

CITY OF HAMPTON

**AN ORDINANCE TO LEVY AND COLLECT A GROSS RECEIPTS  
BUSINESS TAX UPON SECONDARY ELECTRIC SUPPLIERS  
DISTRIBUTING AND SELLING ELECTRIC POWER SYSTEMS WITHIN  
THE CORPORATE LIMITS OF THE CITY WHICH HAVE NOT  
ENTERED INTO A FRANCHISE AGREEMENT; TO REPEAL  
CONFLICTING ORDINANCES; TO FIX AN EFFECTIVE DATE;  
AND FOR OTHER PURPOSES**

BE IT ORDAINED by the Mayor and Council of the City of Hampton in Council duly assembled and it is hereby ordained by the authority of same that the authority, right, permission and consent are hereby granted to Central Georgia Electric Membership Corporation (hereinafter sometimes referred to as "Central Georgia EMC"), its successors, lessees and assigns (the "Company"), subject to the terms and conditions set forth hereinafter, and subject to the rights of the City of Hampton and other electrical suppliers under the Georgia Territorial Electric Services Act (O.C.G.A. § 46-3-1, et. seq.) for a period of thirty-five (35) years, to occupy and use the streets, alleys and public places of the City of Hampton (the "City") within the present and future limits of the City as from time to time the Company may deem proper or necessary for the overhead or underground construction, maintenance, operation and extension of poles, towers, lines, wires, cables, conduits, insulators, transformers, appliances, equipment, connections and other apparatus for the business and purpose of transmitting, conveying, conducting, using, supplying and distributing electricity for light, heat, power and other purposes for which electric current may be or become useful or practicable for public or private use, and to re-enter upon such streets,

alleys and public places from time to time as the Company may deem proper or necessary to perform these functions, and to cut and trim trees and shrubbery when and where necessary, in the judgment of the Company, to ensure safe and efficient service.

BE IT FURTHER ORDAINED, that from and after the adoption of this Ordinance, the future use by Central Georgia EMC of the streets, alleys, public places and other property of the City for the operation of Central Georgia EMC's electric distribution systems, and the grant of the requisite street franchise rights, is expressly conditioned upon payment of franchise fees pursuant to this Ordinance, and continued use and occupancy of such City property for said purpose without payment of such franchise fees shall be unlawful, and the City shall be entitled to enforce compliance with this Ordinance by appropriate proceeding at law or in equity.

BE IT FURTHER ORDAINED that the rights, permission and consents herein contained are made for the following considerations and upon the following terms and conditions, to wit:

1. The Company shall pay to the City (a) on or before the first day of March, 1996, a sum of money equal to four percent (4%) of the gross sales of electric energy to all of the Company's customers served within the corporate limits of the City during the period beginning on the first day of January, 1995, through and including December 31, 1995, and (b) on or before the first day of March, 1997, and the same day of each year thereafter during the term of the franchise herein granted a sum of money equal to four percent (4%) of the gross sales of electric energy to all of the

Company's customers served within the corporate limits of the City during the preceding calendar year; provided, however, that, in the event the City shall grant to any other electric utility the right to use and occupy its streets for like purposes, such use and occupancy shall be upon the same terms and conditions as those herein contained, including the payment provisions hereof.

2. The amount, if any, of any tax, fee, charge or imposition of any kind required, demanded or exacted from the Company by the City on any account, other than ad valorem taxes on property and license taxes on the sale of home appliances, shall operate to reduce to the extent of such tax, fee, charge or imposition the amount due from the percentage of gross sales as provided herein at Paragraph 1.

3. The Company shall fully protect, indemnify and save harmless the City from all damages to person or property caused by the construction, maintenance, operation or extension of poles, wires or other apparatus, or conditions of streets, alleys or public places resulting therefrom, for which the said City would otherwise be liable.

4. The Company shall, in constructing, maintaining, operating and extending its poles, wires and other apparatus, submit and be subject to all reasonable exercises of the police power by the City. Nothing contained herein, however, shall require the Company to surrender or limit its property rights created hereby without due process of law, including adequate compensation, for any other purpose at the instance of the City or for any purpose at the instance of any other entity, private or

governmental.

5. The grant of the rights, permission and consents by the city to the Company contained in this Ordinance are specifically conditioned upon the payment of all sums due the City in accordance with the rate, conditions and payment dates set forth in paragraph 1, above, and failure by the Company to timely pay the franchise fees required by said paragraph 1 shall constitute a forfeiture of all rights granted by this Ordinance. The Company's continued use and occupancy of the streets, alleys and public places of the City for the aforesaid purposes shall evidence the Company's acceptance of the franchise granted hereby and shall render the Company liable for payment of all fees required by paragraph 1 hereof. In the event of a forfeiture for failure to comply with such requirements, the Company shall nevertheless remain liable for all sums accrued until such time as the streets are vacated due to such forfeiture.

6. Nothing in this Ordinance shall be construed to extend or expand the territorial rights of the Company pursuant to the Georgia Territorial Electric Service Act (O.C.G.A. § 46-3-1, et. seq.)

This ordinance shall be effective immediately upon its adoption. All ordinances and parts of ordinances in conflict herewith shall be and the same are hereby repealed.

First Reading 12-13-94

Second Reading 12-21-94

ORDAINED this 21 st. day of December, 1994, by the Mayor and Council of the City of Hampton.

[Signatures Appear on Following Page]



ELAINE HAYNES, CITY CLERK

*Elaine Haynes*

ATTEST:

COUNCIL

*Wm. C. Brown*

COUNCIL

*Steve Mann*

COUNCIL

*Charles W. Cox*

COUNCIL

*Catherine Williams*

COUNCIL

*Alice J. Pender*

COUNCIL

*B. B. ...*

MAYOR TOMMY N. SMITH

*Tommy N. Smith*

I hereby certify that the foregoing is a true and accurate

copy of an ordinance of the City of Hampton adopted

Dec. 21, 1994.

SEAL

ELAINE HAYNES, CITY CLERK

*Elaine Haynes*