

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application of)	
ALGER DELTA COOPERATIVE ELECTRIC)	
ASSOCIATION for a certificate of public)	Case No. U-15584
convenience and necessity relative to the)	
Townships of CHAMPION AND MICHIGAMME.)	
_____)	

At the November 13, 2008 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. Orjiakor N. Isiogu, Chairman
Hon. Monica Martinez, Commissioner
Hon. Steven A. Transeth, Commissioner

OPINION AND ORDER

On June 4, 2008, Alger Delta Cooperative Electric Association (Alger Delta) filed an application pursuant to 1929 PA 69, MCL 450.501 *et seq.*, requesting a certificate of public convenience and necessity to extend its facilities and to provide electric service to customers in Champion and Michigamme Townships within Marquette County, Michigan.

A prehearing conference was held on August 5, 2008 before Administrative Law Judge Daniel E. Nickerson, Jr. Alger Delta presented proof of service of the notice of hearing on requisite governmental entities and the incumbent utilities serving the affected Townships: Upper Peninsula Power Company and Wisconsin Electric Power Company. Alger Delta, Upper Peninsula Power Company, Wisconsin Electric Power Company, and the Commission Staff participated in the proceedings. On August 29, 2008, Alger Delta filed the direct testimony and

exhibits of Thomas Harrell in support of its application. On September 25, 2008, the parties submitted a settlement agreement resolving all issues in this case.

According to the terms of the settlement agreement, attached as Exhibit A, the parties agree that (1) Alger Delta has secured the requisite consents and non-exclusive franchises from the Townships of Michigamme and Champion authorizing Alger Delta to provide electric service to all individuals and businesses in those townships; and (2) Alger Delta's certificate will be limited to Michigamme and Champion Townships north of Latitude 46 degrees, 40 minutes, and 0 seconds.

After a review of the settlement agreement, the Commission finds that it is reasonable and in the public interest, and should be approved.

THEREFORE, IT IS ORDERED that:

- A. The settlement agreement, attached as Exhibit A, is approved.
- B. Alger Delta Cooperative Electric Association is granted a certificate of public convenience and necessity authorizing it to provide its electric service in Michigamme and Champion Townships north of Latitude 46 degrees, 40 minutes, and 0 seconds.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, under MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

Orjiakor N. Isiogu, Chairman

Monica Martinez, Commissioner

Steven A. Transeth, Commissioner

By its action of November 13, 2008.

Mary Jo Kunkle, Executive Secretary

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of)
ALGER DELTA COOPERATIVE ELECTRIC)
ASSOCIATION for a certificate of public) Case No. U-15584
convenience and necessity relative to the)
Townships of CHAMPION AND MICHIGAMME.)
_____)

SETTLEMENT AGREEMENT

On June 4, 2008, Alger Delta Cooperative Electric Association (“Alger Delta”) filed an application for a certificate of public convenience and necessity (“Certificate”) to extend its facilities and to provide electric service to customers in Champion and Michigamme Townships, within Marquette County, Michigan (“Application”). On July 14, 2008, the Michigan Public Service Commission (Commission) issued its Notice of Hearing. In accordance with the Commission’s Notice of Hearing, Alger Delta provided the requisite notice to the following governmental entities: Marquette County (Clerk), Champion Township (Supervisor and Clerk), and Michigamme Township (Supervisor and Clerk). Additionally, in accordance with the Commission’s Notice of Hearing, Alger Delta provided the requisite notice to the incumbent utilities serving the affected Townships: Upper Peninsula Power Company (“UPPCO”) and Wisconsin Electric Power Company (“WEPCO”).

At the August 5, 2008 prehearing conference, Alger Delta presented proof of service of the Notice of Hearing and Application and appearances were entered on behalf of Alger Delta, UPPCO, WEPCO, and Commission Staff (“Staff”). On August 29, 2008, Alger Delta filed the direct testimony and exhibits of Thomas Harrell in support of its application. Based on discussions in this matter, the parties have agreed to enter into this Settlement Agreement.

DYKEMA COSSETTA PROFESSIONAL LIMITED LIABILITY COMPANY, CAPITOL VIEW 201 TOWNSEND STREET SUITE 900 - LANSING, MICHIGAN 48933

This Settlement Agreement is submitted pursuant to Section 78 of the Administrative Procedures Act of 1969, as amended (1969 PA 306, §78; MCL 24.278) and Rule 333 of the Commission's Rules of Practice and Procedure, Mich Admin Code R 460.17333. By this Settlement Agreement, the parties hereby agree and stipulate as follows:

1. The requested Certificate should be granted as described and limited below.
2. Alger Delta has secured the necessary consents and non-exclusive franchises from the Townships of Michigamme and Champion authorizing Alger Delta to transact its electric business to all individuals and businesses in those townships. A copy of the Champion Township franchise is attached as Exhibit A and a copy of the Michigamme Township franchise is attached as Exhibit B.
3. This Certificate will be limited to Michigamme and Champion Townships north of Latitude 46 degrees, 40 minutes, and 0 seconds (Latitude 46.6667°), as identified in the map attached hereto as Exhibit C.
4. Kennecott Minerals, a prospective customer which Alger Delta seeks to serve in connection with the certificate, is located more than one mile from the distribution facilities of any utility in Michigamme and Champion Townships.
5. Alger Delta will comply with all applicable Commission rules, including Mich Admin Code R 460.3411, and states that it does not intend to serve nor will attempt to serve any customers currently being served by WEPCO and UPPCO.
6. All facilities constructed by Alger Delta will be constructed, maintained, and operated in conformance with the National Electric Safety Code, Michigan statutes, and applicable Commission rules.

7. This Settlement Agreement, does not affect the existing and future rights of WEPCO and UPPCO to transact electric business in Michigamme Township and Champion Township as subject to all applicable Commission rules.

8. This Settlement Agreement is without precedential effect and is intended only for final disposition of the issues in this proceeding. The parties to this Settlement Agreement join in respectfully requesting the Commission to grant prompt approval of same. It is the opinion of the signatories hereto that this Settlement Agreement will be in the public interest, aid the expeditious conclusion of this case and minimize the time and expense which would otherwise have to be devoted to this matter by the Commission and the parties.

9. Each signatory agrees not to appeal, challenge or contest the certificate approved by the Commission in this case if it is the result of a Commission order accepting and approving this Settlement Agreement without modification. If the Commission does not accept this Settlement Agreement without modification, this Settlement Agreement shall be withdrawn and shall not constitute any part of the record in this proceeding or be used for any other purpose whatsoever.

10. Section 81 of the Administrative Procedures Act of 1969 is waived by the signatories hereto, if this Settlement Agreement and Stipulation is approved by the Commission without modification.

Dated: September 25, 2008

MICHIGAN PUBLIC SERVICE
COMMISSION STAFF
By: Robin E. Dillard (P71230)
Assistant Attorney General
6545 Mercantile Way, Ste. 15
Lansing, MI 48911
(517) 241-6680

Dated: September 25, 2008

ALGER DELTA COOPERATIVE ELECTRIC
ASSOCIATION

By: Albert Ernst (P24059)
Joseph J. Baumann (P69261)
DYKEMA GOSSETT PLLC
201 Townsend, Suite 900
Lansing, MI 48933
(517) 374-9155/(517) 374-9169

Dated: September 25, 2008

UPPER PENINSULA POWER COMPANY

By: Sherri A. Wellman (P38989)
Ronald W. Bloomberg (P30011)
MILLER, CANFIELD, PADDOCK and STONE,
P.L.C.
One Michigan Avenue, Suite 900
Lansing, MI 48933
(517) 483-4954

Dated: September 25, 2008

WISCONSIN ELECTRIC POWER COMPANY

By: Sherri A. Wellman (P38989)
Ronald W. Bloomberg (P30011)
MILLER, CANFIELD, PADDOCK and STONE,
P.L.C.
One Michigan Avenue, Suite 900
Lansing, MI 48933
(517) 483-4954

CHAMPION TOWNSHIP
Marquette County, Michigan
ORDINANCE NO. 01-2008

A FRANCHISE, granting to ALGER DELTA ELECTRIC COOPERATIVE ASSOCIATION, its successors and assigns, the right, power and authority to lay, maintain and operate electric lines, poles and services on, along, across and under the highways, streets, alleys, bridges and other public places, and to do a local electric public utility business in the Township of Champion, Marquette County, Michigan for a period of thirty years.

The Township of Champion ORDAINS:

Section 1. Grant of Electric Franchise and Consent to Laying of Pipes, Etc.

Subject to all the terms and conditions mentioned in this Franchise, consent, permission, right and authority is hereby given to Alger Delta Electric Cooperative Association, a corporation organized under the laws of the State of Michigan (the "Company"), and to its successors and assigns to lay, maintain, operate and use electric lines, poles, cables, conduits, appliances, buildings and other necessary works, in the highways, streets, alleys and other public places in the Township of Champion, Marquette County, Michigan, (the "Township") and a revocable non-exclusive franchise is hereby granted to the Company, its successors and assigns, to transact local business in the Township for the purposes of producing, storing, transmitting, selling and distributing electricity into and through the Township and all other matters incidental thereto. Subject to the revocation at the will of the Township at any time during said thirty (30) year period.

Section 2. 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 the Township and shall within a reasonable time after making an opening or excavations, 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 and to every owner of property abutting the Company's electrical lines or other facilities, for all damages and costs arising from the default, carelessness, or negligence of the Company or its officers, agents and servants.

No road, street, alley, or highway shall be opened for the laying of electrical lines except upon application to the Marquette County Road Commission or the Township or other authority having jurisdiction in the premises (whichever is applicable), stating the nature of the proposed work and the route. Upon approval of such application by the Township or such other authority as may have jurisdiction, a permit to the Company to do the proposed work shall be issued.

Section 3. Force Majeure. The Company shall not be liable for failure to furnish electric service as herein provided, or for any breach of the Company'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 Company.

Section 4. Indemnity. As part of the consideration for the granting of this Franchise, the Company (indemnitor) shall, at its sole cost and expense, fully indemnify and hold the Township (indemnitee), its officers, boards, commissions, agents and employees, harmless against any and all claims, demands, lawsuits, actions, liability and judgments for damages arising out of the granting or operation of this Franchise, including but not limited to liability for damages to any former holder of a public utility franchise whose franchise may have been revoked and superseded by this Franchise. In further consideration for the granting of this Franchise, the Company shall pay actual attorney's fees, costs and expenses which may be incurred by the Township in defense of or in response to any claim, demand, lawsuit, action or administrative proceeding arising out of the granting of this Franchise or the revocation of prior franchises, whether or not judgment is entered against the Township.

Section 5. Effective Date; Term of Franchise; Acceptance by the Company. This Franchise shall take effect the day following the date of publication thereof, which publication shall be made within thirty (30) days after the date of its adoption, and shall continue in effect for a period of thirty (30) years thereafter; provided, however, that when this Franchise shall become effective the Township Clerk shall deliver to the Company a certified copy of the Franchise accompanied by written evidence of publication thereof as required by law, and the Company shall, within sixty (60) days after receipt of the above documents, file with the Township Clerk its written acceptance of the conditions and provisions hereof and pay to the Township for the amount of its actual expenses resulting from the process of adopting this ordinance, including publication costs and reasonable actual attorney fees. This franchise shall not become effective until all such fees and costs have been paid to the Township.

Section 6. Franchise Not Exclusive. The rights, power and authority granted by this Franchise are not exclusive, and nothing contained herein shall prevent the Township from granting other non-exclusive electric franchises.

Section 7. Franchise Revocable. This Franchise shall be revocable upon sixty (60) days prior written notice during its term at the will of the Township.

Section 8. Effect and Interpretation of Franchise. All other franchises, ordinances and resolutions, and parts thereof, which conflict with any of the terms of this Franchise are hereby rescinded, to the extent of such conflict. The headings which precede each section of this Franchise 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 Franchise.

Section 9. Successors and Assigns. The words "Alger Delta Electric Cooperative Association" and the "Company," wherever used herein, are intended and shall be held and construed to mean and include both Alger Delta Electric Cooperative Association and its successors and assigns, whether so expressed or not. The Company may assign this Franchise, but must provide at least thirty (30) days written Notice to the Township before such assignment.

Ayes: 5
Nays: 0
Date Passed: 5-13-08

Attested, by Order of the Township of
Champion, Marquette County, Michigan

Cheryl J. Koppinger
Township Clerk

Baker J. LaRue
Township Supervisor

CERTIFICATION

The undersigned, being the duly qualified and acting Clerk of Champion Township, Marquette County, Michigan, hereby certifies that (1) the foregoing is a true and complete copy of a resolution duly adopted by the Township Board at a regular meeting held on 5-13-08, 2008, at which meeting a quorum was present and remained throughout, (2) the original thereof is on file in the records in my office, (3) the meeting was conducted, and public notice thereof was given, pursuant to and in full compliance with the Open Meetings Act (Act No. 267, Public Acts of Michigan, 1976, as amended) and, (4) minutes of such meeting were kept and will be or have been made available as required thereby.

Dated: 5-13-08

Cheryl J. Koppinger
Champion Township Clerk

ACCEPTANCE

This Franchise is hereby accepted by the Company on May 28, 2008 pursuant to the terms and conditions set forth in the foregoing Franchise.

ALGER DELTA ELECTRIC COOPERATIVE
ASSOCIATION

By: Thomas G. Harrell
Its: General Manager

MICHIGAMME TOWNSHIP

Marquette County, Michigan

ORDINANCE NO. 3248

A FRANCHISE, granting to ALGER DELTA ELECTRIC COOPERATIVE ASSOCIATION, its successors and assigns, the right, power and authority to lay, maintain and operate electric lines, poles and services on, along, across and under the highways, streets, alleys, bridges and other public places, and to do a local electric public utility business in the Township of Michigamme, Marquette County, Michigan for a period of thirty years.

The Township of Michigamme ORDAINS:**Section 1. Grant of Electric Franchise and Consent to Laying of Pipes, Etc.**

Subject to all the terms and conditions mentioned in this Franchise, consent, permission, right and authority is hereby given to Alger Delta Electric Cooperative Association, a corporation organized under the laws of the State of Michigan (the "Company"), and to its successors and assigns to lay, maintain, operate and use electric lines, poles, cables, conduits, appliances, buildings and other necessary works, in the highways, streets, alleys and other public places in the Township of Michigamme, Marquette County, Michigan, (the "Township") and a revocable non-exclusive franchise is hereby granted to the Company, its successors and assigns, to transact local business in the Township for the purposes of producing, storing, transmitting, selling and distributing electricity into and through the Township and all other matters incidental thereto. Subject to the revocation at the will of the Township at any time during said thirty (30) year period.

Section 2. 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 the Township and shall within a reasonable time after making an opening or excavations, 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 and to every owner of property abutting the Company's electrical lines or other facilities, for all damages and costs arising from the default, carelessness, or negligence of the Company or its officers, agents and servants.

No road, street, alley, or highway shall be opened for the laying of electrical lines except upon application to the Marquette County Road Commission or the Township or other authority having jurisdiction in the premises (whichever is applicable), stating the nature of the proposed work and the route. Upon approval of such application by the Township or such other authority as may have jurisdiction, a permit to the Company to do the proposed work shall be issued.

Section 3. Force Majeure. The Company shall not be liable for failure to furnish electric service as herein provided, or for any breach of the Company'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 Company.

Section 4. Indemnity. As part of the consideration for the granting of this Franchise, the Company (indemnitor) shall, at its sole cost and expense, fully indemnify and hold the Township (indemnitee), its officers, boards, commissions, agents and employees, harmless against any and all claims, demands, lawsuits, actions, liability and judgments for damages arising out of the granting or operation of this Franchise, including but not limited to liability for damages to any former holder of a public utility franchise whose franchise may have been revoked and superseded by this Franchise. In further consideration for the granting of this Franchise, the Company shall pay actual attorney's fees, costs and expenses which may be incurred by the Township in defense of or in response to any claim, demand, lawsuit, action or administrative proceeding arising out of the granting of this Franchise or the revocation of prior franchises, whether or not judgment is entered against the Township.

Section 5. Effective Date; Term of Franchise; Acceptance by the Company. This Franchise shall take effect the day following the date of publication thereof, which publication shall be made within thirty (30) days after the date of its adoption, and shall continue in effect for a period of thirty (30) years thereafter; provided, however, that when this Franchise shall become effective the Township Clerk shall deliver to the Company a certified copy of the Franchise accompanied by written evidence of publication thereof as required by law, and the Company shall, within sixty (60) days after receipt of the above documents, file with the Township Clerk its written acceptance of the conditions and provisions hereof and pay to the Township for the amount of its actual expenses resulting from the process of adopting this ordinance, including publication costs and reasonable actual attorney fees. This franchise shall not become effective until all such fees and costs have been paid to the Township.

Section 6. Franchise Not Exclusive. The rights, power and authority granted by this Franchise are not exclusive, and nothing contained herein shall prevent the Township from granting other non-exclusive electric franchises.

Section 7. Franchise Revocable. This Franchise shall be revocable upon sixty (60) days prior written notice during its term at the will of the Township.

Section 8. Effect and Interpretation of Franchise. All other franchises, ordinances and resolutions, and parts thereof, which conflict with any of the terms of this Franchise are hereby rescinded, to the extent of such conflict. The headings which precede each section of this Franchise 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 Franchise.

Section 9. Successors and Assigns. The words "Alger Delta Electric Cooperative Association" and the "Company," wherever used herein, are intended and shall be held and construed to mean and include both Alger Delta Electric Cooperative Association and its successors and assigns, whether so expressed or not. The Company may assign this Franchise, but must provide at least thirty (30) days written Notice to the Township before such assignment.

Ayes: 5
Nays: 0
Date Passed: 03/24/08

Attested, by Order of the Township of
Michigamme, Marquette County, Michigan

Jean Howe
Township Clerk

John Olson
Township Supervisor

CERTIFICATION

The undersigned, being the duly qualified and acting Clerk of Michigamme Township, Marquette County, Michigan, hereby certifies that (1) the foregoing is a true and complete copy of a resolution duly adopted by the Township Board at a ~~regular~~ meeting held on March 24, 2008, at which meeting a quorum was present and remained throughout, (2) the original thereof is on file in the records in my office, (3) the meeting was conducted, and public notice thereof was given, pursuant to and in full compliance with the Open Meetings Act (Act No. 267, Public Acts of Michigan, 1976, as amended) and, (4) minutes of such meeting were kept and will be or have been made available as required thereby.

Dated: 03/24/08

Jean Howe
Michigamme Township Clerk

ACCEPTANCE

This Franchise is hereby accepted by the Company on July 25, 2008 pursuant to the terms and conditions set forth in the foregoing Franchise.

ALGER DELTA ELECTRIC COOPERATIVE
ASSOCIATION

By: Thomas G. Harrell
Its: GENERAL MANAGER

