

22-0653

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**Date** April 27, 2022

**SET HEARING FOR APPROVAL OF EXTENDING AND AMENDING THE FRANCHISE HERETOFORE GRANTED TO MIDWEST GAS COMPANY, PREDECESSOR IN INTEREST TO MIDAMERICAN ENERGY COMPANY, AND GRANTING UNTIL MIDAMERICAN ENERGY COMPANY, ITS SUCCESSORS AND ASSIGNS, THE RIGHT, FRANCHISE AND PRIVILEGE FOR A PERIOD OF THIRTEEN (13) YEARS FROM AND AFTER THE EFFECTIVE DATE HEREOF, TO ACQUIRE, CONSTRUCT, OPERATE AND MAINTAIN IN THE CITY OF DES MOINES, IOWA, THE NECESSARY FACILITIES FOR THE PRODUCTION, DISTRIBUTION, TRANSMISSION AND SALE OF GAS FOR PUBLIC AND PRIVATE USE; AND TO USE AND OCCUPY THE PUBLIC STREETS, HIGHWAYS, AVENUES, ALLEYS, BRIDGES AND PUBLIC PLACES FOR SUCH PURPOSES; PROVIDING FOR THE IMPOSITION AND COLLECTION OF A FRANCHISE FEE IN CONSIDERATION THEREOF; AND PRESCRIBING THE TERMS AND CONDITIONS THEREOF.**

WHEREAS, pursuant to Ordinance No. 6281 adopted by the city council on May 4, 1987 and ratified by the voters at a special election on June 9, 1987, the City of Des Moines did grant unto Midwest Gas Company for a period of 25 years from and after the effective date thereof, a franchise to acquire, construct, operate and maintain in the City of Des Moines, Iowa, the necessary facilities for the production, distribution, transmission and sale of gas for public and private use; and to use and occupy the public streets, highways, avenues, alleys, bridges and public places for such purposes; providing for the imposition and collection of a franchise fee from its customers in consideration thereof; and prescribing the terms and conditions thereof; and

WHEREAS, pursuant to Ordinance No. 14,342 adopted by the city council on July 12, 2004, the City of Des Moines did extend the franchise previously granted to MidAmerican Energy Company, the successor to Midwest Gas Company, for a period of 10 years from June 15, 2012 the right, franchise and privilege to acquire, construct, operate and maintain in the City of Des Moines, Iowa, the necessary facilities for the production, distribution, transmission and sale of gas for public and private use; and to use and occupy the public streets, highways, avenues, alleys, bridges and public places for such purposes; providing for the imposition and collection of a franchise fee from its customers in consideration thereof; and prescribing the terms and conditions thereof; and,

WHEREAS, this City Council has determined that it would be in the best interests of the City of Des Moines and its residents to consider said franchise and to consider extending the term thereof for a period of thirteen years, all as provided in the ordinance.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Des Moines, Iowa, that:

1. That the City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance extending and amending the franchise heretofore granted to Midwest Gas Company, to acquire, construct, operate and maintain in the City of Des Moines, Iowa and assigns, the right, franchise and privilege for a period of thirteen years from and after the effective date, to acquire, construct, operate and maintain in the City of Des Moines, Iowa, the necessary facilities for the production, distribution, transmission and sale

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of gas for public and private use; and to use and occupy the public streets, highways, avenues, alleys, bridges and public places for such purposes; providing for the imposition and collection of a franchise fee in consideration thereof; and prescribing the terms and conditions thereof.

2. That the meeting of the City Council at which the adoption of said ordinance is to be considered shall be on May 9, 2022, said meeting to be held at 5:00 p.m., in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa.

In addition, the City Council shall receive written views, comments, objections and arguments from any resident or taxpayer of the City that are received by the City Clerk prior to 5:00 p.m. May 5, 2022 (City Clerk's Office, Des Moines City Hall, 400 Robert D. Ray Drive, 1st Floor, Des Moines, IA 50309; Email [cityclerk@dmgov.org](mailto:cityclerk@dmgov.org)).

Please check the posted agenda in advance of the May 9, 2022, meeting for any update on the manner in which the public hearing will be conducted to comply with COVID-19 social distancing and safety guidelines.

3. That the City Clerk is hereby authorized and directed to publish notice of said proposal in the form hereto attached all in accordance with §362.3 of the Iowa Code.

Moved by Sheumaker to adopt. Second by Gatto.

APPROVED AS TO FORM:

*/s/ Thomas G. Fisher Jr.*

Thomas G. Fisher Jr., Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				✓
BOESEN	✓			
GATTO	✓			
MANDELBAUM	✓			
SHEUMAKER	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	6			
MOTION CARRIED			APPROVED	

*John Fubelli*  
MAYOR PRO TEM

**CERTIFICATE**

I, P. Kay Cmelik, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

*P. Kay Cmelik*  
City Clerk