

CHAPTER 115: ELECTRIC TRANSMISSION LINE FRANCHISE

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115.01 GRANT. Subject to the terms of this Agreement, there is hereby granted to the Company the right and non-exclusive franchise to acquire, construct, erect, maintain and operate in the City 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 streets, avenues, alleys and public places in the City; also the right to erect and maintain upon the streets, avenues, alleys and public places, transmission lines through the City of Robins, Linn County Iowa, for the period of twenty-five (25) years as qualified below; also the right of eminent domain as limited by Section 7 below and as provided in Section 364.2 of the Code of Iowa.

115.02 INDEMNIFICATION AND INSURANCE. The Facilities shall be placed and maintained so as not to unnecessarily interfere with the travel on the 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. The Company shall hold the City free and harmless from all claims, demands, losses, and damages arising from the negligent acts or omissions of the Company in the erection, operation or maintenance of the transmission system, including but not limited to judgments, court costs, fines, penalties, and reasonable attorney fees. Notwithstanding anything to the contrary, the Company shall not be liable to the City under any circumstances for consequential or indirect damages or for the negligent acts of the City or its officials, agents, employees and contractors.

The Company shall indemnify and defend City for, from and against any and all mechanic’s liens and other liens and encumbrances filed by any person claiming by, through or under Company and against all costs, expenses, losses and liabilities (including reasonable attorney’s fees) incurred by City in connection with any such lien or encumbrance or any action or proceeding brought thereon.

The Company shall maintain commercial general liability insurance coverage, or its equivalent, throughout the term of this franchise. Such insurance shall be comprehensive in nature, including, but not limited to, contractual liability. In addition, such insurance shall contain limits not less than \$2,000,000 combined single-limit person injury and property damage. The Company’s failure to meet this insurance requirement shall not relieve the Company of its responsibilities under this

franchise. Upon proof of financial responsibility to the reasonable satisfaction of the City, the Company may be allowed to self-insure the coverages indicated herein resulting from the negligent acts or omissions of the Company, the Company's agents or employees. The Company shall provide the City with certificates of insurance or a letter of self-insurance upon request.

The foregoing requirements of indemnification shall not be a waiver of any right that the City would have to assert defenses on its own behalf under state or federal law. The Company's indemnification obligations under this franchise shall survive the expiration, cancellation, or termination of this franchise in accordance with applicable statutes of limitation in force within the state of Iowa.

115.03 RELOCATION. Except as provided herein below, the Company shall, at its cost and expense, locate and relocate its Facilities in, on, over or under 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 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 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 duly 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 utilize reasonable efforts to assist Company in securing an easement or other similar rights to continue to operate and maintain its Facilities upon such relocation. 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 (for commercial or private purposes) are paid to the Company.

115.04 MODERN SYSTEM. The system authorized by this Ordinance shall be modern and up-to-date and shall be kept in a modern and up-to-date condition.

115.05 PRUNING. To promote public safety in proximity to its Facilities and to maintain electric reliability, the Company is authorized and empowered, at its expense, to prune or remove at Company expense any trees or shrubs or parts thereto extending into any street, alley, right-of-way 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 shall be completed in accordance with good utility practice. The removal of trees or pruning in public grounds other than public right-of-ways excluding emergency and outage situations shall require prior approval from the City. For scheduled tree trimming that is not associated with restoration of electric service, Company shall provide a one week notice to the City of the locations and specifics of scheduled tree trimming or pruning.

115.06 RIGHT-OF-WAY RESTORATION. Except for emergency purposes and when practical, Company shall via e-mail or other document, provide two (2) days advance notice of

construction or excavation in the public right-of way for preservation of emergency evacuation, traffic control, general oversight of construction, and excavation within the City. In making excavations in any streets, avenues, alleys and public places the Company shall not unreasonably obstruct the use of the streets, and shall replace the surface, restoring the pre-existing condition.

115.07 EMINENT DOMAIN. The power of eminent domain is withheld and reserved by the City, however in the event the Company demonstrates to the City it is necessary to acquire property through the condemnation process the City may acquire the property through its power of eminent domain as provided in Section 364.2 of the Code of Iowa and provide said property rights to the Company in return for the necessary financial compensation or the Company will request a temporary Grant from the City to exercise the power of eminent domain which will not be unreasonably withheld .

115.08 MAPPING. Upon reasonable request, the Company shall provide to the City, on a project specific basis, information indicating the horizontal location, relative to the boundaries of the right-of-way, of all equipment which it owns or over which it has control and which is located in the project right-of way. Mapping information provided to the City by the Company shall be in the format utilized by the Company and shall be for the exclusive use of the City in administering the use and occupancy of the public rights-of-way within the City. The Company shall submit to the City complete mapping data specific to particular projects. At the request of the City, mapping information will be reviewed with the City staff. As a condition of receiving such maps and information, the City agrees to enter into any confidentiality agreements reasonably requested by the Company.

115.09 ANNUAL PLANNING MEETING. The Company will, at the reasonable request of the City, attend an annual meeting with the City Planning and Zoning Commission, City staff, utility staff and other interested City entities to discuss annual and long-term construction planning for the Company and the City, tree trimming plans and other related items. This will not replace any periodic meetings needed on specific projects and issues.

115.10 EMERGENCY TRAINING, PARTICIPATION AND COMMUNICATION. The Company will, at the request of the City, annually participate in one emergency training event and other similar events as reasonably requested by the City. The Company and the City also agree to cooperate and maintain emergency contact procedures.

115.11 FUTURE AGREEMENTS, FUTURE DEVELOPMENTS. The Company, upon request of the City, shall explore with the City agreements that are mutually beneficial, and economically feasible to both parties, for interconnection of alternative energy electrical facilities and the use of such facilities.

The City agrees it will not permit any real estate developments in the City that would cause the Company's Facilities to violate the setback or safety requirements of the National Electric Safety Code or any law, regulation or ordinance of the State of Iowa, Linn County or the City.

115.12 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.

115.13 ABANDONED FACILITIES. The Company shall not be required to remove abandoned Facilities from the right of way if the act of removal causes degradation of the right of way, potential damage to other facilities, or if the Company Facilities may, at a reasonable future date, be placed back into service. The City may require the Company to demonstrate the potential for any of these circumstances.

115.14 NON-EXCLUSIVITY. The franchise granted by this Ordinance shall not be exclusive.

115.15 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.

115.16 TERM OF AGREEMENT. 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 Company, as herein provided. However, the City shall retain the right to terminate this right and franchise effective at the end of the tenth (10th), fifteenth (15th), and twentieth (20th) year anniversary of the Anniversary Date as defined within. In order to exercise this right to terminate the franchise granted to the Company, the City must give written notice to the Company no later than six (6) months prior to expiration of the respective Anniversary Date. The Anniversary Date shall be the date this franchise is published following signature by the Mayor.

115.17 NOTICE OF CONVEYANCES. The Company shall file in the office of the City Clerk written notice of any proposed sale, transfer, disposition or assignment of this franchise.

115.18 PUBLICATION EXPENSES. The expense of the publication of this Ordinance shall be paid by the Company.

115.19 REPEAL OF CONFLICTING ORDINANCES. All ordinances, or parts of ordinances, insofar as they are in direct conflict herewith, are hereby repealed.

115.20 ACCEPTANCE. 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 the passage of this Ordinance.

115.21 CLOSING. This Ordinance sets forth and constitutes the entire agreement between the Company and the City of Robins 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 any prior electric 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 that delay utility operations.

