

ORDINANCE NO. 304

**AN ORDINANCE**

EXTENDING THE AUTHORIZATION TO

Ameren Illinois Company  
d/b/a/ **Ameren Illinois**

ITS SUCCESSORS AND ASSIGNS

TO CONSTRUCT, OPERATE AND MAINTAIN  
AN ELECTRIC UTILITY SYSTEM

IN THE

**Village of Gifford**

COUNTY OF CHAMPAIGN

AND

STATE OF ILLINOIS

PASSED 8-4-2011

EXPIRES 8-4-2021

ORDINANCE NO. 304

AN ORDINANCE RENEWING AN EXISTING FRANCHISE AND GRANTING FOR A PERIOD OF 10 YEARS TO AMEREN ILLINOIS, A CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE FRANCHISE, RIGHT, PERMISSION AND AUTHORITY TO CONSTRUCT, RECONSTRUCT, EXCAVATE FOR, PLACE, REMOVE, EXTEND, MAINTAIN, AND OPERATE AN ELECTRIC UTILITY SYSTEM IN THE VILLAGE OF GIFFORD, COUNTY OF CHAMPAIGN AND STATE OF ILLINOIS.

BE IT ORDAINED BY THE PRESIDENT AND THE BOARD OF TRUSTEES OF THE VILLAGE OF GIFFORD, COUNTY OF CHAMPAIGN, AND THE STATE OF ILLINOIS, AS FOLLOWS:

SECTION 1. It is the intent of the parties by this Ordinance to extend for an additional term, subject to the terms and conditions here stated, the authorization to Ameren Illinois, its successors and assigns, to construct, operate and maintain a utility system within the Village as originally authorized by Ordinance No. 10 approved on December 16<sup>th</sup>, 1954. The parties acknowledge that by so doing they are continuing an existing relationship authorizing the services of a utility for the provision of electric energy and other purposes within the Village for the benefit of its citizens and residents as well as other consumers of electric energy located within its corporate limits. For purposes of construing the terms, rights and obligations of the parties this authorization is granted pursuant to Section 14 of the Electric Supplier Act, 220 ILCS 30/14, and the Illinois Municipal Code, 65 ILCS 5-1-1-1, et seq.

SECTION 2. There is hereby given and granted to Ameren Illinois, its successors and assigns (hereinafter referred to as the "Company"), the right, privilege and authority to construct, operate, maintain and/or extend within the corporate limits, as the same now exists or may hereafter be extended, of the Village of Gifford (hereinafter referred to as "Municipality"), an electric utility system for the transmission, distribution and/or sale of electric energy and other purposes (the "System"), together with the right, privilege and authority to erect, construct, install, operate and/or maintain all poles, conductors, wires, cables, conduits, equipment and/or other apparatus as may be necessary or convenient for the System, in, upon, along, over, under, through and/or across each and all of the streets, avenues, alleys, bridges, easements, rights of way and/or other public places.

SECTION 3. All poles and other equipment placed or installed under this Ordinance in streets, alleys, avenues and other public places, shall be so placed as not to interfere unnecessarily with travel on such streets, alleys, avenues and other public places. All poles and other equipment placed or installed under this Ordinance shall be so located as not to injure unnecessarily any pipes, conduits, sewers, drains, pavement or other like public improvements, and said Company shall forthwith repair any damage caused to such improvements to the satisfaction of the official or officials of said Municipality having charge of the supervision thereof and in default thereof said Municipality may repair such damage and charge the cost thereof to, and collect the same from, the Company. All facilities of Company in said Municipality shall be installed and maintained in accordance with the applicable rules and regulations of the Illinois Commerce Commission.

When any street, avenue, or other public place shall be graded, curbed, paved or otherwise changed so as to make the resetting or relocation of any poles or other equipment placed or installed under this Ordinance necessary, the Company shall make such resetting or relocation, at the Company's cost and expense. Municipality shall provide the Company with a suitable location for the resetting or relocation of such poles or other equipment, and the

Company's obligation shall be limited to resetting or relocating poles or other equipment of the same type and configuration as the displaced poles or other equipment. Company shall make such resetting or relocation within a reasonable time after receiving written notice of the need for the same from the authorized representative of the Municipality, and the establishment by the Municipality of the permanent grade at the new location.

SECTION 4. In order for Company to render efficient, safe, and continuous services, it will be necessary for Company to conduct vegetation management activities, including the trimming or pruning and cutting down of the trunks and branches of trees and/or vines and shrubs along or over the streets, sidewalks, alleys, avenues, squares, bridges and other public places in said Municipality, and areas dedicated to the Municipality for public utility use, wherever the same are likely to interfere with its equipment; therefore, Company is hereby granted the right to conduct such vegetation management activities so as to enable it to erect, operate and maintain its equipment in a regular and consistent form and manner and to enable it to provide the most efficient, safe, and continuous service that the circumstances will permit; provided, however, that Company shall exercise proper care and discretion in its vegetation management activities. Company shall conduct its vegetation management activities in accordance with applicable law, including without limitation, 220 ILCS 5/8-505.1, and any amendments thereto. Notwithstanding the foregoing, to the extent applicable law may be superseded or modified by an agreement between Municipality and Company, Municipality and Company reserve the right to enter into such an agreement.

SECTION 5. The rates to be charged by the Company for electric service rendered under this Ordinance shall be such as are approved from time to time by the Illinois Commerce Commission of the State of Illinois and/or such other duly constituted governmental authority as shall have jurisdiction thereof. All Rules and Regulations of the Illinois Commerce Commission of the State of Illinois applicable to the rights, privileges and authority granted by this Ordinance, in the event of conflict herewith, shall govern.

SECTION 6. As a further consideration for the rights, privileges and authorities granted by this ordinance, the Company shall, throughout the period in which Company shall exercise the rights, privileges and authority granted by this ordinance furnish to said Municipality, annually, compensation in the amount of \$4,050, payable annually, within 30 days of the anniversary date.

SECTION 7. If, at any time, during the term of this contract, Municipality permits another entity or person to provide electric distribution or similar services, and Company reasonably believes the other entity or person is granted more favorable treatment, terms, or conditions, then Company shall notify Municipality of such treatment, terms, or conditions. Alternatively, if Municipality reasonably believes the other entity or person grants Municipality more favorable treatment, terms, or conditions, then Municipality shall notify Company of such treatment, terms, or conditions. Upon receipt of such notice, Municipality and Company shall negotiate in good faith to amend this ordinance to provide Company or Municipality such more favorable treatment, terms or conditions on an equivalent basis. Such amendment shall take into consideration all circumstances that distinguish between Company and the entity or person receiving the more favorable or less favorable treatment, terms, or conditions.

SECTION 8. The Company shall be exempt from any special tax, assessment, license, rental or other charge during the term of this Ordinance, on all poles, conductors, wires, cables, conduits, equipment and other apparatus placed in the streets, alleys, avenues, bridges, easements, rights of way or other public places within the corporate limits of Municipality.

SECTION 9. The rights, privileges and authority hereby granted shall inure to and be vested in Company, its successors and assigns, successively, subject to all of the terms, provisions and conditions herein contained, and each of the obligations hereby imposed upon Company shall devolve and be binding upon its successors and assigns, successively, in the same manner.

SECTION 10. This Ordinance shall confer no right, privilege or authority on Company, its successors or assigns, unless Company shall within ninety (90) days after due notice to the Company of the enactment of this Ordinance, file with the Village Clerk an acceptance of the terms and provisions hereof; provided, however, that if such acceptance be not so filed within said period of ninety (90) days, all rights, privileges, and authority herein granted shall become null and void.

SECTION 11. All rights, privileges and authority given and granted by this Ordinance are granted for a term of 10 years from and after the acceptance of this Ordinance as hereinafter provided (the "Initial Term"), and thereafter on a year-to-year basis (each a "Subsequent Term") unless either the Company or Municipality notifies the other in writing of its desire to terminate this Ordinance at least six (6) months prior to the expiration of the Initial Term or any Subsequent Term.

SECTION 12. The Municipality acknowledges that Company is vested in rights, permissions and authority independent of this Ordinance. Neither acceptance of this Ordinance nor compliance with its provisions shall impair in any way or waive any right, permission or authority which Company may have independent of this Ordinance. In addition, neither use by Company of public property or places as authorized by this Ordinance nor service rendered by Company in said Municipality shall be treated as use solely of the rights, permission and authority provided for by this Ordinance and in no way shall indicate non-use of any right, permission or authority vested in the Company independent of this Ordinance. In the event the Municipality vacates any streets, avenues, alleys, easements, rights of way, bridges or other public places during the term of this Ordinance, Municipality agrees to reserve unto Company the rights, privileges and authority herein given and granted to the Company in upon, along, over and across each and all of such vacated premises which are at the time in use by the Company.

SECTION 13. All ordinances and parts of ordinances in conflict with this Ordinance or with any of its provisions are, to the extent of such conflict, hereby repealed.


SECTION 14. This Ordinance shall not relieve Company of the obligation to comply with any ordinance now existing in the Municipality or enacted in the future requiring Company to obtain written permits or other approval from the Municipality prior to commencement of construction of facilities within the streets thereof, except Company shall not be required to obtain permits or other approval from the Municipality for the maintenance, upgrading and repair of its constructed facilities. Company shall provide notice of excavation hereunder in accordance with the Illinois Underground Utility Damage Prevention Act (220 ILCS 50/1, et seq.)

SECTION 15. If any provision of this Ordinance, or the application of such provision to particular circumstances, shall be held invalid, the remainder of this Ordinance, or the application of such provision to circumstances other than those as to which it is held invalid, shall not be affected thereby.

SECTION 16. Any conflict between the Franchise Ordinance and the provisions contained in the Electric Service Customer Choice and Rate Relief Law of 1997 (Public Act 90-561) will be resolved by giving the state statute mandatory priority over any contrary language contained in the Franchise Ordinance.

SECTION 17. This Ordinance shall take effect and the rights, privileges and authority hereby granted and renewed shall vest in Company upon its filing of an acceptance with the Village Clerk according to the terms prescribed herein and as provided for in Section 12 and in IL Rev 35 ILCS 645/5-4. This Ordinance shall be in full force from and after its passage, approval and ten (10) day period of publication in the manner provided by law.

Passed and approved this 24 day of NOV, 2011.



President  
Village of Gifford, Illinois

[SEAL]

ATTEST:



Village Clerk

STATE OF ILLINOIS )  
VILLAGE OF GIFFORD ) SS  
COUNTY OF CHAMPAIGN )

I, Cynthia Duden, Village Clerk within and for the Village of Gifford, in the State and County aforesaid, do hereby certify that:

- (1) the foregoing constitutes a full, true and correct copy of Ordinance No. 304 of said Village as:
- (a) introduced before the Board of Trustees on the 4<sup>th</sup> day of August, 2011; and
- (b) passed by the Board of Trustees and approved by the President on the 4<sup>th</sup> day of August, 2011, as fully as the same appears of record in my office;

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the Village of Gifford, Illinois, at my office in said Village this 4<sup>th</sup> day of August, 2011.

[SEAL]

Cynthia Duden  
Village Clerk

ACCEPTANCE

Ameren Illinois ("Company"), in consideration of the rights and privileges granted by Ordinance No. 304 of the Village of Gifford, Illinois, passed August 4, A.D. 2011, approved August 4, A.D. 2011, and entitled "An Ordinance establishing the authorization to Company, its successors and assigns, to construct, operate and maintain an electric utility system in the Village of Gifford, County of Champaign and State of Illinois", hereby accepts said Ordinance and all the provisions thereof.

In Witness Whereof, Company, as aforesaid has caused these presents to be signed by its President or a Vice President and attested by its Secretary or an Assistant Secretary and its corporate seal to be affixed this 30<sup>th</sup> day of August, A.D. 2011.

Ameren Illinois

By Scott Cisel  
Scott Cisel  
President

(Corporate Seal)

Attest:

Gary St...  
Assistant Secretary