

CHAPTER 110

NATURAL GAS FRANCHISE

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110.01 FRANCHISE GRANTED. 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 a gas distribution system to furnish natural gas along, under, over and upon the streets, avenues, alleys and public places to serve customers within and outside the City, and to furnish and sell natural gas to the City and its inhabitants. The franchise shall be effective for a 25-year period from and after the effective date of the ordinance codified in this chapter.[†]

110.02 RIGHTS AND PRIVILEGES. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the *Code of Iowa*.

110.03 MANAGEMENT OF FACILITIES. 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 or may hereafter be located by authority of the City.

110.04 USE OF PUBLIC RIGHTS-OF-WAY. 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 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 shall select 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, the City shall select the route which 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.

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

110.06 INDEMNIFICATION. The Company shall indemnify and save harmless the City of any and all claims, suits, losses, damages, costs or expenses, on account of injury or damage to any person or

[†] **EDITOR’S NOTE:** Ordinance No. 538 adopting a natural gas franchise for the City was passed and adopted on April 21, 1998. Voters approved the franchise at an election held on July 14, 1998.

property, caused or occasioned in whole or in part, by the Company's negligence in construction, reconstruction, excavation, operation or maintenance of the electric facilities authorized by the franchise; provided, however, 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.

110.07 CONSTRUCTION AND MAINTENANCE STANDARDS. The Company shall construct, operate, and maintain its facilities in accordance with the applicable regulations of the Iowa Utilities Board or its successors.

110.08 PROVISION OF ELECTRIC ENERGY. During the term of the franchise, the Company shall furnish natural gas in the quantity and quality consistent with the applicable Iowa laws and regulations.

110.09 POLICE REGULATIONS. All reasonable and proper police regulations shall be adopted and enforced by the City for the protection of the facilities of the Company.

110.10 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 City 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.