore such apparatus or facilities to as good order and condition as when Grantee commenced work and entirely at the expense of Grantee.

Section 4. HOLD HARMLESS. Grantee shall at all times keep and save the Village free and harmless from all loss, costs and expense to which it may be subject by reason of the Grantee's negligent construction and negligent maintenance of the structures and equipment hereby authorized. If any action is commenced against the Village resulting from Grantee's negligent construction and maintenance, Grantee shall, upon notice, defend the Village and save it free and harmless from all loss, cost and damage arising out of such negligent construction and maintenance.

Section 5. FRANCHISE NOT EXCLUSIVE. The rights, power and authority herein granted, are not exclusive. Either manufactured or natural gas may be furnished hereunder.

Section 6. RATES. Grantee shall charge for gas furnished the rates, charges and special taxes as approved from time to time by the Michigan Public Service Commission, or its successors having authority and jurisdiction to fix and regulate gas rates and charges, or as otherwise permitted or required by applicable law or tariff, for the term of this franchise. Such rates shall be subject to Commission review and change at any time upon petition therefore being made by either said Village, acting by its Village Board, or by said Grantee.

Section 7. REVOCATION. The franchise granted by this ordinance is subject to revocation upon sixty (60) days written notice by the party, either the Village or the Grantee, desiring such revocation.

Section 8. MICHIGAN PUBLIC SERVICE COMMISSION JURISDICTION. Grantee shall, as to all other conditions and elements of service not herein fixed, be and remain subject to the reasonable rules and regulations of the Michigan Public Service Commission or its successors, applicable to gas service in said Village and shall provide service in accordance with the terms and conditions set forth in its applicable tariff as approved from time to time by the Michigan Public Service Commission or its successors.

Section 9. SUCCESSORS AND ASSIGNS. The words "SEMCO Energy Gas Company" and "SEMCO Energy, Inc.," wherever used herein, are intended and shall be held and construed to mean and include SEMCO Energy Gas Company and its parent, subsidiaries, successors, affiliates, and assigns, whether so expressed or not. The word "Grantee," wherever used herein, is intended and shall be held and construed to mean and include SEMCO Energy Gas Company, SEMCO Energy, Inc., and the successors and assigns of each, whether so expressed or not. Grantee may assign the rights and obligations under this agreement as long as the Grantee provides prior written notice to the Village of any such assignment.

Section 10. FORCE MAJEURE. The Grantee shall not be liable for failure to furnish service as herein provided, or for any breach of the Grantee's obligations hereunder, if such failure or breach is caused by acts of God, labor troubles, riot, or any other causes or contingencies not reasonably within the control of the Grantee.

Section 11. EFFECTIVE DATE. Upon adoption, the Village Clerk shall deliver to Grantee a certified copy of this ordinance. Additionally, the Village shall publish this ordinance within thirty (30) days of its adoption and this ordinance shall take effect upon the day after the date of publication thereof, continuing for a term of thirty (30) years from that date; provided, however, it shall cease and be of no effect after sixty (60) days from its adoption unless within said period the Grantee shall accept the same in writing filed with the Village Clerk. Upon acceptance and publication hereof, the ordinance shall constitute a contract between said Village and said Grantee.

Passed and adopted by the Village Council of the Village of Calumet, County of Houghton, and State of Michigan on the ____ day of _____, 2022.

VILLAGE OF CALUMET

By: Robert P. Tarvis, Jr.,
Its President

Attest:

Patricia Pressel,
Village Clerk

Yeas: _____

Nays: _____

Absent/Abstain: _____.

ACCEPTANCE

SEMCO Energy Gas Company, a division of SEMCO Energy, Inc., the Grantee under a Franchise approved by Village of Calumet, County of Houghton, Michigan, hereby accepts the Franchise, pursuant to the terms and conditions thereof.

Dated: _____, 2022

**SEMCO Energy Gas Company,
a division of SEMCO Energy, Inc.**

By: _____
Mark A. Moses, Designee
SEMCO Energy Gas Company

I hereby certify that the foregoing is a true and complete copy of Ordinance No. 161, duly adopted by the Village Council of the Village of Calumet, County of Houghton, and State of Michigan, at a special meeting held on _____, 2022, and that this meeting was conducted and a public notice of this meeting was given, pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan 1976, and that the minutes of this meeting were kept and will be or have been made available, as required by said Act.

I further certify that the following members were present at said meeting:
_____; and that the following members were absent: _____.

I further certify that the Ordinance has been recorded in the Ordinance Book of the Village, and that such recording has been authenticated by the signatures of the Village President and the Village Clerk.

Patricia Pressel,
Village Clerk