

CHAPTER 111

ELECTRIC FRANCHISE

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111.01 FRANCHISE GRANTED. There is hereby granted to IES UTILITIES INC., hereinafter referred to as 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; 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, subject to cancellation at the end of the fifteenth (15th) and twentieth (20th) years; also the right to eminent domain as provided in Section 364.2 of the Code of Iowa.

111.02 CONSTRUCTION; MAINTENANCE; INDEMNIFICATION. 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 Company and 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. In addition to the foregoing hold harmless requirement, the Company’s excess liability policy will include the City and its employees as additional insureds by definition.

111.03 METERS — SERVICE LINES. The Company, its successors and assigns shall furnish and install all meters at its own expense and shall provide the service wire to buildings as set forth in the Company’s tariff filed with the Iowa Utilities Board.

111.04 SYSTEM REQUIREMENTS.

1. 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 the inhabitants thereof and shall be kept in a modern up-to-date condition. The erection, installation, construction, replacement, removal, repair, maintenance and operation of the electric energy system shall be in accordance with all applicable

laws, regulations and codes of the State and applicable ordinances, regulations and codes of the City.

2. The Company shall restore all property of the City to its original condition after the installation of either overhead or underground utility lines.

3. In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the Company shall at its own cost and expense and in a manner approved by the City Engineer, replace and restore all paving, sidewalk, driveway or surface of any street or alley disturbed in as good a condition as before said work was commenced.

4. If at any time the City elects to alter or change the grade or location of any street, alley or public way, and such alteration requires the relocation of Company's facilities, the Company, upon reasonable notice by the City, shall remove, relay and relocate its poles, wires, cables, underground conduits, manholes, or other distribution fixtures at its own expense. The Company, in the event of fire or other emergency and upon demand of the City, shall immediately cut and remove any wires or poles necessary for the protection of property and/or persons at the Company's expense.

5. The Company shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks and public places of the City so as to prevent the branches of such trees from coming in contact with the transmission or distribution lines of the Company, all trimming to be done at the expense of the Company.

6. Any opening or obstruction in the streets or other public ways made by the Grantee in the course of its operations, pursuant to the authority granted hereunder, shall be guarded and protected at all times by the placement of adequate barriers, fences or boarding, the bounds of which during periods of dusk and darkness shall be clearly designated by warning lights.

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

111.06 SERVICE PROVIDED. Service to be rendered by the Company under the franchise shall be continuous unless prevented 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.

111.07 TERM OF FRANCHISE. The term of the franchise granted by this chapter and the rights granted thereunder shall continue for the period of twenty-five (25) years from and after its acceptance by the Company, as herein provided. The City may cancel this franchise on the fifteenth (15th) or twentieth (20th) anniversary of the franchise by notifying the Company in writing of its desire to do so, said notification to be given not

more than thirty (30) days before the fifteenth (15th) or twentieth (20th) anniversary, respectively, of the franchise. If the Company is not notified of the cancellation, then the franchise shall continue without cancellation until the twenty-fifth (25th) year. The anniversary date shall be the date the acceptance of the franchise is filed with the Clerk.

111.08 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.

EDITOR'S NOTE

Ordinance No. 95-23 adopting an electric franchise for the City was passed and adopted on April 20, 1995.