

TITLE VII SPECIAL ORDINANCES

CHAPTER 3 ELECTRIC FRANCHISE

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7-3-1 GRANT OF FRANCHISE. There is hereby granted to MidAmerican Energy Company, an Iowa corporation, hereinafter called the "Company," and its successors and assigns, the right and franchise to acquire, construct, erect, maintain and operate in the City of Camanche, Iowa, hereinafter called the "City," a system for the transmission and distribution of electricity along, under, over and upon the public, streets, avenues, and alleys to serve customers within and without the City, and to furnish and sell electric energy to the City and its inhabitants. In addition, the Company may with express permission of the City Council utilize other public places for purposes consistent with the grants contained herein. For the term of this franchise the Company is granted the right of eminent domain. This franchise shall be effective for a 25 (Twenty-five) year period from and after the effective date of this ordinance.

7-3-2 RIGHTS AND PRIVILEGES. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the Code of Iowa 2009 or as subsequently amended or changed.

7-3-3 AUTHORITY TO ERECT POLES AND WIRES. The Company shall have the right to erect all necessary poles and to place thereon the necessary wires, fixtures and accessories as well as excavate and bury conductors for the distribution of electric energy in and through the City, but all said conduits and poles shall be placed as not to unreasonably 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.

7-3-4 AUTHORITY TO PRUNE AND REMOVE TREES. The Company is authorized and empowered to prune or remove at Company expense any tree extending into any street, alley or public grounds to maintain electric reliability, safety, to restore utility service and to prevent limbs, branches or trunks from interfering with the wires and facilities of the Company. The pruning and

removal of trees shall be done in accordance with current nationally accepted safety and utility industry standards and federal and state law, rules and regulations.

7-3-5 USE OF STREETS AND ALLEYS. The Company shall, excluding facilities located in private easements (whether titled in Company exclusively or in Company and other entities), in accordance with Iowa law including Company's tariff on file with and made effective by the Iowa Utilities Board as may subsequently be amended ("Tariff"), 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 manner as the City may reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley of such street or alley. The City and the Company shall work together to develop a suitable alternative route or Construction method so as to eliminate or minimize the cost and expense to the Company of relocation of Company installations. The City shall be responsible for surveying and staking the right-of-way for City projects that require the Company to relocate Company facilities. If requested, the City shall provide, at no cost to the Company, copies of the relocation plan and profile and cross section drawings. If tree removals must be completed by the City as part of the City's project and are necessary whether or not utility facilities must be relocated, the City at its own cost shall be responsible for said removals. If the timing of the tree removals does not coincide with the Company facilities relocation schedule and the Company must remove trees that are included in the City's portion of the project, the City shall either remove the trees or reimburse the Company for the expenses incurred to remove said trees.

7-3-6 EXCAVATIONS. In making excavations in any streets, avenues, alleys and public places for the installation, maintenance or repair of conductor, conduits or the erection of poles and wires or other appliances, the Company shall not unreasonably obstruct the use of the streets, and shall replace the surface, restoring the condition as existed prior to the Company excavation. The Company shall not be required to restore or modify public right of way, sidewalks or other areas in or adjacent to the Company project to a condition superior to its immediate previously existing condition or to a condition required for the City to comply with city, state or federal rules, regulations or law. Company agrees any replacement of road surface shall conform to current City code regarding its depth and composition.

7-3-7 VACATION OF STREET. Vacating a street, avenue, alley, public ground or public right-of-way or selling the same shall not deprive the Company of its right to operate, maintain, reconstruct and replace facilities on, below, above, or beneath the vacated or sold property. Prior to the City selling, abandoning or vacating any street, avenue, alley or public ground whether or not the Company has electric facilities in the vicinity, the City shall upon request of the Company, grant a utility easement covering existing and future facilities and activities.

7-3-8 RELOCATION OF COMPANY FACILITIES. The Company shall not be required to relocate, at its cost and expense, Company facilities in the public right of way that have been relocated at the direction of the City as part of a public improvement project of the City in the previous five years.

7-3-9 REIMBURSEMENT FOR RELOCATION OF FACILITIES. Pursuant to relocation of Company facilities as may be required by sections 3, 5, 6, 7, and 8, if the City orders or requests the

Company to relocate its existing facilities or equipment in order to facilitate the project of a commercial or private developer or other non-public entity, the City shall reimburse or the City shall require the developer or non-public entity to reimburse the Company for the cost of such relocation as a precondition to relocation of its existing facilities or equipment. The Company shall not be required at its expense to relocate in order to facilitate such private project,

7-3-10 CITY HELD HARMLESS. The Company shall indemnify and save harmless the City from any and all claims, suits, losses, damages, costs or expenses, on account of injury or damage to any person or property, to the extent caused or occasioned by the Company's negligence in construction, reconstruction, excavation, operation or maintenance of the electric facilities authorized by this franchise; provided, however, that the Company shall not be obligated to defend, indemnify and save harmless the City for any costs or damages to the extent arising from the negligence of the City, its officers, employees or agents.

7-3-11 COMPANY TO PROVIDE INFORMATION. Upon reasonable request the Company shall provide the City, on a project specific basis, information indicating the horizontal location, relative to boundaries of the right of way, of all equipment which it owns or over which it has control that is located in city right of way. The Company and City recognize the information provided will, under current Iowa law, constitute public records, but that nonetheless, some information provided will be confidential under state or federal law or both. Therefore, the City shall not release any information with respect to the location or type of equipment which the Company owns or controls in the right of way if the Company has clearly designated that such information is a trade secret or has been clearly designated by the Company as otherwise protected from public disclosure by state or federal law. The City agrees that no documents, maps or information provided to the City by the Company shall be made available to the public or other entities if such documents or information have been designated as exempt from disclosure under the provisions of the Freedom of Information Act, the Federal Energy Regulatory Commission Critical Energy Infrastructure requirements pursuant to 18 CFR 388.112 and 388.113, and Chapter 22 of the Code of Iowa, as such statutes and regulations may be amended from time to time. In the event any action at law, in equity or administrative is brought against the City regarding disclosure of any document the Company has designated as a trade secret or as otherwise protected from disclosure, the Company shall assume, upon request of the City, the defense of said action and reimburse the City any and all cost, including attorneys fees and penalties to the extent allowed by law.

7-3-12 COMPANY TO MAINTAIN FACILITIES. The Company shall construct, operate and maintain its facilities in accordance with the applicable regulations of the Iowa Utilities Board or its successors and Iowa law.

7-3-13 COMPANY TO FURNISH ELECTRICITY. During the term of this franchise, the Company shall furnish electric energy in the quantity and quality consistent with and in

accordance with the applicable regulations of the Iowa Utilities Board or its successors and Iowa law.

7-3-14 **FRANCHISE FEE.** A franchise fee of 1 percent (1%) is imposed upon, and shall be collected from, the electric customers of the Company receiving service and located within the corporate limits of the City. The franchise fee shall be imposed upon the gross receipts, minus uncollectible accounts, generated from sales of electricity and distribution services. The Company will commence collecting franchise fees on or before the first Company billing cycle of the first calendar month following ninety (90) days of receipt of information required of the City to implement the franchise fee. The Company shall have no obligation to collect franchise fees from customers in annexed areas until and unless such ordinances have been provided to the Company by certified mail. The Company shall not under any circumstances be required to return or refund any franchise fees that have been collected from customers and remitted to the City. City accounts are exempted.

(Ord. 762, Passed April 16, 2019)

7-3-15 **TERMINATION OF FRANCHISE.** Either City or Company ("party") may terminate this franchise if the other party shall be materially in breach of its provisions. Upon the occurrence of a material breach, the non-breaching party shall provide the breaching party with notification by certified mail specifying the alleged breach. The breaching party shall have 60 days to cure the breach, unless it notifies the non-breaching party, and the parties agree upon a longer period for cure. If the breach is not cured within the cure period, the non-breaching party may terminate this franchise. A party shall not be considered to be in breach of this franchise if it has operated in compliance with state or federal law. A Party shall not be considered to have breached this franchise if the alleged breach is the result of the actions of a third party or the other party.

7-3-16 **SEVERABILITY.** If any section, provision, or part of this ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

7-3-17 **EFFECTIVE DATE OF ORDINANCE.** This ordinance and the rights and privileges herein granted shall become effective and binding upon its approval and passage in accordance with Iowa law and the written acceptance by the Company. The City shall provide Company with an original signed and sealed copy of this ordinance within 10-days of its final passage. The Company shall, within thirty (30) days after the City Council approval of this ordinance, file in the office of the clerk of the City, its acceptance in writing of all the terms and provisions of this ordinance. Following City Council approval, this ordinance shall be published in accordance with the Code of Iowa. The effective date of this ordinance shall be the date of posting in three public places in the City of Camanche which have been permanently designated by ordinance. In the event that MidAmerican Energy Company does not file its written acceptance of this ordinance within 30 days after its approval by the City Council this ordinance shall be void and of no effect.

7-3-18 **REPEAL OF PRIOR FRANCHISES.** Upon the effective date of this ordinance, all prior electric franchises granted to the Company to furnish electric service to the City and its

inhabitants are hereby repealed and all other ordinances or parts of ordinances in conflict herewith are also hereby repealed.

(Ord. 707, Passed 2010)