

BEAR LAKE TOWNSHIP
MANISTEE COUNTY, MICHIGAN

ORDINANCE 1

SUPERIOR ENERGY COMPANY

ADOPTED: MARCH 19, 2013

EFFECTIVE: APRIL 13, 2013

AN ORDINANCE, granting to Superior Energy Company, L.L.C., a Limited Liability Company, organized and existing under the laws of the State of Michigan, its successors and assigns, the non-exclusive right, power and authority to lay, maintain and operate gas mains, pipes and services on, along, across and under the highways, streets, alleys bridges and other public places, and to do a local gas business in the Township of Bear Lake, Michigan, for a period of thirty years.

THE TOWNSHIP OF BEAR LAKE

MANISTEE COUNTY, MICHIGAN

ORDAINS:

Section 1. Grant Of Gas Franchise And Consent To Laying Of Pipes, Etc.

Subject to all the terms and conditions contained in this Ordinance, consent is hereby given to Superior Energy Company, L.L.C., a Limited Liability Company organized under the laws of the State of Michigan (the "Company"), and to its successors and assigns, to lay, maintain, operate, and use gas pipes, mains, conductors, service pipes, and other necessary equipment in the highways, streets, alleys, and other public places in the Township of Bear Lake ("Township") and a non-exclusive, irrevocable franchise is hereby granted to the Company, its successors and assigns, to transact local business in the Township for the purposes of conveying gas into and through and supplying and selling gas in the Township and all other matters, incidental thereto.

Section 2. Gas Service and Extension of System. If the provisions and conditions contained within this Ordinance are accepted by the Company, as set forth in Section (6), subject to the terms of this franchise, the Company will furnish gas to qualified customers located within an area designated by the Company as the proposed Gas Distribution System. The Company will commence the installation of its Gas Distribution System within a reasonable time following the issuance of all necessary certificates and approvals and the Company shall proceed to complete the construction and installation of the Gas Distribution System as soon thereafter as reasonably practicable. The Company shall

abide by all applicable provisions of the Michigan Gas Safety Code, MCL 483.151, et seq. **and all other applicable laws and regulations** in the construction, operation and maintenance of its distribution system.

The right and franchise granted by this Ordinance shall extend through the entire Township and additions thereto. Upon application of a prospective customer or customers in an area of the Township not served by the Company's initial distribution system, the Company shall make the requested extension at Company expense if, in the sole judgment of the Company, the gas requirements of the prospective customer or customers will not disturb or impair gas service to existing customers and the estimated annual revenues therefrom reasonably warrant the capital expenditure required. The Company reserves the right to decline any request for main extension regardless of the number of customers who agree to purchase gas, if in the Company's judgment, the main extension presents unusual, difficult, extreme construction conditions, including, but not limited to, rivers, wetlands, environmentally sensitive areas, rock, clay or any other structure or condition, natural or man made, rendering the main expansion unusually costly, time consuming or expensive. If the Company is unable to enter into a sufficient number of contracts with prospective customers to justify the main extension or if the proposed main expansion presents difficult, unusual or extreme construction conditions, as set forth above, the Company may make the main extension if the prospective customer or customers make such contributions in aid of construction or other payment so as to make the extension feasible as provided in the Rules and Regulations of the Company.

The Company shall file a copy of its Rates, Rules and Regulations from time to time in effect with the Township Clerk and/or the Michigan Public Service Commission as required by applicable laws.

Section 3. Use of Streets and Other Public Places. The Company, its successors and assigns, shall not unnecessarily obstruct the passage of any of the highways, streets, alleys, or other public places within said Township and shall within a reasonable time after making an opening or excavation, repair the same and leave it in as good condition as before the opening or excavation was made. The Company, its successors and assigns, shall use due care in exercising the privileges herein contained and shall be liable to the Township for all damages and costs which may be recovered against the Township arising for the default, carelessness, or negligence of the Company or its officers, agents, and servants.

Section 4. Standards and Conditions of Service; Rules, Regulations and Rates.

The Company is now under the jurisdiction of the Township. It is the intent of the Company and the Township that any and all rate adjustments be subject to "HOME RULE", and that the Township be a Home Rule jurisdiction as defined by MCL 460.117.1 et seq, Public Act 279 of 1919 and/or any successor statutes or amendments thereto.

The rate charged for the delivery of natural gas to **the Company's** customers **may** consist of the following components.

1. The actual cost per ccf of natural gas paid by the company. This charge includes the total cost of the gas delivered to the Company's gate station and

2. A distribution charge per ccf of natural gas for delivery of the natural gas from the Company's gate station to the customer. This charge shall not exceed 1.5 times the State average distribution charge of all Michigan based natural gas utility companies as determined on a monthly basis. Late payment charges will be assessable by the company.

3. The monthly customer service charge. This cost shall not exceed 1.5 times the State average "Customer Charge" charged by all Michigan based natural gas utility companies determined on a monthly basis.

The customer service charge **may also** include all monthly customer service charges and any and all other charges for service not on a per unit of natural gas basis.

The cost to connect to the Company's distribution system (hook up charge) will be determined by measuring the horizontal distance from Company's gas main to the Customer's meter location established by the Company. Such charge, as set forth in the Company's Rules and Regulations, shall be determined based upon material rates for piping and other supplies shall not exceed the cost to the Company to construct such service line, including the cost of all parts, machinery and labor. If the connection presents unusual difficulty due to physical conditions presented by the property or weather conditions, the charge may increase in the Company's sole discretion.

The rates provided for in this franchise **may be** increased to reflect any new or increased specific cost, tax, fee or excise tax applicable within the Township, not incorporated in the current rate. The rates provided in this franchise are exclusive of Michigan State Sales Tax, which shall be added to bills as required by law. HOME RULE, as applicable to this franchise, shall mean that all rates and charges are fixed in, and regulated by this franchise agreement.

Section 5. Force Majeure. The Company shall not be under any liability for failure to furnish gas service as herein provided, or for any breach of the Company's obligations hereunder, if such failure or breach is caused in full or in part by acts of God, labor troubles, strikes, shortages or limitation of supply, accidents, breakage or repair of pipelines, machinery or equipment, failure of suppliers to deliver, shortages of materials or labor, governmental laws, rulings or regulations, government failure to issue permits, or any other causes or contingencies not within the sole control of the Company, provided the Company restores service within a reasonable time after cessation of the force majeure.

Section 6. Effective Date: Term of Franchise Ordinance; Accepted by the Company. This Ordinance shall take effect the day following the date of publication. Publication shall be made within thirty (30) days after the date the Ordinance is adopted by the Township (or a shorter period of time as determined by the Township), and shall continue in effect for a period of thirty (30) years thereafter. When the Ordinance becomes effective, the Township Clerk shall deliver to the Company a certified copy of the Ordinance accompanied by written evidence of publication and recording as required by law. The Company will then have sixty (60) days after receipt of the above documents to file with the Township Clerk its written acceptance of the franchise.

The Township Board's granting of this franchise shall be submitted to the Township electors at the next regular election or special election for the purpose of confirming the grant of such franchise. In accordance with MCL 460.670; MSA 22.172, if confirmed, the franchise shall continue to be irrevocable. If not confirmed, the franchise shall remain in full force and effect and shall be valid in all terms, except that the franchise shall be irrevocable. The irrevocability of the franchise shall not be construed to waive or prohibit any remedies that the Township has against the Company for any breach of this franchise. In the event Company is notified by the Township of a breach of this Agreement, Company shall remedy said breach within a reasonable period of time after such notification. The obligations of the Company under the Ordinance shall be deemed covenants that may be specifically enforced by a court of competent jurisdiction.

Section 7. Use of Gas. All gas supplied by the Company under the terms of this Ordinance is to be supplied for the sole use of the individual residential, industrial, commercial or other customers, who shall not sell any such gas to any other person, or permit any other person to use the same, without the written consent of the Company being first obtained. For violation of this condition, the Company may remove its meters and discontinue service.

Section 8. Effect and Interpretation of Ordinance. All ordinances and resolutions, and parts thereof, which conflict with any of the terms of this ordinance are hereby rescinded. In the case of conflict between this Ordinance and any such ordinances or resolutions, this Ordinance shall control.

Section 9. Office. The Company shall maintain a local office within the territory served by the Company for payment of bills and processing of all business related to gas service. The Company shall also maintain a toll free telephone number for the purpose of conducting utility business.

Section 10. Lease. The Company shall not lease or sublease any portion of its gas distribution system within the Township to a person who by law is required to obtain the Township's permission or consent to transact business in the Township and who lacks such permission or consent.

Section 11. Use of Public Right of Ways by Company. No Burden on Public Ways. Company, and its contractors, subcontractors and the Company's Gas Distribution System, shall not unduly burden or interfere with the present or future use of any public ways within the Township. Company shall construct and maintain its Gas Distribution System so as to cause minimum interference with the use of the public ways and with the rights of reasonable convenience of property owners. No public way shall be obstructed longer than necessary during the work construction or repair to the Gas Distribution System. Company's piping, structures and equipment shall be buried so as to not endanger or injure persons or property on the public ways. If the Township in its reasonable judgment determines that a portion of the Gas Distribution System constitutes an undue burden or interference, Company, at its expense, will modify its Gas Distribution System or take such other action as the Township may determine in its public interest to remove or alleviate the burden and the Company shall do so within a reasonable time period prescribed by the Township.

Section 12. Easements. Any easement over or under private property necessary for the construction or operation of the Gas Distribution System shall be arranged and paid for by the Company. Any use or intrusion on private property without an easement or other instrument evidencing permission of the property owner, shall constitute a trespass by Company and a violation of this Agreement. Any easements over or under property owned by the Township other than the public ways shall be separately negotiated with the Township.

Section 13. Pavement Cut Coordination/Additional Fees. Company shall coordinate its construction program and all other work in the public ways with the Township's program for street construction, rebuilding, resurfacing and repair (collectively, "Street Resurfacing"). Company shall meet with the official of the Township primarily responsible for the public ways at least annually to this end. The goals of such coordination shall be to require Company to conduct all known work which necessitates a cut into or excavation of any public way in conjunction with or immediately prior to any Street Resurfacing planned by the Township and to prevent the public way from being disturbed by Company for a period of years after such Street Resurfacing.

Section 14. Compliance with Laws. Company shall comply with all applicable laws, statutes, ordinances, rules and regulations regarding the installation, construction, ownership or use of its Gas Distribution System, whether federal state or local, now in force or which hereafter may be promulgated. Before any installation or construction is commenced, Company shall secure all necessary permits, licenses and approvals from all appropriate departments, agencies, boards or commissions of the Township or any other governmental entity as may be required by law. Company shall comply in all respects with applicable codes and industry standards. Company shall comply with all applicable zoning and land use ordinances and historic preservation ordinances as may exist or may hereafter be amended.

Section 15. Street Vacation. If the Township vacates or consents to the vacation of any street or alley within its jurisdiction, and such vacation necessitates the removal and relocation of Company's facilities in the vacated public way, Company agrees, as a condition of this Agreement, to consent to the vacation and to move its facilities at its sole cost and expense when asked to do so by the Township. Company shall relocate its facilities to such alternative route as the Township, after consultation with the Company and acting reasonably in good faith, shall designate.

Section 16. Relocation. If the Township requests Company to relocate, protect, support, disconnect, or remove its facilities because of street or utility work, Company shall relocate, protect, support, disconnect or remove its facilities, at its sole expense, to such alternate route as the Township, after consultation with Company and acting reasonably and in good faith, shall designate.

Section 17. Miss Dig. If eligible to join, Company shall subscribe to and be a member of "MISS DIG", the association of utilities formed pursuant to MCL 460.701, et seq, and shall conduct its business in conformance with the statutory provisions and requirements promulgated hereunder.

Section 18. No Township Liability; Indemnification.

A. Township Not Liable. The Township, its agents, employees, and contractors, shall not be liable to Company or Company's customers for any interference with or disruption in the operation of Company's Gas Distribution System, or the provision of service over or through the Gas Distribution System, or for any damages arising out of Company's use of the public way.

B. Indemnification. As part of the consideration for this Agreement, Company shall defend, indemnify, protect and hold harmless the Township, its officers, agents, employees, departments, boards, and commissions from any and all claims, losses, liabilities, causes of action, demands, judgment, decrees, proceedings, and expenses of any nature, reasonably incurred, arising out of or resulting from the acts or omissions of Company, its officers, agents, employees, contractors, successors, or assigns.

C. Assumption of Risk. Company undertakes and assumes for its officers, agents, contractors and subcontractors and employees, all risk of dangerous conditions, if any, on or about any Township owned or controlled property, including public ways and Company hereby agrees to indemnify and hold harmless the Township against and from any claim asserted or liability imposed upon the Township for personal injury or property damage to any person arising out of the Company's installation, operation, maintenance of the Gas Distribution System or Company's failure to comply with any applicable federal, state or local statute, ordinance or regulation.

D. Notice, Cooperation and Expenses. The Township shall give Company prompt notice of the making of any claim or commencement of any action, suit or other proceeding covered by the provisions of this Section. Nothing herein shall be deemed to

prevent the Township from cooperating with Company and participating in the defense of any litigation by the Township's own counsel.

Section 19. Township Jurisdiction. Company shall be and remain subject to all applicable ordinances, rules and regulations of the Township now in effect or which might subsequently be adopted for the regulation of land uses or for the protection of the health, safety and general welfare of the public; provided, however, that nothing herein shall be construed as a waiver by Company of any of its existing or future rights under Michigan or Federal law or a limitation upon the existing or future powers of the Township pursuant to its Charter, if any, or Michigan or Federal law.

Section 20. Township Expenses. The Company, as a condition to the grant of a franchise hereunder shall reimburse the Township for the costs of publication of this Ordinance and any other reasonable expenses incurred by the Township in connection with the grant of the franchise.

Section 21. Assign ability of Franchise. The franchise provided by the Township to Company shall not be assigned by Company to any other entity without first obtaining the consent of the Township. Said consent shall not be unreasonably withheld. The consent of the Township shall be obtained by a vote of the majority of the Township Board at a regularly scheduled or special meeting of the Board or council. Any permitted assignee of this Ordinance shall file with the Township its written agreement to observe and be bound by all terms and conditions of this Ordinance.

Section 22. Design/Construction of Distribution System. The Company's initial Gas Distribution System shall be designed by a qualified and certified professional engineer and shall bear said professional engineer's stamp or certification. The Gas Distribution System shall be designed, constructed, operated and maintained in accordance with all applicable statutes, ordinances, rules and regulations including, but not limited to, the Michigan Gas Safety Code being Section 2 of Act 165 of the Public Acts of 1969, MCL 483.152. Two (2) copies of the "as built" plans for the initial Gas Distribution System, duly certified by the Company's engineers as conforming to the standards of construction established by this Ordinance and two (2) copies of the "as built" plans of all extensions and modifications of the gas distribution system, similarly certified by the Company's engineers, shall be filed with the Township within thirty (30) days of the completion of construction of the initial Gas Distribution System and all extensions or modifications.

Section 23. Successors and Assigns. The words "Superior Energy Company, LLC" and "the Company", whenever used are intended and shall be held and construed to mean Superior Energy Company, LLC and its successors and assigns, whether so expressed or not. The words "Township of Arcadia" or "Township" are intended and shall beheld held to mean the Township of Arcadia. BL.

Section 24. Amendments. Notwithstanding any vote of the electors of the Township confirming the grant of this Franchise, the parties may, from time to time, agree to further amendments to the Franchise. Such amendments shall be adopted as amendments to this Ordinance and upon acceptance by the Company and publication is required by law, shall become a part of the Franchise.

Those voting in favor: MAY, HARTHUN, PATTISON, GRIPPIS, BEST

Those voting against: NONE

Those abstaining: NONE

Ordinance declared passed.

Date: MARCH 19, 2013

Deanna Pattison
Clerk
DEANNA PATTISON
BLTWP CLERK

Certificate of Adoption

I, Deanna Pattison, Clerk of Bear Lake Township do hereby certify that the above Resolution was duly passed and approved by the Bear Lake Township Board, Manistee County, State of Michigan, at a regular monthly meeting held in the Township of Bear Lake on Tuesday, March 19, 2013.

Dated: March 19, 2013

Deanna Pattison, Bear Lake Township Clerk