

CHAPTER 111

ELECTRIC FRANCHISE

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111.01 FRANCHISE GRANTED. There is hereby granted to MidAmerican Energy Company, an Iowa corporation, hereinafter called the “Company,” and its successors and assigns, the right and franchise to acquire, construct, erect, maintain and operate in the City, a system for the transmission and distribution of electric energy and communications signals along, under, over and upon the streets, avenues, alleys and public places to serve customers within and without the City, and to furnish and sell electric energy to the City and its inhabitants. For the term of this franchise the Company is granted the right of eminent domain, the exercise of which is subject to City Council approval upon application by the Company. This franchise shall be effective for a 16-year period[†] from and after the effective date of the ordinance codified in this chapter and shall expire on September 11, 2025.

111.02 RIGHTS AND PRIVILEGES. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the *Code of Iowa*, or as subsequently amended or changed.

111.03 POLES AND WIRES. The Company shall have the right to erect all necessary poles and to place thereon the necessary wires, fixtures and accessories as well as excavate and bury conductors for the distribution of electric energy and communications signals in and through the City, but all said conduits and poles shall be placed as not to interfere with the construction of any water pipes, drain or sewer, or the flow of water therefrom, which have been or may hereafter be located by authority of the City. 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 of trees shall be done to current nationally accepted safety and utility industry standards.

111.04 CONSTRUCTION AND MAINTENANCE. The Company shall, at its cost and expense, locate and relocate its installations in, on, over or under any public street or alley in the City in such 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 of, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City has a reasonable alternative route for the street, alley or public improvements or an alternative construction method, which would not cause the relocation of the Company installations, the City shall consider but is not required to select said alternative route or construction method. If the relocation of the Company facilities could be avoided by relocating other franchisee’s or facility user’s equipment and facilities or by using a different method to perform the street and/or curbing construction, and said other cost of

[†] **EDITOR’S NOTE:** Ordinance No. 266, adopting an electric franchise for the City, was passed and adopted on March 11, 2009.

construction or relocation is less than the Company's, the City shall consider but is not required to select the route or method that is less expensive. The Company will notify the City if project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall attempt to secure said funds and provide them to the Company to compensate the Company for the costs of relocation.

111.05 EXCAVATIONS. In making excavations in any streets, avenues, alleys and public places for the excavation of conduits or the erection of poles and wires or other appliances, the Company shall not unreasonably obstruct the use of the streets, and shall replace the surface, restoring the original condition as nearly as practicable.

111.06 INDEMNIFICATION. The Company shall indemnify and save harmless the City from any and all claims, suits, losses, damages, costs or expenses, on account of injury or damage to any person or property, caused or occasioned in whole or in part, by the Company's negligence in construction, reconstruction, excavation, operation or maintenance of the electric facilities authorized by this franchise; provided, however, that the Company shall not be obligated to defend, indemnify and save harmless the City for any costs or damages arising from the negligence of the City, its officers, employees or agents.

111.07 APPLICABLE REGULATIONS. The Company shall construct, operate and maintain its facilities in accordance with the applicable regulations of the Iowa Utilities Board or its successors.

111.08 QUANTITY AND QUALITY. During the term of this franchise the Company shall furnish electric energy in the quantity and quality consistent with applicable Iowa laws and regulations.

111.09 FRANCHISE FEE. The City reserves the right to impose a franchise fee pursuant to the Iowa Code. The franchise fee shall only be imposed through the adoption of an ordinance authorizing said franchise fee. The City shall work with the Company to develop a methodology and timeline to implement the franchise fee. The City shall provide the Company with written notice no less than 90 days in advance of the effective date of any franchise fee enacted by the City.

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