

SUMMARY

This proposed ordinance repeals and supersedes any previous franchises the Village of Casnovia granted to DTE Gas Company by adopting a new ordinance, Ordinance No: 2025-01 *DTE Gas Company Franchise Agreement*, to permit DTE Gas Company to operate a gas utility business within the Village of Casnovia.

VILLAGE of CASNOVIA
COUNTIES of KENT and MUSKEGON, MICHIGAN

At a regular meeting of the Village Council of the Village of Casnovia, held at the Village Office, 141 North Main Street, within the Village, on the 7th day of January, 2025 at 7 pm.

PRESENT: Members: Consuelo Morris, Jerry Palinski, Kathy Kahrs, Ken Frary, Robert Bennitt

ABSENT: Members:

The following ordinance was offered by Member Palinski and supported by Member Frary.

ORDINANCE NO. Δ 2025-01 Amended -1995-01 Δ.

AN ORDINANCE to replace and supersede any previous franchises the Village of Casnovia granted to DTE Gas Company f/k/a Michigan Consolidated Gas Company, by adopting a new ordinance, Ordinance No. 2025-01, *DTE Gas Company Franchise Agreement*, to permit DTE GAS COMPANY and its respective successors and assigns, the right and authority to operate a natural gas transportation and distribution business within the Village of Casnovia, MUSKEGON COUNTY, MICHIGAN, for a period of thirty (30) years.

IT IS HEREBY ORDAINED BY THE PEOPLE OF THE VILLAGE OF CASNOVIA THAT:

Section 1. Any previous ordinances or agreements granting franchise rights to DTE Gas Company f/k/a Michigan Consolidated Gas Company be replaced by adopting a new ordinance, Ordinance No. 2025-01, to read as follows: “*DTE Gas Company Franchise Agreement*.”

Section 2. Definitions:

For purposes of this Ordinance No. 2025-01, the following words and phrases shall have the meanings respectively ascribed to them by this section:

“Village” means the Village of Casnovia, Muskegon County, Michigan, or the territory within the Village limits of the Village of Casnovia.

DTEG means DTE Gas Company, a corporation organized under the laws of the State of Michigan and its successors and assigns.

Ordinance shall mean this Ordinance No. 2025-01.

Section 3. Grant of Gas Franchise to Use Public Rights of Way; Non-Exclusive.

Subject to this part, applicable provisions of the Michigan Constitution of 1963, applicable state statutes, rules and regulations, and applicable federal statutes, rules and regulations, the Village hereby grants a non-exclusive franchise to use the Village’s public highways, streets, alleys or other public places to DTEG, and its successors and assigns to lay, maintain, operate and use gas pipes, mains, conductors, service pipes and other necessary equipment. This franchise grants to

DTEG the right and privilege, in its reasonable discretion, subject to regulations of the Michigan Public Service Commission, or successor agency having similar jurisdiction (i) to transact local business within the Village, (ii) to transport and distribute gas, and to lay, maintain, upgrade, operate, and use gas pipes, mains, gas distribution facilities and other necessary equipment on or in the highways, streets, alleys, and other public places within the Village of Casnovia, (iii) to convey, supply and sell natural gas and related services within the Village, and (iv) to undertake all other incidental matters thereto.

Section 4. Term.

The franchise granted herein shall continue in effect for a period of thirty (30) years from the effective date of this Ordinance, subject to revocation at the will of the Village as provided in Section 6 below. The effective date of this ordinance shall be the date of the meeting the ordinance was enacted, pending any publication requirements that must be met prior to going into effect.

Section 5. Gas Service and Extension of System.

This franchise grants DTEG and its successors and assigns the right to furnish gas services, pursuant to regulations of the Michigan Public Service Commission, or successor agency having similar jurisdiction, and in accordance with applicable laws, rules, and regulations.

Section 6. Use of Streets and Other Public Places.

- (a) DTEG shall not obstruct public rights-of-way longer than necessary during the construction or repair of equipment, and right-of-way shall be restored to the same good order and condition as when the work was commenced.
- (b) DTEG's gas systems and associated appurtenances shall not unnecessarily interfere with the use of the public rights-of-way.
- (c) Except in the case of an emergency or otherwise provided in an annual or site-specific permit, DTEG shall notify the Village in writing prior to undertaking any work in the Village involving excavation in or the closing of any public rights-of-way. The notice shall state the intended duration of any rights-of-way obstruction. DTEG shall, at the Village's request, provide plans and specifications showing the nature and extent of the proposed construction. No road, bridge, street, alley, highway, or other public place within the Village shall be opened by DTEG for the laying of trunk lines or lateral mains until application has been made to the Village and any other authority having jurisdiction in the premises, stating the nature of the work and the route, and until the consent of the Village and any other authority has been received. DTEG is solely responsible for obtaining any necessary governmental permits for such excavation or construction and shall pay therefor such reasonable and prudent fees as may be legally required by such public authority to offset its direct costs of permitting.
- (d) This Ordinance shall not be construed to prevent DTEG from immediately commencing or continuing construction or repair work when deemed necessary to prevent danger to life or property and, in such case, DTEG shall notify the Village of the construction or repair work as soon as reasonably practical.

- (e) The Village shall promptly reimburse DTEG for the cost to repair or replace any DTEG property damaged by the Village, its agents, or contractors. Provided, however, that where the Village may lawfully elect to alter or change the grade of any street, sidewalk, alley, or other public way, and DTEG's active pipes, utilities, and other active fixtures must be relocated to accommodate the alteration or change, upon reasonable notice by the Village, DTEG shall relocate such gas pipes, mains, gas distribution facilities and other necessary equipment, at its own expense.

Section 7 Revocability.

The franchise herein granted shall be revocable at the will of the Village by providing sufficient notice, PROVIDED, however, if both parties desire at a future time to have the franchise designated as irrevocable, they may do so by submitting their request to a vote of the Village electors. DTEG shall pay the cost of any special election held for the occasion.

Section 8. Standards and Conditions of Service; Rules, Regulations and Rates.

Under this article, the rates to be charged for gas services within the Village, and the standards and conditions of service and operation within the Village, shall be the same as set forth in DTEG's rate book under the orders, rules, and regulations of the Michigan Public Service Commission.

Section 9. Indemnification.

DTEG shall use due care in exercising the privileges in this Ordinance and, at its sole cost and expense, shall indemnify and hold harmless the Village, and its employees and agents, from any liability which may be imposed upon or incurred by the indemnitee(s), for all damages and costs which may be recovered against the Village arising from the default or negligence of DTEG or any of its officers, agents, contractors and employees that may arise out of, or be in any way connected with, the operation and maintenance or condition of DTEG's active gas transportation or distribution system and other necessary equipment within the Village rights of way, or DTEG's failure to comply with any federal or state statute, regulation or rule, or any provision of this Ordinance.

Section 10. Successors and Assigns.

Whether so expressed or not, the words "DTE Gas Company" and "DTEG" are intended and shall be held and construed to mean and to include both DTE Gas Company and its successors and assigns.

Section 11. Acceptance by DTEG.

DTEG shall file a written acceptance of this gas franchise with the Office of the Village Clerk within thirty (30) days after the effective date of this Ordinance.

Section 12. Entire Agreement.

This article contains the entire agreement between the Village and DTEG which grants a gas franchise and thereby, the permission to use the public rights-of-way within the Village. Neither the Village nor DTEG makes any representations except those expressly or by reference set forth in this Ordinance.

This ordinance is declared necessary to preserve the public peace, health, safety, and welfare of the People of The Village of Casnovia.

ENACTED at a regular meeting of the Village Council of Casnovia held on the 13th day of January , 2025. Motion by: Palinski. Seconded by: Frary.

Yeas:5; Nays: 0

Pamela Mancini

Clerk, Village of Casnovia

Consuelo Morris

President, Village of Casnovia

CERTIFICATION

The foregoing is a true copy of Ordinance No. 2025-01 which was enacted by the Casnovia Village Council at a regular meeting held on January 13, 2025.

Pamela Mancini

Clerk, Village of Casnovia