

ORDINANCE NO. 15,243

AN ORDINANCE amending the franchise heretofore granted to MidAmerican Energy Company for the production, distribution, transmission and sale of electric energy and amending the franchise heretofore granted to MidAmerican Energy Company for the production, distribution, transmission and sale of gas to make textual clarifications to the franchise fee.

WITNESSETH:

WHEREAS, pursuant to Ordinance No. 14,341, the City of Des Moines granted unto MidAmerican Energy Company an extended and amended franchise for the production, distribution, transmission and sale of electric energy and pursuant to Ordinance No. 14,342 the City of Des Moines granted unto MidAmerican Energy Company an extended and amended franchise for the production, distribution, transmission and sale of gas; and

WHEREAS, the City Council has determined that it would be in the best interests of the City of Des Moines and its residents to amend said franchises to make textual clarifications to the franchise fee.

NOW THEREFORE, BE IT ORDAINED, by the City Council of the City of Des Moines, Iowa:

Section 1. That the electric energy franchise granted to MidAmerican Energy Company by Ordinance No. 14,341 is hereby amended by amending Section 6 relating to textual clarifications of the franchise fee, as follows:

Section 6. Franchise fee

6. In consideration of the right to construct and maintain such facilities and equipment along, upon, across and under the streets, highways, avenues, alleys, bridges and public places of the city there is hereby imposed upon the Company a franchise fee in an amount equal to five percent (5%) of the gross revenue of the Company, minus uncollectible accounts, derived from the distribution, transmission and retail sale of electric energy by the Company to customers within the current or future corporate limits of the city (excluding, however, the sale of electric energy to the city) commencing with gross receipts received on or after September 1, 2004.

The obligation to pay the fee imposed by this section is modified if:

1. The City permits any other person to sell electrical energy to City consumers and pay a franchise fee or its lawful equivalent at a lesser rate than provided in this section, in which case the Company shall pay at the lesser rate; or

2. If the City adds additional territory by annexation or consolidation and is unable to lawfully impose the franchise fee upon any person selling electrical energy to consumers within the additional territory, in which case the franchise fee on the revenue from sales by the Company in the additional territory shall be equal to that of the lowest fee being paid by any other person selling electrical energy within the additional area.

Section 2. That the gas franchise granted to MidAmerican Energy Company by Ordinance No. 14,342 is hereby amended by amending Section 6 thereof relating to textual clarifications of the franchise fee, as follows:

Section 6. Franchise fee

6. In consideration of the right to construct and maintain such facilities and equipment along, upon, across and under the streets, highways, avenues, alleys, bridges and public places of the city there is hereby imposed upon the Company a franchise fee in an amount equal to five percent (5%) of the gross revenue of the Company, minus uncollectible accounts, derived from the distribution, transmission and retail sale of gas by the Company to customers within the current or future corporate limits of the city (excluding, however, the sale of gas to the city) commencing with gross receipts received on or after September 1, 2004.

With respect to the distribution of gas other than by sale thereof to a purchaser from the Company, the percentage of gross revenue stated above shall be applied to the full cost of gas delivered within the City, including all costs of acquisition, ownership and transmission thereof, wherever incurred. In determining the amount of the fee, the Company may presume that the cost of gas is the same as if the gas were sold by the Company, unless a different cost is provided.

The obligation to pay the fee imposed by this section is modified if:

1. The City permits any other person to sell gas to City consumers and pay a franchise fee or its lawful equivalent at a lesser rate than provided in this section, in which case the Company shall pay at the lesser rate; or

2. If the City adds additional territory by annexation or consolidation and is unable to lawfully impose the franchise fee upon any person selling gas to consumers within the additional territory, in which case the franchise fee on the revenue from sales by the Company in the additional territory shall be equal to that of the lowest fee being paid by any other person selling gas within the additional area.

Section 3. All other terms and conditions of the electrical energy franchise contained in Ordinance No. 14,341 and of the gas franchise contained in Ordinance No. 14,342 not otherwise amended herein shall remain in full force and effect.

Section 4. This ordinance shall be in full force and effect from and after its passage and publication. In the event a valid petition requesting submission of this ordinance to the voters is accepted for timely filing with the City of Des Moines, this ordinance shall be in full force and effect only after approval at an election by an affirmative majority vote as certified by the county election commissioner all as provided by law.

Passed December 9, 2013

Signed December 9, 2013

T. M. Franklin Cownie, Mayor

Attest:

I, Diane Rauh, City Clerk of the City of Des Moines, Iowa, hereby certify that the above and foregoing is a true copy of an ordinance, passed by the City Council of said City at a meeting held December 9, 2013, signed by the Mayor on December 9, 2013, and published as provided by law in the Business Record on December 27, 2013. Authorized by publication No. 8751,

Diane Rauh, City Clerk