

CHAPTER 111

ELECTRIC FRANCHISE – INTERSTATE POWER

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111.01 FRANCHISE GRANTED. There is hereby granted unto Interstate Power Company, herein called the “Company,” its successors and assigns, the right and nonexclusive franchise to acquire, construct, reconstruct, erect, maintain and operate in the City works and plants for the manufacture and generation of electricity and a distribution system for electric light, heat, and power and the right to erect and maintain the necessary poles, lines, wires, conduits, and other appliances for the distribution of electric current along, under, and upon the streets, alleys, and public places in the City to supply individuals, corporations, communities, and municipalities both inside and outside of the City with electric light, heat, and power for the period of 25 years;[†] the franchise also includes the right of eminent domain as provided in Section 364.2 of the *Code of Iowa*.

111.02 PLACEMENT OF FACILITIES. The poles, lines, wires, circuits, and other appliances shall be placed and maintained so as not to unnecessarily interfere with the travel on said streets, alleys, and public places in the City or unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe, and other property of the City. The Company, its successors and assigns shall hold the City free and harmless from all damages to the extent arising from the negligent acts or omissions of the Company in the erection or maintenance of said system.

111.03 EXCAVATIONS. In making any excavations in any street, alley, or public place, the Company, its successors and assigns, shall protect the site while work is in progress by guards, barriers, or signals, shall not unnecessarily obstruct the use of the streets, shall backfill all openings in such manner as to prevent settling or depressions in surface, and shall replace the surface, pavement or sidewalk of such excavations with same materials, restoring the condition as nearly as practical. The Company shall not be required to restore or modify public right-of-way, sidewalks, or other areas in or adjacent to the Company project to a condition superior to its immediate previously existing condition.

111.04 LOCATION OF FACILITIES. The Company shall, at its cost, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such a manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance, or repair of the street or alley or any public improvement thereof, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City requires the Company to relocate facilities in the public right-of-way that have been relocated at Company expense at the direction of the City during the previous ten years, the reasonable costs of such relocation will be paid by the

[†] **EDITOR’S NOTE:** Ordinance No. 113, adopting an electric franchise for the City with Interstate Power and Light Company, was passed and adopted on May 21, 2015.

City. If the City orders or requests the Company to relocate its existing facilities or equipment for any reason other than as specified above, or as the result of the initial request for a commercial, private or other non-public development, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities as part of the relocation request.

111.05 EASEMENT. Prior to the City's abandoning or vacating any street, avenue, alley, or public ground where the Company has electric facilities, the City shall grant the Company a utility easement for said facilities. If the City does not grant the Company a utility easement for said facilities prior to abandoning or vacating a street, avenue, alley, or public place, the City shall, at its cost and expense, obtain easements for existing Company facilities.

111.06 TRIMMING OF TREES. The Company is authorized and empowered to prune or remove at Company expense any tree extending into any street, alley, or public grounds to maintain electric reliability, safety, to restore utility service and to prevent limbs, branches or trunks from interfering with the wires and facilities of the Company. The pruning and removal of trees shall be performed in accordance with Company's then current line clearance vegetation plan, as filed and approved by the Iowa Utilities Board, as well as all applicable codes and standards referenced therein.

111.07 STANDARDS OF OPERATION. During the term of the franchise, the Company shall furnish electric energy in accordance with the applicable regulations of the Iowa Utilities Board and the Company's tariffs. The Company will maintain compliance with Iowa Utilities Board regulatory standards for reliability.

111.08 NO INTERRUPTION OF SERVICE. Service to be rendered by the Company under this chapter shall be continuous unless prevented from doing so by fire, acts of God, unavoidable accidents or casualties, or reasonable interruptions necessary to properly service the Company's equipment, and in such event service shall be resumed as quickly as is reasonably possible.

111.09 FRANCHISE FEE. There is hereby imposed a franchise fee of one percent upon the gross revenue generated from sales of electricity by the Company within the corporate limits of the City. The Company shall begin collecting the franchise fee upon receipt of written approval of the required tax rider tariff from the Iowa Utilities Board. The amount of the franchise fee shall be shown separately on the utility bill to each customer. The Company shall remit franchise fee receipts to the City no more frequently than on or before the last business day of the month following each calendar year quarter. The Company shall not, under any circumstances, be required to return or refund any franchise fees that have been collected from customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of or individual customers, the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information. The City will provide to the Company, by certified mail, copies of annexation ordinances and all property addresses in the annexed areas. The Company shall commence collecting the franchise fee in the annexed areas 90 days after receipt of City notice.

111.10 TERM. The term of the franchise granted by this chapter and the rights granted thereunder shall continue for the period of 25 years from and after written acceptance by the Company. The acceptance shall be filed with the City Clerk within 90 days after passage of the ordinance.

111.11 AMENDMENTS. This chapter sets forth and constitutes the entire agreement between the Company and the City with respect to the rights contained herein, and may not be supplemented, superseded, modified, or otherwise amended without the written approval and acceptance of the Company. Notwithstanding the foregoing, in no event shall the City enact any ordinance or place any limitations, either operationally or through the assessment of fees other than those approved and accepted by the Company within this chapter, that create additional burdens upon the Company, or which delay utility operations.

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