

CHAPTER 110

NATURAL GAS FRANCHISE

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110.01 GRANT OF FRANCHISE. There is hereby granted to MidAmerican Energy Company, an Iowa corporation, hereinafter called "Company." and to its successors and assigns the right and franchise to acquire, construct, erect, maintain and operate in the City a gas distribution system, to furnish natural gas along, under and upon the streets, avenues, alleys and public places to serve customers within and without the City and to furnish and sell natural gas to the City and its inhabitants. This franchise shall be effective for twenty-five (25) years, provided however, that there may be a re-evaluation after 15 years with the opportunity for both parties to request amendments. If neither party requests such reevaluation by means of a written notice to the other party by November 14, 2012, then this franchise will continue without change for the remaining 10 years through 2022.

110.02 STATE CODE RESTRICTIONS AND LIMITATIONS. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the Code of Iowa.

110.03 EXCAVATIONS. The Company shall have the right to excavate in any public street for the purpose of laying, re-laying, repairing or extending gas pipes, mains, conduits, and other facilities provided that the same shall be so 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.

110.04 RESTORATION OF PROPERTY. In making excavations in any streets, avenues, alleys and public places for the installation of gas pipes, conduits or apparatus, Company shall not unreasonably obstruct the use of the streets and shall replace the surface, restoring the original condition as nearly as practicable.

110.05 RELOCATION OF PROPERTY. 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 Company believes that 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 will consider 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 cost of relocation, the City will consider the route that 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, 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.

110.06 EXTENSION OF SYSTEM. The Company shall extend its mains and pipes and operate, and maintain the system in accordance with the applicable regulations of the Iowa Utilities Board or its successors.

110.07 STANDARDS OF OPERATION. During the term of this franchise, the Company shall furnish natural gas in the quantity and quality consistent with applicable Iowa laws and regulations. Service to be rendered by the Company under the franchise 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.

110.08 FRANCHISE TAX. The City reserves and has the right to impose a franchise tax in such amount to be collected as may be authorized by law, either upon motion of the Council or petition of voters provided in Section 362.4 of the Code of Iowa, subject to such franchise tax being approved by the voters at a referendum.

110.09 INDEMNIFICATION. Company shall indemnify and save harmless 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, or allegedly caused or occasioned, in whole or in part, by Company's negligence in construction, reconstruction, excavation, operation or maintenance of the gas utilities authorized by the 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.

110.10 COMPANY'S REGULATIONS. The Company shall be free to recommend regulations for the protection of the facilities of the Company which will be considered for adoption and enforcement by the City.

EDITOR'S NOTE

Ordinance No. 97-17 adopting a gas franchise for the City was passed and adopted on July 3, 1997.