

RESERVATION FROM SALE OF LAND FOR ELECTRIC TRANSMISSION LINE

T75-286 LAND CONTRACT (13)
 THIS CONTRACT, Made this 4 day of Nov., 1977 Between CONSUMERS POWER COMPANY, a Michigan corporation, 212 West Michigan Avenue, Jackson, Michigan 49201, (successor by merger to Consumers Power Company, a Maine corporation), herein called first party,
 and JEROME M. TOLER and VERDA V. TOLER, husband and wife, 3321 Culver, Dearborn, Michigan 48124, (16)

herein called second parties,

1. Said first party in consideration of the sum of Eight Thousand and 00/100 Dollars (\$8,000.00) to be paid by second parties to first party and of the covenants to be performed by second parties, as hereinafter expressed, hereby agrees to sell to second parties all that certain piece or parcel of land situate in the Township of Newkirk, County of Lake, State of Michigan, described as follows:

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Saving, excepting and reserving to first party, its successors and assigns, Forever, all nonmetallic minerals, coal, oil and gas (but not including sand, clay or gravel) lying and being on, within, or under the land herein conveyed, with full and free liberty and power to first party and to its successors and assigns, lessees, agents and workmen, and all other persons by its or their authority or permission, whether already given or hereafter to be given at any time, and from time to time, to enter upon said land and take all usual, necessary or convenient means for exploring, mining, working, piping, getting, laying up, storing, dressing, making merchantable, and taking away the said coal, oil and gas and other non-metallic minerals and for storing, re-storing and protecting oil, gas and nonmetallic minerals in the subsurface strata underlying said land and taking and retaking the same, together with the right to lay pipelines on, over, under or across said premises from the wells, mines, or shafts sunk upon the same for the purpose of removing the oil, gas or other nonmetallic minerals from the premises or storing, re-storing and protecting oil, gas or other non-metallic minerals in the subsurface strata underlying said land and retaking the same; also, saving and reserving unto first party, the right of ingress and egress over and across the above-mentioned land, together with the right to sink shafts or drill for oil, gas or other non-metallic minerals at any place upon said property at any time hereafter.

Excepting and reserving to first party, its successors and assigns Forever, the easement and right to erect, lay and maintain lines consisting of towers, pole structures, poles, wires, cables, conduits and other fixtures and appurtenances for the purpose of transmitting and distributing electricity and/or conducting a communication business on, over, under and across the premises herein conveyed, including all public highways upon or adjacent to said parcel of land.

The route to be taken by said lines of towers, pole structures, poles, wires, cables and conduits on, over, under and across said land being more specifically described as follows:

Within the limits of a strip of land 132 feet wide running in a NW'ly and SE'ly direction, the SW'ly line of said 132 foot wide strip being parallel to and 96 feet SW'ly from the center line of first party's existing electric line and the NE'ly line of said 132 foot strip being parallel to and 36 feet NE'ly from said center line.

With full right and authority to first party, its successors, licensees, lessees or assigns and its and their agents and employees to enter at all times upon said land for the purpose of patrolling, constructing, repairing, removing, replacing, improving, enlarging and maintaining such wires, cables, conduits, structures, towers, pole structures, poles and other supports with all necessary braces, guys, anchors, manholes and transformers and stringing thereon and supporting and suspending therefrom lines of wires, cables or other conductors for the transmission of electrical energy and/or communication and to trim, remove, destroy or otherwise control any trees and brush within 69 feet of the boundaries of the 132 foot wide strip of land described above. It is understood that no buildings or other structures will be placed under or over such facilities or within such proximity thereto as to interfere with or threaten to interfere with the construction, operation or maintenance of said facilities. It is further understood that nonuse or a limited use of this easement by first party from later making use of the easement to the full extent herein reserved.

2. Said second parties in consideration of the covenants herein made by first party, agree to purchase from first party the above-described premises and to pay therefor to first party or its legal representatives, at Jackson, Michigan, the sum of Eight Thousand and 00/100 Dollars (\$8,000.00), as follows: The sum of Two Thousand Six Hundred and 00/100 Dollars (\$2,600.00) shall be paid to first party upon the execution hereof and the balance of Five Thousand Four Hundred and 00/100 Dollars (\$5,400.00) shall be paid on or before five (5) years from and after the date hereof in ten (10) installments of Six Hundred Ninety-Nine and 34/100 Dollars (\$699.34) or more each six (6) months thereafter, which said semi-annual payments shall be first applied in payment of interest upon the sums remaining from time to time unpaid hereon, at the rate of ten (10) percent (10%) per annum, the balance to be applied upon the principal sum due hereunder. Principal or interest not paid when due shall bear interest until paid, at ten (10) percent (10%) per annum.

3. Second party may apply to first party for a conveyance of part of the land herein described, and first party agrees to convey to second party that part of land for which conveyance is requested, provided that all of the following conditions are fulfilled: (i) this contract shall be in full force and effect with all covenants and agreements of second party fully performed as of the date of such application; (ii) a mortgage release shall have been secured as of the date provided in Paragraph 4; (iii) second party shall provide to first party a survey description and a copy of such survey for the land for which conveyance is requested; (iv) each parcel for which conveyance is requested shall be in excess of 10 acres in size, and such conveyance shall not result in the creation of any parcel of land not in excess of 10 acres in size remaining as part of the land which is the subject of this land contract;

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(v) second party shall pay to first party an additional sum of Two Hundred Dollars (\$200.00) per acre for such land requested to be conveyed, which sum shall be applied by first party in reduction of the principal sum then due under this contract; and (vi) such conveyance shall not violate or require the making of a plat under the Michigan Subdivision Control Act of 1967, or violate or require registration pursuant to the Michigan Land Sales Act or the Interstate Land Sales Full Disclosure Act (15 USCA § 1701 et seq); and second party shall advise first party of such fact or facts upon second party's request for such conveyance. Payments made by second party pursuant to this paragraph shall not affect the obligation of second party to make monthly installments as provided in Paragraph 2 hereof.

4. It is mutually understood and agreed that the above-described premises is encumbered by a mortgage, dated September 1, 1945, now held by Citibank, N. A., trustee, as amended and supplemented. Upon receipt of the down payment herein provided, first party agrees to apply for a release and discharge of said premises from said mortgage. In the event first party is unable to secure such release and discharge within one hundred twenty (120) days from the date hereof or within such additional time as the parties hereto agree upon in writing, then this contract shall cease and terminate without further notice or action and all moneys paid to first party on this contract shall be refunded to second parties, less a reasonable sum, which the parties hereto fix at One Dollar (\$1.00) per day from the date hereof until possession shall be actually restored to first party, and less cost and expense as first party may incur in obtaining possession. Said parties agree in the event first party is unable to secure such mortgage release and discharge within the time herein provided, to forthwith upon the expiration of such time quit, surrender and deliver up possession of said premises to first party, without notice or demand therefor, and such possession of said second parties after the expiration of such time shall be deemed that of a trespasser.

5. Said second parties shall keep all buildings, fixtures and other improvements now on, or that may hereafter be placed on said premises, insured in the name of Consumers Power Company and second parties as an additional insured, and in manner and amount and by insurers approved by Consumers Power Company, and leave the policy with Consumers Power Company; and in case of loss, the insurance, unless by mutual agreement used to repair or rebuild, shall be paid to Consumers Power Company and be endorsed on this contract to the extent of the amount unpaid thereon, and the balance, if any, shall belong and be paid to second parties.

6. Said second parties shall enter said premises for taxation in their names and shall well and faithfully pay when due all taxes and assessments, ordinary and extraordinary, that may for any purpose be levied or assessed on said premises, and shall not commit or suffer any other person to commit any waste or damage to said premises or the appurtenances thereof. Should second parties fail to pay any tax or assessment when due, or to keep said buildings insured, first party may pay the same and have the buildings insured, and the amounts thus expended shall be a lien on said premises, be added to the amount then unpaid hereon, be due at once, and bear interest until paid, at ten (10) percent (10%) per annum.

7. Said first party further agrees that upon the full performance by second parties of all covenants and agreements by second parties to be performed, and upon the payment to first party of the several sums of money above mentioned, in time and manner and at the place mentioned, that subject to the provisions of Paragraph 3 hereof, first party will execute and deliver to second parties a Quitclaim Deed, and thereby convey to second parties all of first party's title and interest in the premises above described.

8. Second party may cut and remove merchantable timber from said premises from and after the date hereof, provided second party shall first consult first party's Forester, whose office is located in Cadillac, Michigan, and shall cut and remove only such trees as first party's Forester shall approve; further provided that the proceeds from the sale of any of the said timber shall be applied to the payment of the sums due under this contract.

9. Said second parties shall not assign, nor transfer this contract, nor lease, sublet, sell, convey or encumber said premises or the buildings thereon or any part thereof, or add to or change any buildings thereon without the previous written assent of first party hereto, endorsed hereon.

10. It is further mutually agreed that second parties may take possession of said premises on the date hereof and remain thereon as long as they shall perform all the covenants and agreements herein mentioned on their part to be performed, and no longer; provided, that in the event the premises hereinabove described are vacant or unimproved, the second parties shall be deemed to be in constructive possession only, which possessory right shall cease and terminate after service of a notice of forfeiture of this contract. Erection of signs by second parties on vacant or unimproved property shall not constitute actual possession by second parties. All buildings, fixtures and other improvements now on, or that shall be placed or made on said premises, shall remain thereon as security for the performance by second parties of this contract. Should default be made by second parties in any of the provisions hereof, first party may immediately thereafter declare this contract void and forfeited and the said buildings, improvements, and all payments made on this contract shall be forfeited to first party as rental for the use of the premises and as stipulated damages for failure to perform this contract and first party may take immediate possession of said premises without notice and remove second parties and all persons claiming under them therefrom, and first party may, without notice to second parties, declare all money remaining unpaid under this contract forthwith due and payable, notwithstanding that the period hereinbefore limited for the payment of the said balance may not then have expired, and first party may thereafter enforce its rights under this contract in law or in equity, or may after said acceleration take summary proceedings to forfeit the interests of second parties or may enforce said contract in any other manner now or hereafter provided. And it shall be lawful for first party at any time after such default, to sell and convey said premises, or any part thereof, to any other person without becoming liable to refund any part of the money received on this contract, or for any damages on account of such sale. It is expressly understood and agreed that time shall be deemed as of the very essence of this contract and that unless the same shall, in all respects, be complied with by second parties, at the respective times and in the manner above limited and specified, second parties shall lose and be debarred from all rights, remedies, and actions, both at law and in equity, upon or under this contract.

The covenants, conditions and agreements herein contained shall apply to and bind the respective heirs, representatives and successors of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in duplicate the day and year first above written.

WITNESSES:

Shirley L. Filip
Shirley L. Filip

Carole L. Potter
Carole L. Potter

CONSUMERS POWER COMPANY

By G. L. Heins
G. L. Heins — Vice-President
Executive Manager of System
Planning

Robert T. Cook

Eileen M. Cook

Jerome M. Toler
Jerome M. Toler

Verda V. Toler
Verda V. Toler