

**ORDINANCE 2020-29**

**AN ORDINANCE GRANTING TO OHIO POWER COMPANY , ITS SUCCESSORS AND ASSIGNS, THE RIGHT TO ACQUIRE, CONSTRUCT, MAINTAIN AND OPERATE IN CERTAIN STREETS, THOROUGHFARES, ALLEYS, BRIDGES, AND PUBLIC PLACES OF THE VILLAGE OF COMMERCIAL POINT, STATE OF OHIO AND ITS SUCCESSORS, LINES FOR THE DISTRIBUTION OF ELECTRIC POWER AND ENERGY TO CERTAIN PARTS OF THE VILLAGE OF COMMERCIAL POINT AND THE INHABITANTS THEREOF FOR LIGHT, HEAT, POWER, AND OTHER PURPOSES AND FOR THE TRANSMISSION OF THE SAME WITHIN, THROUGH, OR ACROSS CERTAIN PARTS OF SAID VILLAGE OF COMMERCIAL POINT, STATE OF OHIO, SUBJECT TO AND IN COMPLIANCE WITH THE CERTIFIED TERRITORIES FOR ELECTRIC SUPPLIERS ACT (OHIO REVISED CODE SECTIONS 4933.81 TO 4933.90).**

**WHEREAS**, the Village of Commercial Point has the power to require franchises or contracts for the provision of electric services within its boundaries; and

**WHEREAS**, the Village of Commercial Point desires to grant a franchise for the provision of electric services within certain parts of its boundaries to Ohio Power Company under the terms set forth in this Ordinance.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF COMMERCIAL POINT, STATE OF OHIO:**

**SECTION 1.** That Ohio Power Company, its successors and assigns (hereinafter called "Grantee"), are hereby granted the right, privilege, franchise, and authority to acquire, construct, maintain, and operate in, above, under, across and along certain streets, thoroughfares, alleys, bridges, and public places (as the same now exist or may hereafter be laid out) of the Village of Commercial Point, State of Ohio, and its successors (hereinafter called "Village"), lines for the distribution of electric energy, either by means of overhead or underground conductors, with all the necessary or desirable appurtenances to render public utility service in the Village and to the inhabitants thereof by supplying electric power and energy to the Village and inhabitants thereof, and to persons or entities beyond the limits thereof, for light, heat, power or any other purposes or purpose for which electric power and energy is now or may hereafter be used, and the transmission of the same within, through or across certain parts of the Village provided, however, that Grantee shall provide electric service hereunder only within: (1) the area or areas of the Village either presently being provided electric service by Grantee, or at the date of this Ordinance, included in the area shown on maps issued by the Public Utilities Commission of Ohio which indicate the certified territory of the Grantee established pursuant to Sections 4933.81 to 4933.90 of the Revised Code of Ohio, and (2) any other area or areas annexed to the Village after the date of this ordinance any portion of which is either being provided electric service by Grantee at the time of such annexation, or which at the time of such annexation or at any time thereafter, is included within the Grantee's aforementioned certified territory.

**SECTION 2.** That in establishing and administering this franchise Ordinance (and any other franchise ordinance granted by the Village to any other grantee) in the area or areas described above (or in any other areas of the Village) during the term of this franchise ordinance: (a) the Village shall comply with and respect, and direct the Grantee and all other franchise grantees in the Village to comply with and respect, the Certified Territories for Electric Suppliers Act (Ohio Revised Code Sections 4933.81 to 4933.90) and the exclusive certified territories established by the Public Utilities Commission of Ohio (PUCO) thereunder; and (b) it is not the intention of the Village to establish competition for any component of retail electric service in any area or areas of the Village, except for, in the case of the certified service territory of a for-profit electric supplier, any component of retail electric service that is a competitive retail electric service as defined under the Certified Territories for Electric Suppliers Act, and, in the case of the certified service territory of a not-for-profit electric supplier, any component of retail electric service that is a competitive retail electric service as a result of such not-for-profit electric supplier making the irrevocable filing with the PUCO to establish competition for such component of retail electric service under and in compliance with the Certified Territories for Electric Suppliers Act.

**SECTION 3.** That said lines and appurtenances shall be constructed so as to interfere as little as possible with the traveling public in its use of the streets, thoroughfares, alleys, bridges, and public places of the Village. The location of all poles, or conduits, shall be made under such reasonable supervision of the proper Village board or committee as permitted by law.

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**SECTION 4.** That the rights, privileges, and franchise hereby granted shall be in full force and effect for a period of four years from the date of the passage of this Ordinance, and shall automatically renew for additional periods of four years, unless notice of termination is given by the Village or the Grantee at least 60 days prior to the end of the initial term or any renewal term.

That the rights, privileges, and franchise hereby granted shall not be construed to be exclusive and the Council of the Village hereby reserves the power to grant similar rights, privileges and franchises to any other person or persons, firm or firms, corporation or corporations, subject to and in compliance with Section 2 of this franchise Ordinance.

**SECTION 5.** That said Grantee shall hold the Village harmless and indemnify it from any and all liability arising in any way from negligence of Grantee in the erection, maintenance, or operation of said lines for the distribution or transmission of electric power and energy.

**SECTION 6.** That whenever said Grantee shall begin the erection of any lines or equipment it shall promptly and diligently prosecute the work to completion and leave the streets, thoroughfares, alleys, bridges, and public places where such work is done in as good condition of repair as before such work was commenced.

**SECTION 7.** That wherever in this Ordinance, reference is made to the Village or the Grantee, it shall be deemed to include the respective successors or assigns, of either; and all rights, privileges, and obligations herein contained by or on behalf of said Village or by or on behalf of said Grantee, shall be binding upon, and inure to the benefit of the respective successors or assigns of said Village or of said Grantee, whether so expressed or not.

**SECTION 8.** That the Village and the inhabitants thereof served by Grantee under this Ordinance shall become members of the Grantee and shall be served at the rates and pursuant to the other terms and conditions of service of general applicability to the members of the Grantee as such rates and other terms and conditions of service are established by the members and the Board of Trustees of the Grantee from time to time.

**SECTION 9.** That this Ordinance shall be accepted by the Grantee within 60 days from its passage.

**SECTION 10.** That the Mayor and/or the Village Administrator are hereby authorized to enter into any agreements or to sign any documents necessary to effectuate this Ordinance and the franchise granted under it.

**SECTION 11.** It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any other committees that result in such formal action were in meetings open to the public in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

**SECTION 12.** This Ordinance shall take effect and be in force from and after the earliest date allowed by law.

Vote on Passage of the Ordinance:

Motion by: Jason Thompson 2<sup>nd</sup>: Aaron Grassel

Roll Call:

Yes Bruce Moore  
Yes Aaron Grassel

Yes Tracy Joiner  
Yes Ryan Mitchem

Yes Jason Thompson  
Yes Laura Wolfe

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Adopted this 4<sup>th</sup> day of January, 2021.

  
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Allan D. Goldhardt, Mayor

  
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Wendy L. Hastings, Fiscal Officer

Approved as to Form:

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Bryan E. Pacheco, Special Counsel