

SUPERIOR ENERGY COMPANY

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 Onekama, Michigan, for a period of thirty years.

THE TOWNSHIP OF ONEKAMA 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 Onekama, "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 483.152, 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. A capital expenditure for a proposed main extension will be considered reasonably warranted if the Company enters into contracts with

no less than fifteen (15) customers per mile of main who agree to purchase gas from the Company for rural expanses (those areas outside of incorporated or established village or city boundaries) and twenty-five (25) customers per mile of main for urban expanses (those areas within incorporated or established village or city boundaries). 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 contracts with fifteen (15) or twenty-five (25) or more customers per mile of main, as set forth above, 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 for the Township 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 from 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 460.54, Public Act 419 of 1919.

The monthly commodity charge for gas per Ccf (100 cubic feet) shall not exceed 1.5 times the average commodity charge of all gas utilities in Michigan, for a like class of customers, as reported monthly by the Michigan Public Service Commission in its report entitled Residential Rate Comparisons or successor publication containing the same information. The initial commodity charge for gas

per Ccf will be 1.23 times the average commodity charge of all gas utilities in Michigan, as set forth above. The commodity charge shall include gas cost recovery charge, distribution charge, and any and all other charges, factors and surcharges now or hereafter made on a per-unit-of-gas basis. Late payment charges will be assessable by the Company. All adjustments, either increase or decrease, will be made and determined by HOME RULE. Any increase in commodity charge, as reflected in any amended or revised rate schedule of the Company, shall be provided to the Township thirty (30) days prior to its effective date, accompanied by a reasonable explanation for the proposed increase in commodity charge. The Township may object to the proposed increase in commodity charge by providing the Company with a written objection within thirty (30) days of the receipt of the Company's proposed commodity charge increase. Any objection notwithstanding, the proposed increase shall become effective on its effective date. In the event the Township files its written objection to the proposed commodity charge increase, the parties shall meet within thirty (30) days of the Township's objection in an attempt to resolve the objection. In the event the objection is not resolved within thirty (30) days of the Company's receipt of the Township's objection, the dispute shall be referred to binding arbitration pursuant to the rules and procedures of the American Arbitration Association. The party prevailing in arbitration shall be entitled to its reasonable costs, including, but not limited to, attorney fees, expert witness fees, and all other costs reasonably incurred as the result of arbitration. If the Township's objection to the commodity charge increase is sustained in arbitration and the commodity charge reduced, any reduction in commodity charge shall be prospective only from the date of the arbitrator's decision.

The monthly customer service charge shall not exceed 1.5 times the average customer service charge of all gas utilities in Michigan, for a like class of customers, as reported monthly by the Michigan Public Service Commission in the Residential Rate Comparison or a successor publication containing the same information. The customer service charge shall include all monthly customer service charges and any and all other charges for service not on a per unit of gas basis, together with any special charge and any late payment charge. Any increase in customer service charge, as reflected in any amended or revised rate schedule of the Company, shall be provided to the Township thirty (30) days prior to its effective date, accompanied by a reasonable explanation for the proposed increase in customer service charge. The Township may object to the proposed increase in customer service charge by providing the Company with a written objection within thirty (30) days of the receipt of the Company's proposed service charge increase. Any objection notwithstanding, the proposed increase shall become effective on its effective date. In the event the Township files its written objection to the proposed customer service charge increase, the parties shall meet within thirty (30) days of the Township's objection in an attempt to resolve the objection. In the event the

objection is not resolved within thirty (30) days of the Company's receipt of the Township's objection, the dispute shall be referred to binding arbitration pursuant to the rules and procedures of the American Arbitration Association. The party prevailing in arbitration shall be entitled to its reasonable costs, including, but not limited to, attorney fees, expert witness fees, and all other costs reasonably incurred as the result of arbitration. If the Township's objection to the customer service charge increase is sustained in arbitration and the customer service charge reduced, any reduction in customer service charge shall be prospective only from the date of the arbitrator's decision.

The rates provided for in this franchise shall be increased to reflect any new or increased specific 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 this 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 not be irrevocable. The irrevocability of the franchise shall not be construed to waive or prohibit any remedies that the Township have against the Company for any breach of this franchise. In the event Company is notified by 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 this 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 of 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. The catch line headings which precede each section of this Ordinance are for convenience in reference only and shall not be taken into consideration in the construction or interpretation of any of the provisions of this Ordinance.

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.

A. 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.

Company shall pay to the Township the sum of \$1,250,00 for each fifty feet (50') cut into or excavation of paved portion of any public way, which was subject to Street Resurfacing within eighteen (18) months prior to such cut or excavation. This fee is in addition to and not in lieu of the obligation to restore the public ways.

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 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 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 thereunder.

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 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. Township shall give Company prompt notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this Section. Nothing herein shall be deemed to prevent Township from cooperating with Company and participating in the defense of any litigation by 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 affect 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. Assignability of Franchise. The franchise provided by Township to Company shall not be assigned by Company to any other entity without first obtaining the consent of the Township. 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 completion of construction of the initial Gas Distribution System and all extensions or modifications.

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

Those voting in favor:

Tina Garwood
David Meister
Blanche Miller
Helen Mathieu

Those voting against:

Harold Sorenson

Those absent or abstaining:

None.

ORDINANCE DECLARED PASSED.


Helen Mathieu, Clerk

CERTIFICATION

I, Helen Mathieu, Clerk of the Township of Onekama, Manistee County, Michigan, do hereby **CERTIFY** that the above is a true and correct copy of the amendment to the Township of Onekama Zoning Ordinance as adopted by the Township of Onekama Board at a meeting held on the 3rd day of August, 1998.

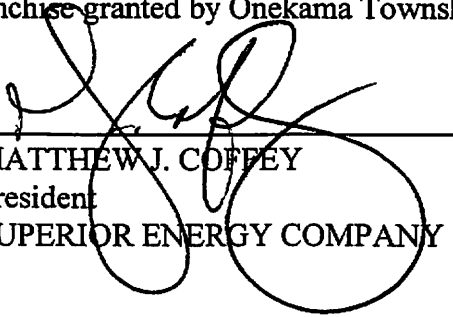

Helen Mathieu, Township Clerk

Newspaper:

Date: 8-12-98

ACCEPTANCE OF FRANCHISE

Superior Energy hereby accepts the franchise granted by Onekama Township.



MATTHEW J. COFFEY
President
SUPERIOR ENERGY COMPANY