

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," 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 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. Pursuant to Section 364.2(4)(e) of the Code of Iowa, the Company is granted the right of eminent domain, the exercise of which is subject to Council approval upon application by the Company. This franchise shall remain in effect for a period of fifteen (15) years from the effective date of the ordinance codified by this chapter and for an additional ten (10) years thereafter unless the City provides written notice to the Company at least one hundred and eighty (180) days prior to the expiration of the initial term.

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 in and through the City's public right of ways, 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 public ground or public right of way 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

which alternative route would not cause the relocation of the Company installations, the City shall consider and may select said alternative route. If relocation of the Company facilities could be avoided by relocating other franchisee's or facility user's equipment and facilities, and said other franchisee's or user's cost of relocation is less than the Company's, the City shall consider and may select the route which requires the other franchisees or users to relocate. If project funds from a source other than the City are available to pay for the relocation of utility facilities and made known to the City, the City shall use its best efforts 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 and, at a minimum, shall meet the specifications provided in the "Street Excavation Specification for Surface Restoration of the City of Glenwood Public Works Department" dated March 1998, and as may from time to time be amended. All excavations shall be refilled and obstructions shall be removed to the reasonable satisfaction and approval of the City. In the event the Company fails to comply with the provisions of this section after having been given reasonable notice, the City may do such work as may be needed to properly repair said thoroughfare and the cost thereof repaid to the City by the Company.

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

EDITOR'S NOTE

Ordinance No. 665 adopting an electric franchise for the City was passed and adopted on November 9, 2000.