

ORDINANCE NO. 1129

AN ORDINANCE REPEALING AND REPLACING SECTION 111.14 OF THE JOHNSTON MUNICIPAL CODE FOR THE PURPOSE OF INCREASING THE ELECTRIC FRANCHISE FEE FROM 1% TO 5%

WHEREAS, the City of Johnston adopted a franchise ordinance in 2023 granting MidAmerican Energy Company the right and franchise to acquire, construct, erect, maintain and operate in the City of Johnston, Iowa, a system for the transmission and distribution of electric energy along, under, over and upon the right-of-way, streets, avenues, alleys and public places (excluding parks) to serve customers within and without the City, and to furnish and sell electric energy to the City and its inhabitants; and

WHEREAS, the franchise is for a term of 25 years and imposed a franchise fee of 1%; and

WHEREAS, the City now desires to increase the franchise fee to 5%.

BE IT ENACTED by the City Council of the City of Johnston, Iowa:

SECTION 1. Section 111.14 of the Johnston Municipal Code is hereby repealed and replaced as follows:

A franchise fee of one percent (1%) is imposed upon the gross revenue generated from the sales of electricity by the Company within the corporate limits of the city on all accounts. Effective June 1, 2025, a franchise fee of five percent (5%) is imposed upon the gross revenue generated from the sales of electricity by the Company within the corporate limits of the city on all accounts. For purposes of this section gross revenue shall include in addition to revenue from direct sales of electricity to customers, the gross revenue derived by the company from the transmission, transportation or distribution of electricity sold to customers by suppliers other than the Company through the Company's distribution system within the City. In determining the amount of the fee, the Company may presume that the customer's cost of electricity is the same as if the electricity were sold by the Company, unless a different cost is provided.

A. The franchise fee shall be remitted by the Company to the City on or before the last business day of the calendar quarter following the close of the calendar quarter in which the franchise fee is charged.

B. City has the right to modify the level of franchise fees imposed from time to time, but no more often than every 12 months.

C. The Company will commence collecting franchise fees on or before the first Company billing cycle of the first calendar month following ninety (90) days of receipt of information required of the City to implement the franchise fee, including the City's documentation of customer classes subject to or exempted from City-imposed franchise fee.

D. The City shall be solely responsible for identifying customer classes subject to or exempt from paying the City imposed franchise fee. The Company shall have no obligation to collect franchise fees from customers in annexed areas until and unless such ordinances or resolutions have been provided to the Company by certified mail. The Company shall commence collecting franchise fees in the annexed areas no sooner than sixty (60) days after receiving annexation ordinances or resolutions from the City.

E. 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.


SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged 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.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed and approved by the City Council the 18th day of February, 2025.

CITY OF JOHNSTON, IOWA


Paula Dierenfeld, Mayor

ATTEST:


Cyndee Rhames, City Clerk