

ORDINANCE NO. 48

AN ORDINANCE GRANTING A FRANCHISE TO IOWA-ILLINOIS GAS AND ELECTRIC COMPANY, ITS SUCCESSORS AND ASSIGNS, TO FURNISH AND SELL ELECTRICITY TO THE CITY OF UNIVERSITY HEIGHTS, IOWA, AND ITS INHABITANTS, AND TO ACQUIRE, CONSTRUCT, MAINTAIN, AND REPLACE IN THE STREETS, AVENUES, ALLEYS, BRIDGES, VIADUCTS AND PUBLIC GROUNDS OF UNIVERSITY HEIGHTS, IOWA, POLES, LINES, WIRES, CONDUITS, AND OTHER APPARATUS FOR THE PURPOSE OF FURNISHING AND SELLING ELECTRICITY FOR PUBLIC AND PRIVATE USE WITHIN AND WITHOUT SAID CITY, AND TO ACQUIRE, CONSTRUCT, MAINTAIN, AND OPERATE WITHIN SAID CITY, PLANTS AND OTHER FACILITIES FOR SAID PURPOSES.

BE IT ORDAINED by the City Council of the City of University Heights, Iowa :

Section I. There is hereby granted to Iowa-Illinois Gas and Electric Company, an Illinois corporation authorized to do business in the state of Iowa, hereinafter called the "Company," and its successors and assigns, the right and franchise to acquire, construct, erect, maintain and operate in the city of University Heights, Iowa, an electric light and power system including the right to erect and maintain the necessary poles, lines, wires, transmission lines, conduits and other appliances for the transmission and distribution of electric energy along, under and upon the streets, avenues, alleys and public places to serve customers within and without said city of University Heights, Iowa, for a period of twenty-five years from and after the effective date of this ordinance, and to furnish and sell electric energy to said city and its inhabitants.

Section 2. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 397 of the Code of Iowa 1973, and this franchise shall not be exclusive.

Section 3. The Company shall have the right to erect all necessary posts or poles and to place thereon the necessary wires, fixtures and accessories for the distribution of electric energy in and through said City, but all said posts and poles 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 been or may hereafter be located by authority of said city. The posts or poles and the wires attached to or placed upon them shall comply with the National Electrical Safety Code and the regulations of the Iowa State Commerce Commission regarding construction and clearance requirements. The Company is authorized and empowered to cut and trim in a careful and prudent manner, at its expense, any trees extending into any street, alley or public ground so as to prevent limbs or branches from

interfering with the wires of the Company. The obligation of this Company, however, shall not extend beyond trimming trees sufficiently to clear the electric wires.

Section 4. In making excavations in any streets, avenues, alleys and public places for the erection of poles and wires or other appliances, the Company shall not unnecessarily obstruct the use of the streets, and shall replace the surface, restoring the original condition as nearly as practicable.

Section 5. The Company, its successors and assigns, shall hold said city free and harmless from all damages arising on account of any negligence of said Company, its successors and assigns, in the erection, operation and maintenance of said system.

Section 6. The Company, its successors and assigns, shall extend its lines and wires to any part of said city, provided that said Company shall not be required to extend its lines and wires unless and until there be at least one consumer per 200 feet measured along such extension, which said consumer shall first agree in writing to use and pay for electric light and power furnished by said Company.

Section 7. The said Company, its successors and assigns, so long as it shall operate under the terms of this franchise shall furnish electric energy in sufficient quantities to supply the demands of said city and the inhabitants thereof. The energy furnished shall be of reasonably uniform voltage throughout the city and at all times up to the standard for efficient operation of lights, motors and appliances. The service shall be continued our twenty-four hour service, seven days in the week, unless the Company is prevented from doing so by fire, storms, acts of God, unavoidable accidents or casualties, and in such event service shall be resumed as quickly as is reasonably possible.

Section 8. The Company, its successors and assigns, is authorized to impose reasonable terms and conditions upon the furnishing of electric service and reasonable rules and regulations in the operation and conduct of its business, including without limitation requiring a reasonable deposit of any consumer as a condition of furnishing electric service to such consumer.

Section 9. All proper and necessary police regulations shall be adopted and enforced by the city of University Heights for the protection of the poles, posts, wires, lamps and other apparatus of the Company, its successors and assigns.

Section 10. Meters shall be tested periodically in accordance with rules and regulations approved by the Iowa State Commerce Commission. In the event any meter has an error in excess of two

per cent, adjustment shall be made in accordance with the regulations of the Commission now or hereafter in effect.

Section 11. This ordinance and the rights and privileges herein granted shall not become effective or binding until this ordinance shall have been submitted to and approved by a majority of the electors of the said city of University Heights voting at the next general or municipal election or at a special election called for that purpose. The cost and expense of the election relating to the franchise provided for herein shall be paid by the Company.

Section 12. The Company, its successors and assigns, within 30 days after the approval of this ordinance by a vote of the people, shall file in the office of the clerk of the City of University Heights its acceptance in writing of all the terms and provisions of this ordinance.

Section 13. All of the provisions of this franchise are subject to the powers and authority granted to the Iowa State Commerce Commission in Chapter 490A of the Iowa Code and any provisions hereof in conflict with the powers and regulations of the said Commission are hereby declared void and of no effect, without affecting the legality of the remaining provisions of this ordinance.

Section 14. Upon this ordinance becoming effective, Ordinance No. 5 passed by the Town Council on January 29, 1951, is hereby repealed. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 15. This ordinance shall become effective upon passage by the City Council, the approval of the voters as provided in Section II hereof, and the acceptance by the Company as provided in Section 12 hereof.

PASSED AND APPROVED this 12<sup>th</sup> day of March, 1974.