

CHAPTER 113 ELECTRIC FRANCHISE (TRANSMISSION SYSTEM)

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113.01 GRANT.

There is hereby granted to ITC MIDWEST LLC, a wholly owned subsidiary of ITC HOLDINGS CORP., its successors and assigns (the "Company") the right and franchise to acquire, construct, erect, maintain and operate in the City of Wahpeton, Dickinson County, Iowa, a transmission system for electric power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances or equipment and substations for the transmission of electric current (collectively, the "Facilities") along, under and upon the Iowa Highway 86 right-of-way, or along, under and upon such other streets, avenues, alleys and public places which the City Council of Wahpeton, Dickinson County, Iowa, may approve by the adoption of a separate resolution; also the right to erect and maintain upon the Iowa Highway 86 right-of-way or the streets, avenues, alleys and public places, transmission lines through the City of Wahpeton, Dickinson County, Iowa, for the period of twenty-five (25) years; also the right of eminent domain as provided in Section 364.2 of the Code of Iowa.

113.02 INDEMNIFICATION.

The Facilities shall be placed and maintained so as not to unnecessarily interfere with the travel on the Iowa Highway 86 right-of-way, or streets, alleys, and public places in the City, nor 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 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 the transmission system.

113.03 RELOCATION.

Except as provided herein below, the Company shall, at its cost and expense, locate and relocate its Facilities in, on, over or under the Iowa Highway 86 right-of-way or any public street or alley in the City of Wahpeton, Iowa, in such a 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 orders or requests the Company to relocate its Facilities for the primary benefit of a commercial or private project, or as the result of the initial request of a commercial or private developer or other non-public entity, and such relocation is necessary to prevent interference and not merely for the convenience of the City or other non-public entity, the Company shall receive payment for the cost of such relocation as a precondition to relocating its Facilities. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternate location for the Company's Facilities. The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Vacating a public right-of-way shall not deprive the Company of its right to operate and maintain existing Facilities until the reasonable cost of relocating the same are paid to the Company.

113.04 MODERN SYSTEM.

The system authorized by this chapter shall be modern and up-to-date and shall be kept in a modern and up-to-date condition.

113.05 PRUNING.

To promote public safety in proximity to its Facilities and to maintain electric reliability, the Company is authorized and empowered to prune or remove at Company expense any trees or shrubs or parts thereof extending into any street, alley, right-of-way or public grounds on which the Company operates a transmission line. The pruning shall be completed in accordance with the then-current nationally accepted safety and utility industry standards, as revised and updated from time to time.

113.06 CONTINUOUS SERVICE.

Service to be rendered by the Company under this 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.

113.07 NON-EXCLUSIVITY.

The franchise granted by this chapter shall not be exclusive.

113.08 TERM OF AGREEMENT.

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 anniversary date shall be the date this franchise is filed with the City Clerk or otherwise becomes effective by operation of law.

113.09 CLOSING.

This chapter sets forth and constitutes the entire agreement between the Company and the City of Wahpeton, Iowa, with respect to the rights contained herein, and may not be superseded, modified or otherwise amended without the approval and acceptance of the Company. Upon acceptance by the Company, this chapter shall supersede, abrogate and repeal any prior electric system ordinance between the Company and the City as of the date this franchise ordinance is accepted by the Company. Notwithstanding the foregoing, in no event shall the City enact any ordinance or place any limitations, either operationally or through the assessment of fees, that create additional burdens upon the Company, or that delay utility operations.

(Chapter 113 - Ord. 139 - Feb. 13 Supp.)

