

CHAPTER 110**NATURAL GAS FRANCHISE****CITY OF MARENGO,
IOWA NATURAL GAS FRANCHISE**

An Ordinance granting to INTERSTATE POWER AND LIGHT COMPANY {"Company"}, its successors and assigns, the right and franchise to acquire, construct, erect, maintain and operate a natural gas distribution system in the City of Marengo, Iowa County, Iowa, and the right to lay down, operate and maintain the necessary pipes, mains, and other conductors and appliances in, along and under the streets, avenues, alleys and public places of the City of Marengo, Iowa County, Iowa, as now or hereafter constituted, for a period of twenty-five {25} years, for the purpose of distributing, supplying and selling natural gas to the City and its inhabitants thereof and to persons and corporations beyond the limits thereof; and granting to said Company the right of eminent domain.

BE IT ORDAINED BY THE City Council of the City of Marengo, Iowa County, Iowa, hereinafter referred to as the "City":

110.01. There is hereby granted to INTERSTATE POWER AND LIGHT COMPANY, hereinafter referred to as the "Company," its successors and assigns, the right, franchise and privilege for the term of twenty-five (25) years from and after the passage, adoption, approval and acceptance of this Ordinance, to lay down, maintain and operate the necessary pipes, mains and other conductors and appliances in, along and under the streets, avenues, alleys and public places in the City as now or hereafter constituted, for the purpose of distributing, supplying and selling gas to said City and the residents thereof and to persons and corporations beyond the limits thereof; also the right of eminent domain as provided in Section 364.2 of the Code of Iowa. The term "gas" as used in this franchise shall be construed to mean natural gas only.

110.02. The mains and pipes of the Company must be so placed as not to interfere unnecessarily with water pipes, drains, sewers and fire plugs which have been or may hereafter be placed in any street, alley and public places in said 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, 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 laying down, operation and maintenance of said natural gas distribution system.

110.03. In making any excavations in any street, alley, avenue or public place, Company, its successors and assigns, shall protect the site while work is in progress by guards, barriers or signals, shall not unnecessarily obstruct the use of the streets, shall back fill all openings in such manner as to prevent settling or depressions in surface, and shall replace the surface, pavement or sidewalk of such excavations with same materials, restoring the condition as nearly as practical and if defects are caused shall repair the same.

110.04. The Company shall, at its cost, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City 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 thereof, 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 existing facilities or equipment for any reason other than as specified above, or as the result of the initial request of a commercial or private developer, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment.

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 alternative location for the Company's facilities as part of its relocation request.

The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Prior to vacating a public right-of-way, the Company shall be provided an opportunity to secure an easement to allow it to operate and maintain its existing facilities.

110.05. Said Company, its successors and assigns, shall throughout the term of the franchise distribute to all consumers gas of good quality and shall furnish uninterrupted service, except as interruptible service may be specifically contracted for with consumers; provided, however, that any prevention of service caused by fire, act of God or unavoidable event or accident shall not be a breach of this condition if the Company resumes service as quickly as is reasonably practical after the happening of the act causing the interruption.

110.06. Repealed by Ordinance 468.

110.07. Repealed by Ordinance 468.

110.08. Repealed by Ordinance 468.

110.09. There is hereby imposed a franchise fee of four percent (4%) upon the gross revenue generated from sales of electricity by the Company within the corporate limits of the City. The Company shall begin collecting the franchise fee upon receipt of written approval of the required tax rider tariff from the Iowa Utilities Board.

The amount of the franchise fee shall be shown separately on the utility bill to each customer. The Company shall remit franchise fee receipts to the City no more frequently than on or before the last business day of the month following each calendar year quarter.

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. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of or individual customers the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information.

110.10. Repealed by Ordinance 468

110.11. Repealed by Ordinance 468

110.12. Repealed by Ordinance 468

110.13. Repealed by Ordinance 468

110.14. Repealed by Ordinance 468

110.15. Repealed by Ordinance 468

110.16. Repealed by Ordinance 468

110.17. That said franchise fee shall be in lieu of any other payments to the City for the Company's use of streets, avenues, alleys and public places in the said City and other administrative or regulatory costs with regard to said franchise; and said pipes, mains, and other conductor and appliances in, along and under the streets, avenues, alleys and public places in the said City for the purpose of distributing, supplying and selling gas to said City and the residents thereof and to persons and corporations beyond the limits thereof shall be exempt from any special tax, assessment, license or rental charge during the entire term of this ordinance.

110.18. The City shall not, pursuant to Chapter 480A.6 of the Code of Iowa, impose or charge right-of-way management fees upon the Company or fees for permits for Company construction, maintenance, repairs, excavation, pavement cutting or inspections of Company work sites and projects or related matters.

110.19. The franchise granted by this Ordinance shall not be exclusive.

110.20. The term of the franchise granted by this Ordinance and the rights granted thereunder shall continue for the period of twenty-five (25) years from and after its acceptance by the said Company, as herein provided.

110.21. The expense of the publication of this Ordinance shall be paid by the Company.

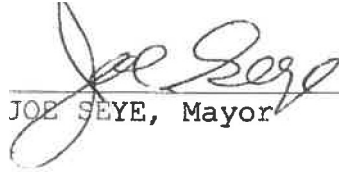
110.22. The franchise granted by this Ordinance shall be conditioned upon acceptance by the Company in writing. The acceptance shall be filed with the City Clerk within ninety (90) days from passage of this ordinance.

110.23. If any section or provision of this ordinance is held invalid by a court of competent jurisdiction, such holding shall not affect the validity of any other provisions of this ordinance which can be given effect without the invalid portion or portions and to this end each section and provision of this ordinance is severable.

110.24. This Ordinance sets forth and constitutes the entire agreement between the Company and the City 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 Ordinance shall supersede, abrogate and repeal the prior gas system ordinance between the Company and the City as of the date this 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

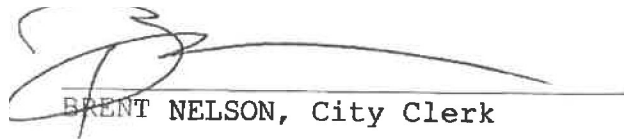
upon the Company, or which delay utility operations.

PASSED and ADOPTED by the Marengo City Council on 10th
day of June, 2013.



JOE SEVE, Mayor

Attest:



BRENT NELSON, City Clerk

(CITY SEAL)

EDITOR'S NOTE

Ordinance No. 434 (replacing Ordinance No. 251) renewing Natural gas franchise fees for the City was passed and adopted by the Council on June 10, 2013.

Ordinance No. 468 modifying Sections 6-16 of Ordinance No. 434 was passed by the Council on May 8, 2019.

Ordinance No. 515 modifying Section 9 of Ordinance 434 was passed by the Council on May 31, 2023.