

## ORDINANCE NO. 57

**AN ORDINANCE REPLACING ORDINANCE NO. 7 {EXPIRED} AND GRANTING TO NORTHERN STATES POWER COMPANY, A MINNESOTA CORPORATION, IT'S SUCCESSORS AND ASSIGNS, PERMISSION TO CONSTRUCT, OPERATE, REPAIR, AND MAINTAIN IN THE CITY OF GEM LAKE, MINNESOTA, AN ELECTRIC DISTRIBUTION SYSTEM AND TRANSMISSION LINES, INCLUDING NECESSARY POLES, POLE LINES, FIXTURES, AND APPURTENANCES, FOR THE FURNISHING OF ELECTRIC ENERGY TO THE CITY AND IT'S INHABITANTS AND OTHERS, AND TO USE THE PUBLIC WAYS AND PUBLIC GROUNDS OF SAID CITY FOR SUCH PURPOSES.**

THE CITY COUNCIL OF THE CITY OF GEM LAKE, RAMSEY COUNTY, MINNESOTA DOES ORDAIN:

**Section 1.** There be and hereby is granted to Northern States Power Company, a Minnesota corporation, it's successors and assigns, hereinafter referred to a "Company", during the period of twenty (20) years from the date hereof, the right and privilege of constructing, operating, repairing, and maintaining, in, on, over, under, and across the streets, alleys, and public grounds of the City of Gem Lake, Ramsey County, Minnesota, hereinafter referred to as "City" an electric distribution system and electric transmission lines, including poles, pole lines, and fixtures and appurtenances, usually conveniently, or necessarily used in connection therewith, for the purpose of transmitting and furnishing electric energy for light, heat, power, and other purposes for public and private use in and to said City and the inhabitants thereof, and others, and for the purpose of transmitting into and through said City such electric energy, provided that such electric distribution system and transmission lines shall be so located as in no way to interfere with the safety and convenience of ordinary travel along and over said streets, alleys, and public grounds, and provided that Company, in the construction, operation, repair, and maintenance of such poles, pole lines, and fixtures and appurtenances, shall be subject to such reasonable regulation as may be imposed by the City Council.

**Section 2.** The service to be provided and the rates to be charged by Company for electric service in the City shall be subject to the jurisdiction of the Public Utilities Commission of this State. Company shall provide reasonably efficient and adequate service to members of the public within the City who apply for such service in accordance with the rules and regulations of Company.

**Section 3.** There is also granted to Company, during the term hereof, permission and authority to trim all trees and shrubs in the streets, alleys, and public grounds of said City which may interfere with the proper construction, operation, repair, and maintenance of any poles, pole lines, and fixtures and appurtenances, installed in pursuance of the authority hereby granted, provided that Company shall save said City harmless from any liability in the premises.

**Section 4.** Company shall indemnify, keep and hold City free and harmless from any and all liability on account of injury to persons or damage to property occasioned by the construction, maintenance, repair, or operation of Company's electric facilities located in, on, over, under, or across the public ways and public grounds of City, unless such injury or damage grows out of negligence of City, it's employees, or agents, or results from the performance in a proper manner of acts reasonably deemed hazardous by Company, but such performance is nevertheless ordered or directed by City after notice of Company determination. In the event a suit shall be brought against City under circumstances where the above agreement to indemnify applies, Company at it's sole cost and expense shall defend the City in such suit if written notice thereof is promptly given to Company within a period wherein Company is not prejudiced by lack of such notice. If such notice is not reasonably given as hereinbefore provided, Company shall have no duty to indemnify nor defend. If Company is required to indemnify and defend, it will thereafter have complete control of such litigation, but Company may not settle such litigation without the consent of City, which consent shall not be unreasonably withheld. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to City; and Company, in defending any action or immunity that City could assert in it's own behalf.

**Section 5.** The City shall give Company at least two (2) weeks prior written notice of a proposed vacation of a public way. Except where required solely for a City improvement project, the vacation of any public way, after the installation of electric facilities, until the reasonable cost of relocating the same and the loss and expense resulting from such relocation are first paid to Company. In no case, however, shall City be liable to Company for failure to specifically preserve a right-of-way under Minnesota Statutes, Section 160.29.

**Section 6.** Company shall have full right and authority to assign to any person, persons, firm, or corporation all the rights conferred upon it by this Ordinance, provided that the assignee of such rights, by accepting such assignment, shall become subject to the terms and provisions of this Ordinance.

**Section 7.** Company shall, if it accepts this Ordinance and the rights and obligations hereby granted, file a written acceptance of the rights hereby granted with the City Clerk within ninety (90) days after the final passage and any required publication of this Ordinance.

**Section 8.** This Ordinance shall be in full force and effect from and after its passage, any publication required by law, and acceptance by Company.

**Section 9.** Where a provision of any other Ordinance conflicts with the provisions of this Ordinance, the provisions of this Ordinance shall prevail. Notice to Company shall be mailed to Area Manager thereof at 1700 East County Road E, White Bear Lake, Minnesota, 55110 and any notice to City shall be mailed to the CITY CLERK.

**Section 10. Enactment.** This Ordinance No. 57 was enacted and placed in full force and effect on 16 July 1990 by a unanimous vote of the Gem Lake City Council.

**ENACTED:**

*Paul R. Emeott*

**Paul R. Emeott, Mayor**

**DATED: 16 July 1990**

**ATTEST:**

*Frederic C. Magnuson*

**Frederic C. Magnuson, City Clerk**

**DATED: 16 July 1990**

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