

FRANCHISES AND OTHER SERVICES

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CHAPTER 110

NATURAL GAS UTILITY

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110.01 SERVICE RULES AND REGULATIONS. The rules and regulations for gas service are contained in the "Municipal Gas Utility of the City of Rolfe Tariff," on file with the Utilities Division of the Iowa Department of Commerce. Also, an official copy of the rules and regulations as adopted is now on file in the office of the Clerk. The rules and regulations contained therein shall apply to all users of the municipal gas system.

110.02 RATES. The rates for gas service shall be as follows:

1. Residential/Commercial:
Meter Rate \$6.00
Purchase gas adjustment
2. Industrial Interruptible:
Meter Rate \$40.00
Purchase gas adjustment
3. Government/School:
Meter Rate \$6.00
Purchase gas adjustment

110.03 AUTOMATIC RATE ADJUSTMENT. Rates for service provided above shall be adjusted in the manner and method established for sliding scale or automatic adjustment of rates and charges as provided in the tariff on file with the Utilities Division of the Iowa Department of Commerce. Adjustments made hereunder shall be approved by resolution of the Council, which resolution shall be set out in the published proceedings of the Council.

110.04 CUSTOMER CONNECTION FEE. There shall be required from every customer without a proven positive payment history with the City a non-refundable hook-up fee for natural gas in accordance with the Schedule of Fees established by the Council. Existing utility customers with no delinquencies during the past consecutive twelve-month period are not required to pay a connection fee if the service is already connected at the new location. When natural gas connection is required, a non-refundable connection fee in the amount specified in the Schedule of Fees will be required. Customers requesting a voluntary disconnection of natural gas services will pay a nonrefundable reconnection fee.

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CHAPTER 111

CABLE TELEVISION FRANCHISE

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111.01 TERMS OF FRANCHISE. Northwest Communications Inc., its successors and assignees are hereby granted a renewal of their non-exclusive right, franchise and authority for a period of twenty (20) years to erect, maintain, and operate a Cable System in Rolfe, and to sell and supply individuals, firms and corporations within the corporate limits of the City of Rolfe, cable service and other services in, along, among, upon, across, above, over, under, or in any manner connected with public ways within the service areas and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain or retain in, on, over, under, upon, across, or along any public way and all extensions thereof and additions thereto, such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments and other related property or equipment as may be necessary or appurtenant to the cable system, subject to the conditions and restrictions provided and subject to this Cable Franchise Agreement Ordinance and applicable law of the State of Iowa and United States of America.

111.02 EFFECTIVE DATE OF FRANCHISE. This Franchise and all rights hereunder shall become effective after final passage and publications and subject to Grantee's acceptance thereof. Within sixty (60) days after final passage and adoption of this franchise renewal, Northwest Communication Inc., shall file with the Clerk an acceptance in writing of this franchise renewal and pay all publication costs as required under the laws of the State of Iowa.

111.03 GEOGRAPHICAL COVERAGE. The Grantee shall provide a Cable System in such manner as to pass and provide adequate tap off facilities for every single family dwelling unit, multiple dwelling unit or other residential unit and commercial, and industrial establishments within the service area except as identified as exempt in Appendix A, attached hereto and incorporated herein.

111.04 NOTIFICATION TO GRANTOR OF SERVICE INTERRUPTIONS. The Grantee shall promptly notify the Grantor, in writing, or, if appropriate, by oral communication, of any significant interruption in the operation of the system. For the purposes of this section, a "significant interruption in the operation of the system" shall mean any interruption of audio or video on one (1) or more channels a duration of at least four (4) hours to at least five (5) percent of the subscribers.

111.05 SUBSCRIBER CREDIT FOR SERVICE INTERRUPTIONS. For interruption of subscriber service affecting all channels for over (24) hours, in any one month period, the Grantee shall provide, at the subscriber request, a credit of one-thirtieth (1/30) of one month's fees for affected service for the 24-hour period service is interrupted.

111.06 SYSTEM DESIGN.

1. As of the effective date of this franchise, the Grantee will make available minimum of 30 channels of programming on the cable system.
2. The System will be designed so as to be two-way capable, and will be constructed in a manner that will meet or exceed FCC specifications.
3. The Grantee shall provide "upstream capability" to allow live broadcast on or before June 1, 2003 on channel 3 or alternate channel from the following locations - Rolfe City Hall, Community Center, and PACS Rolfe Center.
4. The Grantee will provide one channel to be used for public information and governmental access. The Grantee shall originate this channel from a location that is readily accessible by the citizens, businesses, and public entities of Rolfe, Iowa and purchase the necessary equipment to receive and broadcast signals sent by the City of Rolfe. The City of Rolfe shall be responsible for production equipment to originate any live broadcasts.
5. The system shall be constructed in a manner that allows for as much of the system to be underground as possible. Where the use of poles is required the Grantee shall be required to enter into negotiations with current pole owners for use of said poles whenever practical and to only install new poles after providing notice to the Grantor and obtaining the proper permits and approval.
6. All rates and charges exacted by the Grantee shall be fair, reasonable, and just.
7. In the maintenance and operation of its television, transmission and distribution system in the streets, alleys and other public places, and in the course of any new construction or addition to its facilities, the Company shall proceed so as to cause the least possible inconvenience to the general public. Any opening or obstruction in the streets made by the Company in the course of its operations, shall be guarded and protected at all times by the placement of adequate barriers, fences, or boardings, the bounds of which during periods of dusk and darkness shall be clearly designated by amber warning lights.
8. Whenever the Company shall take up or disturb any pavement sidewalk, or other improvement of any street, avenue, alley or other public place, the same shall be replaced and the surface restored in as good a condition as before entry within forty-eight (48) hours after completion of the Company's work. Upon the failure of the Company to make such restoration within such time, or to begin such restoration within such time, if the restoration cannot be made within such time or upon the Company's delay of more than twenty-four (24) hours in the continuation of a restoration begun, the City may serve upon the Company notice of the City's intent to cause the restoration to be made; and unless the Company within twenty-four (24) hours after receipt of such notice begins or resumes the restoration, the City may cause the proper restoration to be made, including the removal of excess dirt, and the expenses of same shall be paid by the Company upon demand by the City. (Grantee shall be exempt from this provision during the upgrade.)
9. The Company shall at all times comply with any and all rules and regulations which the City has made or may make applying to the public generally with reference to the removal of replacement of pavements and to excavations in streets and other

public places, not inconsistent with their use for the purposes contemplated in this Ordinance.

10. The Company shall maintain its attachments on poles, if any, that the City now uses or has been authorized by other franchises now in force or hereafter enacted to use, in such manner that it will not interfere with the use of such poles by the City.

11. The antenna and receiving and maintenance equipment shall be such that no objectionable intermodulation distortion will occur.

12. The Company shall indemnify and hold the City harmless from any and all actions, causes of action or damages caused by the Company's own wires, appurtenances and fixtures located either above or below ground level, and the City shall hold the Company harmless from any and all actions, cause of action or damage caused by the placing of the City's wires or appurtenances either above or below ground level. Proper regard shall be given to all existing safety rules governing construction and maintenance in effect at the time of construction.

13. The Company shall grant to the City joint use of any and all poles owned by it for any proper municipal purpose acceptable to the Company and under such arrangements as may be mutually agreed upon, insofar as may be done without interfering with the free use and enjoyment of the Company's own wires and fixtures, and the City shall hold the Company harmless from any and all actions, causes of action, or damage caused by the placing of the City's wires or appurtenances upon the poles of the Company. Proper regard shall be given to all existing safety rules governing construction and maintenance in effect at the time of construction.

14. Upon termination or forfeiture of this Franchise in accordance with any of its terms, the Company shall, within a reasonable time, remove its cables, wires, and appliances from the City's streets, lanes, avenues, sidewalks, alleys, bridges, highways, and other public places within the City and subsequent additions thereto.

15. This Ordinance shall in no way require the City or any of the inhabitants thereof to use the service provided by the Company but the same shall be entirely voluntary and the City and the inhabitants thereof may or may not avail themselves of this service as they see fit.

16. This Ordinance shall in no way affect existing television arials or antennas, or any rights thereto, of the inhabitants of the City.

111.07 SYSTEM UPGRADE. The Grantee agrees to complete a system upgrade as defined by this Franchise Agreement and described in Appendix B attached hereto and incorporated herein, within twenty-four (24) months of the effective date of this Franchise Agreement.

1. System Upgrade shall be defined as an increase in system capacity to no less than 800 MHz, and shall include complete change out of amplifiers and change out of passive devices, and coaxial cable as necessary to arrive at the minimum capacity described herein. Grantee shall incorporate fiber optic technology as a part of the upgrade as appropriate in its sole discretion.

2. Construction Status. Grantee shall provide periodic status reports on the progress of any upgrade.

3. Compliance with Applicable Law. In constructing, operating and maintaining the system, Grantee shall at all times comply with the Ordinance and all applicable laws and regulations.
4. Drop Audit. Two years after the completion of the upgrade, Grantee shall have audited and tested ninety-five (95) percent of the subscribers drops in the City and all drops not meeting the standards of the National Electric Code shall be replaced when found to be substandard. The system shall be designed to allow each subscriber drop to provide service to four (4) television outlets.
5. Equipment Quality. Equipment used for the distribution system, head end and reception facilities shall be of good and durable quality and be serviced and repaired on a regular basis.
6. Converters. In the event that special additional or customized equipment is requested by any subscriber or is required to provide service to any subscriber, Grantee may charge the subscriber for such equipment subject to applicable federal law and regulations.
7. Completion. Grantee shall provide written notice to the Grantor verifying completion of the system upgrade and provide "as built" drawings of the new system.

111.08 EMERGENCY ALERT. The Grantee shall continue to provide and maintain in good working order an emergency alert system pursuant to the Ordinance and FCC Regulations. In the event that the FCC discontinues regulation of emergency alert systems, the Grantee shall continue to provide an Emergency Alert System at least as capable as that provided for in current regulations.

111.09 COMMUNITY PROGRAMMING. Grantee shall provide the Grantor and PAC, Rolfe Center with advisory and technical assistance in the operating of any cable related activities within its expertise.

111.10 SERVICE TO PUBLIC BUILDINGS. The Grantee shall upon request, provide without charge, one outlet of basic service to public buildings which shall include, but are not limited to, the following locations on Appendix C attached hereto and incorporated herein. Any additional locations other than those listed on Appendix C, must be within 500 feet of the Grantee's cable system. Public buildings not currently served by cable but listed in appendix C shall have cable installed during the system upgrade. The one outlet shall not be used to sell or further distribute services in or throughout such buildings. Users of such outlets shall hold the Grantee harmless from any and all liability or claims arising out of their use of such outlets, including but not limited to, those arising from copyright liability. If additional outlets are provided to such buildings, the building owner shall pay the fees for labor and materials only.

111.11 SERVICE AREA.

1. Service to Potential Subscribers. Grantee shall offer cable television residential service to all areas of the City which are in the corporate limits of the City of Rolfe on the effective date of this Franchise that meet or exceed the density requirements as stated in subsection 2 of this Ordinance.
2. Extensions of Service. The Grantee shall, at its expense, promptly extend its system to have service available to all residents of:

A. Newly annexed areas to the City not then served by a Cable System where the average density is at least thirty (30) dwelling units per lineal mile of proposed trunk and feeder cable route.

B. New housing areas developed within the City limits, providing the new areas developed meet the requirements of paragraph A of this subsection.

C. Any new single family dwelling unit, multiple dwelling units or other residential unit or commercial establishment within one hundred twenty-five (125) feet of existing distribution system in the City shall be extended cable simultaneously, when practical, with electric power and telephone utilities, unless such areas are exempted.

111.12 FRANCHISE NONEXCLUSIVE. Consistent with the requirements of the Ordinance, this Franchise shall not be construed as any limitation upon the right of the Grantor to grant to other persons rights, privileges, or authorities similar to the rights, privileges, and authorities herein set forth, in the same or other streets, alleys, or other public ways or public places. The Grantor specifically reserves the right to grant Franchises for a Cable System as it deems appropriate

111.13 POLICE POWERS. In accepting this Franchise, Grantee acknowledges that its rights hereunder are subject to the police powers of the Grantor to adopt and enforce general ordinances necessary for the safety and welfare of the public and it agrees to comply with all applicable general laws and ordinances enacted by the Grantor pursuant to such powers.

111.14 TRANSFER OF FRANCHISE. The Grantee's right, title, or interest in the franchise shall not be sold, transferred, assigned, or otherwise encumbered, other than to an entity, controlling, controlled by, or under common control with the Grantee, without the prior consent of the Franchising Authority. Such consent shall not be unreasonably withheld. No such consent shall be required, however, for a transfer in trust by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise in order to secure indebtedness. Within 60 days of receiving the request for transfer, the Franchising Authority shall in accordance with FCC rules and regulations, notify the Grantee in writing of the information it requires to determine the legal, financial and technical qualifications of the transferee.

111.15 EQUAL PROTECTION. In the event the Franchising Authority enters into a franchise, permit or license, of any kind with any other person or entity other than the Grantee to enter into the Franchising Authority's streets and public ways for the purpose of constructing or operating a cable system or providing cable service to any part of the service area, the material provisions thereof shall be reasonably comparable to those contained herein, in order that one operator not be granted an unfair competitive advantage over another, and to provide all parties equal protection under the law.

111.16 NOTICES. Unless expressly otherwise agreed between the parties, every notice or response required by this Franchise to be served upon the Franchising Authority or the Grantee shall be in writing, and shall be deemed to have been duly given to the required party five business days after having been posted in a properly sealed and correctly addressed envelope when hand delivered or sent by certified or registered mail, postage prepaid. The notices or responses to the Franchising Authority shall be addressed as follows:

City Clerk
City of Rolfe
Rolfe, Iowa 50581

The notice or responses to the Grantee shall be addressed as follows:

Northwest Communications Inc.
844 Wood Street
Havelock, Iowa 50546

The Franchising Authority and the Grantee may designate such other address or addresses from time to time by giving notice to the other.

111.17 ENTIRE AGREEMENT. This Franchise constitutes the entire agreement between the parties and supersedes any and all previous agreements of whatever nature between the parties with respect to the subject matter. This Franchise Agreement shall not be changed, amended or supplemented except by an agreement in writing signed by both parties. In the event of a conflict between this Franchise Agreement and the Ordinance or any other enabling ordinance, law, or regulation in effect at the time of this Agreement or thereafter, the terms and conditions of this Franchise Agreement shall be controlling, unless otherwise contrary to State or Federal law. Franchising Authority may, from time to time, amend the Ordinance pursuant to its lawful police powers; provided however, such amendments shall not serve to impair the rights nor increase the obligations of the Grantee pursuant to this Franchise except if any said amendments are required by any federal or state law.

EDITOR'S NOTE

Ordinance No. 107 adopting a cable TV franchise for the City was passed and adopted on September 7, 1977. Voters approved the franchise at an election held on November 8, 1977. The company accepted the franchise on November 8, 1977. This franchise renewal (Ordinance No. 149) was awarded by the City Council on October 9, 2002, and was published as required on October 30, 2002. Therefore, this franchise renewal shall expire on October 30, 2022. Northwest Communications, Inc. accepted the franchise agreement on November 20, 2002.

APPENDIX A

All areas used for the production of agricultural products within the corporate limits of the City of Rolfe and any annexed areas that may be incorporated in the future. Such annexed areas will be subject to density provisions provided for in this Ordinance.

Areas North of Pilot Creek not currently served by cable television as of the date of this Ordinance.

APPENDIX B

Narrative Description of System Upgrade

Northwest Communications Inc. will sweep test 10 percent of the passive portion of the cable system to determine bandwidth limits of existing cable and passive devices. If it is determined that a certain type or types of passive devices or cables will not pass 800 MHz or greater, they will all be replaced during the upgrade project.

Additionally the upgrade project will consist of replacing all existing active devices (Amplifiers and Line Extenders) with new actives capable of passing 800 MHz with sufficient gain to achieve Northwest Communications Inc. designed specifications. Upon completion of the active device change out, the system will be sweep tested to ensure that all cables and passive devices incapable of passing 800 MHz have been repaired or replaced and to optimize the performance of the cable system. The upgrade will be performed in such a manner to minimize disruption of service to existing customers.

APPENDIX C

Public Buildings Receiving Free Basic Cable Service

1. City Hall/Community Center/Library
2. Fire Station
3. Street Department Building
4. Water Treatment Plant
5. Pocahontas Area Community School-Rolfe Center

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