

CHAPTER 111

ELECTRIC FRANCHISE

111.01 Franchise Granted
111.02 Construction Standards
111.03 Indemnification
111.04 Governmental Power of City
111.05 Underground Facilities
111.06 Termination

111.07 Replacement of Lamps
111.08 Energy Audit
111.09 Energy Efficiency Program
111.10 Termination
111.11 Notice
111.12 Condemnation of Property

111.01 FRANCHISE GRANTED. There is hereby granted to Iowa Electric Light and Power Company, a corporation, its successors and assigns (the “Company”), the right, franchise and privilege, for a period of twenty-five (25) years from and after the effective date of the ordinance codified by this chapter[†], to acquire, construct, operate and maintain in the City, as provided herein, the necessary facilities for the distribution, transmission and sale of electric energy for public and private use and to construct and maintain over, upon, across and under the streets, highways, avenues, alleys, bridges and public places the necessary facilities, fixtures and equipment for such purposes; provided, however, that based upon the provisions of Section 111.10 or 111.11 of this chapter, at the option of the City, may be terminated upon its twelfth or seventeenth anniversary.

111.02 CONSTRUCTION STANDARDS. The facilities, fixtures and equipment for the distribution, transmission and sale of electric energy within the City shall be placed and maintained so as not to interfere unreasonably or unnecessarily with the travel on the streets, highways, avenues, alleys, bridges and public places in the City, nor shall such facilities, fixtures and equipment unnecessarily or unreasonably interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe or other property of the City. In the event that facilities, fixtures and equipment of the Company located within a public right-of-way must be relocated because of paving, road construction or road reconstruction, sewer construction or sewer reconstruction, or the construction or reconstruction of public drainage systems or similar public works, such relocation, at the written request of the City, shall be completed by the Company at its cost. The City shall upon request of the Company review any plans for the construction of facilities, fixtures and equipment within the public right-of-way and advise the Company of any conflict such construction may have with planned or anticipated public improvements, but failure of the City so to advise the Company will not relieve the Company of its obligations under this section.

111.03 INDEMNIFICATION. The Company shall indemnify and hold the City harmless from all loss, claims, or damages on account of injury to or death of persons or injury to property arising from the erection, maintenance, or operation of its facilities, fixtures or equipment within the City. The Company shall, at its own expense, defend without regard to fault any action at law, in equity or in an administrative proceeding brought against the City on account thereof, and the City shall give the Company prompt notice of the filing of any such claim or suit and extend its full cooperation in the defense thereof.

[†] **EDITOR’S NOTE:** Ordinance No. 120 adopting an electric franchise for the City was passed and adopted on May 26, 1992.

111.04 GOVERNMENTAL POWER OF CITY. The franchise shall not be exclusive and shall not restrict in any manner the right of the Council or any other governing body of the City in the exercise of any governmental power which it may now have or hereafter be authorized or permitted by laws of the State.

111.05 UNDERGROUND FACILITIES. Within ten (10) years of the effective date of an ordinance requiring all electric distribution lines to be placed underground within the present corporate limits of the City (or as to existing services within ten years after the effective date of annexation of land by the City) all electric service distribution lines shall be placed underground, provided no ordinance shall require the placement of distribution lines underground in contravention of any applicable Federal or State safety or health regulation, rule or statute or if the City agrees that sound engineering or financial criteria as determined by both entities would make such placement inappropriate, in which case, the matter would then be resolved by binding arbitration. In the event of any construction or reconstruction of any electric transmission lines within the City, the Company shall consider all options for this construction or reconstruction. The options shall include relocation, overhead construction, underground construction and other options which may apply. On the tenth year after the effective date of the passage of an ordinance requiring all electric distribution lines to be placed underground, the progress of such installation shall be reviewed by the Council and a representative of the Company. If review by the Council determines that the Company has failed to substantially comply with the provisions of the ordinance requiring all electric distribution lines to be placed underground and upon reasonable demonstration by the Company as to cause, the Council may extend the time frame as previously required. As used herein, the term “substantially comply” means that at least ninety-five percent (95%) of the electric distribution lines shall be placed underground. In any ordinance enacted by the City to comply with the terms of this section, the City may reserve to itself the right to determine upon which side of a street an underground line shall be buried, but shall only reserve this right in those instances where there is sufficient right-of-way to utilize either side of the paved or otherwise maintained street surface.

111.06 TERMINATION. Section 111.01 of this chapter notwithstanding, the franchise may be terminated at the option of the City if within the time provided in Section 111.05 hereof the Company has not complied with said section. The City shall give the Company notice in writing of its intent to terminate, naming this section, not less than thirty (30) days prior to the eleventh anniversary of the ordinance mentioned in Section 111.05, of its intent to exercise the option thus granted. Failure to give such notice abrogates the right of the City to terminate the franchise under this section; however, in the event such notice is given, the franchise shall terminate on the eleventh anniversary of the ordinance.

111.07 REPLACEMENT OF LAMPS. The Company shall replace all mercury vapor lights with high power sodium light fixtures on street lamps within one year from the effective date of the ordinance codified in this chapter.

111.08 ENERGY AUDIT. Before the first anniversary of the effective date of the ordinance codified herein, the Company will offer an “energy audit” to each residential customer, without charge to the customer and give notice of such offer by individual mailing to each residential customer, which notice will include a business reply card. The Company shall follow up such mailed notice with a “door hanger” leaflet left repeating such notification of the availability of an “energy audit” at the premises of each residential customer from whom a mail response was not received, and in addition the

Company shall in each year thereafter give special notice by advertisement in a newspaper of general circulation or by other means likely to afford notice to residents of the availability of energy audits and the availability of other advice and assistance regarding “energy audits” and programs, means or devices of energy conservation.

111.09 ENERGY EFFICIENCY PROGRAM. Each time the Company considers implementation of an electric energy efficiency program utilizing new or improved technology which is intended for residential or commercial customers, the Company will inform the Council at least ninety (90) days prior to the demonstration or experimental use of such technology, upon which notification the Council may request that the City be considered as a place for the demonstration or experimental installation of such technology.

111.10 TERMINATION. Section 111.01 of this chapter notwithstanding, the City may terminate the franchise on the twelfth or seventeenth anniversary of the effective date of the ordinance codified herein by giving the Company notice in writing of its intent to terminate, naming the franchise not more than sixty (60) or less than thirty (30) days prior to each anniversary. Failure to give such notice abrogates the right of the City to terminate the franchise on the designated anniversary date; however, in the event notice is given, the franchise shall terminate on the designated anniversary.

111.11 NOTICE. Written notice to the Company under this chapter shall be effectuated by letter sent by ordinary mail or other mail to the registered agent or any executive officer of the Company.

111.12 CONDEMNATION OF PROPERTY. The City hereby confers upon and delegates to IES, Inc. (d/b/a Alliant Utilities and successor of Iowa Electric Light & Power Company) its power to appropriate and condemn private property for the purpose of providing electrical power and service within the City.