

## CHAPTER 111

# ELECTRIC FRANCHISE

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**111.01 FRANCHISE GRANTED.** There is hereby granted unto Interstate Power and Light 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 transmission of electric current along, under, and upon the streets, avenues, alleys, and public places in the City, and also includes 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,<sup>†</sup> and also includes the right of eminent domain as provided in Section 364.2 of the *Code of Iowa*. The Company will not exercise this granted right of eminent domain to site and construct new electric substation facilities within the City’s corporate limits without the prior written consent of the Council, said consent not to be unreasonably withheld or delayed.

**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 of 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

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<sup>†</sup> **EDITOR’S NOTE:** Ordinance No. 080706-1, adopting an electric franchise for the City, was passed and adopted on February 26, 2007.

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 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 ENTIRE AGREEMENT.** 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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