

FRANCHISES AND OTHER SERVICES

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CHAPTER 110

NATURAL GAS FRANCHISE

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110.01 FRANCHISE GRANTED. There is hereby granted to Iowa-Illinois Gas and Electric Company, an Illinois corporation authorized to do business in the State of Iowa, hereinafter called the "Company," and to its successors and assigns for the period of 25 years from and after the effective date of the ordinance codified by this chapter[†], the right and franchise to acquire, erect, maintain and operate in the City a gas plant or plants for the storage, transmission, distribution, sale, delivery or furnishing of natural gas for public and private use in the City and elsewhere, and to use the streets, avenues, alleys, and public grounds and bridges in the City for the purpose of laying, constructing, maintaining, replacing and substituting mains, pipes, conduits and other facilities for the transmission, distribution, sale, delivery or furnishing of gas for public and private use in the City and elsewhere.

110.02 STATE CODE RESTRICTIONS. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the *Code of Iowa* and this franchise shall not be exclusive.

110.03 EXCAVATIONS. The Company shall have the right to excavate in any public street for the purpose of laying, relaying, repairing or extending gas pipes, mains, conduits, communication circuits and other facilities, provided that the same shall be so located and maintained as to make no unnecessary obstructions of any drains or sewers or the flow of water therefrom, which have been or may hereafter be located by authority of the City. The gas pipes, mains, conduits, communication circuits, and other facilities shall be so located and maintained in the streets, avenues, alleys, and public places of the City as to make no unnecessary obstruction therein to the use thereof by the public.

110.04 RESTORATION OF PROPERTY. In making excavations of any streets, avenues, alleys, and public places for the installation of gas pipes, conduits or apparatus, the Company shall not unnecessarily obstruct the use of the streets, and shall replace the surface, restoring the original condition as nearly as practicable; and in laying, repairing and replacing mains and pipes, the Company shall conform to all reasonable regulations prescribed by the City to prevent injury to the pavement, streets, alleys and public places and the Company shall not unnecessarily interfere with, injure, or change any pavement, water pipes, drains or sewers of the City, either public or private.

110.05 INDEMNITY. The Company and its successors and assigns shall hold the City free and harmless from all damages arising on account of any negligence of the Company, its successors and assigns, in the construction, operation and maintenance of said system.

[†] **EDITOR'S NOTE:** Ordinance No. 92-2, adopting a natural gas franchise for the City, was passed and adopted on February 24, 1992.

110.06 EXTENSION OF MAINS AND PIPES. The Company and its successors and assigns shall extend its mains and pipes in accordance with rules and regulations approved by the Iowa Utilities Board.

110.07 STANDARD OF SERVICE. The Company and its successors and assigns, so long as they shall operate under the terms of this chapter, shall furnish, at the rates authorized by the Iowa Utilities Board, such quantities of gas of good quality as the City and the inhabitants thereof may reasonably demand; provided, however, such undertaking and agreement shall be subject to such limitations on the use of gas for commercial or industrial applications, or for space heating, as may be provided by reasonable rules and regulations placed into effect by the Company during any temporary shortage in or permanent diminution of the supply of natural gas with which the Company serves the City and its inhabitants.

110.08 COMPANY RULES AND REGULATIONS. The Company is authorized to impose reasonable terms and conditions upon the furnishing of gas service and reasonable rules and regulations in the operation and conduct of its business, including (but not limited to) the requiring of a reasonable deposit of any consumer or developer as a condition of furnishing gas.

110.09 POLICE REGULATIONS. All proper and necessary police regulations shall be adopted and enforced by the City for the protection of the pipes, mains, conduits, meters and other apparatus of the Company, its successors and assigns.

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CHAPTER 111

ELECTRIC FRANCHISE

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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 franchise to acquire, construct, 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, avenues, alleys, and public places in the City, and also the right to erect and maintain upon the streets, avenues, alleys, and public places transmission lines through 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 twenty-five (25) years.[†] The right of eminent domain, as provided in Section 364.2 of the *Code of Iowa*, is also granted.

111.02 PLACEMENT OF FACILITIES. The poles, wires and 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, and the said Company, its successors and assigns shall hold the City free and harmless from all damages 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, avenue, 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 back fill 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 and if defects are caused shall repair the same.

111.04 LOCATION OF FACILITIES. The Company shall, at its cost and expense, 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 of, 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 its existing facilities or equipment 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, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment. The City shall

[†] **EDITOR'S NOTE:** Ordinance No. 2010-01, adopting an electric franchise for the City, was passed and adopted on July 26, 2010.

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 cost of relocating the same are paid to the Company.

111.05 INSTALLATION OF METERS. The Company, its successors and assigns, shall furnish and install all meters at their own expense, and shall provide the service wire to buildings as set forth in the Company's tariff filed with the Iowa Utilities Board.

111.06 QUALITY OF SYSTEM. The system authorized by this chapter shall be modern and up-to-date and shall be of sufficient capacity to supply all reasonable demands of the City and its inhabitants and shall be kept in a modern and up-to-date condition.

111.07 NONEXCLUSIVE FRANCHISE. The franchise granted by this chapter shall not be exclusive.

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 TERM OF FRANCHISE. The term of the franchise granted by this chapter and the rights granted hereunder shall continue for the period of twenty-five (25) years from and after its acceptance by the said Company, as herein provided.

111.10 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. 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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CHAPTER 112

TELEPHONE FRANCHISE

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112.01 GRANT OF FRANCHISE. There is granted to Sharon Telephone Company, an Iowa Corporation, hereinafter called "Company," and its successors and assigns, the right and franchise to provide and sell telephone service together with the right to acquire, install, reconstruct, extend, enlarge, maintain, and operate in the City, plants and works for telephone services, the transmission and distribution thereof, including the necessary lines, poles, cables, and other facilities for the transmission and distribution of telephone service in, under, along and over the public streets in the City. The franchise shall be effective for a 20-year period.[†]

112.02 LIMITATIONS OF CODE OF IOWA. The rights hereby granted are subject to any limitations of Chapter 386 of the *Code of Iowa*.

112.03 FRANCHISE RIGHTS. The Company shall have the right to excavate in any public street for the purpose of laying, repairing, or extending telephone service, lines, conduits, poles, and other facilities provided that the same shall be so located and maintained as to make no unnecessary obstruction of any drains or sewers of the flow of water therefrom. Said telephone facilities shall be located and maintained in and along the streets, alleys, and public places of said City as to make no unnecessary obstruction therein to the use thereof by the public.

112.04 DUTY TO FURNISH MAPS. The Company shall furnish to the City for filing in the City Clerk's Office a map showing the location of all existing telephone lines in the City, and shall thereafter furnish the necessary data to allow the City to maintain said map on a current basis.

112.05 LOCATION OF INSTALLATIONS. The Company shall relocate its installations, in, on, along, over, or under any public street in the City of such manner as the City Council may at any time reasonably require for public purposes.

112.06 CONSTRUCTION PROCEDURES. In making excavations of any streets, alleys, and public places, the Company shall not unnecessarily obstruct the use of the streets and shall replace the surface, restoring it to the original condition as nearly as practicable.

112.07 LIABILITY. The Company and its successors and assigns shall hold said City free and harmless from all damages arising on account of any negligence of said Company and its successors and assigns in the operation and maintenance of said system.

112.08 SERVICE REQUIREMENTS. The Company and its successors and assigns, so long as they shall operate under the terms of the franchise, shall furnish, to any part of the

[†] **EDITOR'S NOTE:** The telephone franchise with the Company was renewed in 2006.

City, such telephone service of good quality as the City and the inhabitants thereof may reasonably demand.

112.09 DEPOSIT AND TERMS. The Company may impose reasonable terms and conditions upon the furnishing of telephone service and reasonable rules and regulations in the operation and conduct of its business including, without limitation, requiring a reasonable deposit of any consumer as a condition of furnishing telephone service to such consumer.

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