

CHAPTER 112

ELECTRIC FRANCHISE – ITC MIDWEST

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112.01 GRANT OF FRANCHISE. There is hereby granted to ITC MIDWEST LLC, a wholly owned subsidiary of ITC HOLDINGS CORP., its successors and assigns (the “Company”) the right and franchise to acquire, construct, erect, maintain, and operate in the City a transmission system for electric power and the right to erect and maintain the necessary poles, lines, wires, conduits, and other appliances or equipment and substations for the transmission of electric current (collectively, the “Facilities”) along, under, and upon the streets, avenues, alleys, and public places in the City; the franchise also includes the right to erect and maintain upon the streets, avenues, alleys, and public places transmission lines through the City for a period of 25 years,[†] and the right of eminent domain as provided in Section 364.2 of the *Code of Iowa*.

112.02 INDEMNIFICATION. The Facilities shall be placed and maintained so as not to unnecessarily interfere with the travel on the 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 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.

112.03 LOCATION OF FACILITIES. Except as provided herein, the Company shall, at its cost and expense, locate and relocate its Facilities 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 orders or requests the Company to relocate Facilities for the primary benefit of a commercial or private project, or as the result of the initial request of a commercial or private developer or other non-public entity, and such relocation is necessary to prevent interference and not merely for the convenience of the City or other non-public entity, the Company shall receive payment for the cost of such relocation as a precondition to relocating the Facilities. 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. The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Vacating a public right-of-way shall not deprive the Company of its right to operate and maintain existing Facilities until the reasonable costs of relocating the same are paid to the Company.

[†] **EDITOR’S NOTE:** Ordinance No. 115, adopting an electric franchise for the City with ITC Midwest, LLC, was passed and adopted on October 12, 2015.

112.04 MODERN SYSTEM. The system authorized by this chapter shall be modern and up-to-date and shall be kept in a modern and up-to-date condition.

112.05 TRIMMING OF TREES. To promote public safety in proximity to its Facilities and to maintain electric reliability, the Company is authorized and empowered to prune or remove, at Company expense, any trees or shrubs or parts thereof extending into any street, alley, right-of-way, or public grounds. The pruning shall be completed in accordance with the then-current nationally accepted safety and utility industry standards, as revised and updated from time to time.

112.06 CONTINUOUS 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.

112.07 FRANCHISE NOT EXCLUSIVE. The franchise granted by this chapter shall not be exclusive.

112.08 UNDERGROUNDING. The City may request estimates for the undergrounding of replacement lines, upgrades or new lines, including lines to be adjusted for road moves or for other specific projects. When requested, the Company will provide to the City two estimates: (i) an estimate for the cost of the project with overhead construction; and (ii) an estimate for the cost of the project with underground construction. The City will have no more than 60 days from the estimate date to determine if it wants the line built overhead or placed underground. If the City chooses underground construction for the project, the City will be responsible for the incremental cost of undergrounding, defined as the differential between the estimate for underground construction and the estimate for overhead construction. Upon receipt of the City's payment for the incremental cost of undergrounding, the Company will install the underground facilities. The Company reserves the right to bill the City for the amount that the incremental cost associated with installation exceeds its estimate. The City reserves the right to a refund of overpayment if the incremental costs are less than the amount billed in the estimate. If the City wishes to have a line not scheduled for replacement or upgrade placed underground, the City shall contact the Company to make such request. The City shall cover all costs related to this work. If undergrounding of transmission lines requires entities interconnecting with the Company to make adjustments to their electrical systems, the City bears the responsibility of communication with those entities and, if it chooses, the cost of converting their facilities from overhead to underground. The Company reserves the right to review all of the City's communications with the affected entities.

112.09 FUTURE DEVELOPMENTS. The City agrees it will not permit any real estate developments or land uses in the City that would cause the Company's Facilities to violate the setback or safety requirements of the *National Electric Safety Code* or any law, regulation, or ordinances of the State, County, or City.

112.10 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 superseded, modified, or otherwise amended without the approval and acceptance of the Company. Upon acceptance by the Company, this chapter shall supersede, abrogate and repeal any prior electric system ordinance between the Company and City as of the date of such acceptance. Notwithstanding the foregoing, in no event shall the City enact any

ordinance or place any limitations, either operationally or through the assessment of fees, that create additional burdens upon the Company, or which delay utility operations.

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