



## Ames Natural Gas Franchise – Eminent Domain FACT SHEET

### OVERVIEW

- Cities have eminent domain rights.
- Cities have the right to extend those rights of eminent domain as part of a franchise ordinance with a gas utility such as IPL. (Iowa Code 364.2 (4) (e) Vesting of Power Franchises).
- IPL's right of eminent domain would be subject to the same requirements and limitations as any other condemnation, including, but not limited to, the requirement that eminent domain can only be used when it is in the public interest. (As granted in Chapters 6A and 6B of the Iowa Code).
- IPL's use of eminent domain within a franchised community is rare. In the 10-plus years of Alliant Energy's existence, it has never been used.
- Since the creation of Alliant Energy, more than 330 municipal franchises have been granted. Every one of those franchises has included rights of eminent domain.

### QUESTIONS AND ANSWERS

#### **Q: WHY IS IPL REQUESTING TO HAVE EMINENT DOMAIN RIGHTS IN ITS NEW NATURAL GAS FRANCHISE?**

- As evidenced by our long record of avoiding eminent domain cases, our goal is to fairly negotiate and compensate land-owners when we need an easement to operate our natural gas system.
- The right of eminent domain is a protection for our natural gas customers. Eminent domain would be used only as a last resort.
- In the event a decision is made to acquire land for utility use by eminent domain, IPL will attempt to minimize the taking and the impact to the land owner.
- In most cases, IPL would need eminent domain to acquire utility easements that would allow us to install or access our natural gas equipment – particularly in older, developed neighborhoods where right-of-way is limited. Again, we do not see that as a common occurrence and our first priority will be to locate within the right of way or to negotiate a private easement mutually agreeable to the landowner and IPL.

- Eminent Domain is needed to be sure a landowner does not try to force us out of an easement or require a payment well above fair market value to maintain our equipment through their property.

**Q: EMINENT DOMAIN HAS MANY NEGATIVE CONNOTATIONS, HOW IS THIS DIFFERENT FROM SOME OF THE OTHER CASES THAT HAVE RECEIVED MEDIA COVERAGE?**

- Unlike some well-known national and Iowa eminent domain issues, where eminent domain was used to buy up property for malls, big-box stores or other types of development under the umbrella of “economic development,” our need for eminent domain is significantly different.
- When we need easements for land, they are normally small strips of land and, in most cases, the land would still be available for use as long as safety and access requirements are maintained.
- Historically, utilities have used eminent domain in franchised cities when a property owner threatens to take away previously established access to our system, rather than to acquire new land for system expansion.

**Q: HOW OFTEN DOES IPL USE ITS EMINENT DOMAIN RIGHTS?**

- IPL’s use of eminent domain within a franchised community is rare. In the 10-plus years of Alliant Energy’s existence, it has never been used.
- We’re aware of only two times it was utilized by predecessor companies. In both cases, the utility had existing equipment installed. The landowner attempted to require us to remove those existing facilities risking customer safety and reliability. The owners of the property were requesting payment far above fair market costs for an easement. Despite arguments that the facilities had been on the property for more than 10 years, and therefore were subject to prescriptive easement rights, we chose to go through the eminent domain process and pay the fair market value for recorded easement rights.
- As evidenced by our long record of avoiding eminent domain cases, our goal is to fairly negotiate and compensate land-owners when we need an easement to operate our system.

**Q: HAVE OTHER COMMUNITIES HAVE GRANTED THIS RIGHT TO IPL?**

- The request to include eminent domain in our new franchise language with Ames is standard policy. Since the creation of Alliant Energy, more than 330 municipal franchises have been granted. Every one of those franchises has included rights of eminent domain which has been agreed to by the communities.



# Ames Natural Gas Franchise Agreement

## FACT SHEET

### OVERVIEW

- A franchise is a legal contract, in the form of an ordinance, between a community and a utility.
- The agreement allows the utility to construct, maintain and operate its system within city streets, alleys and other rights of way.
- The utility agrees to provide safe and reliable service at a competitive cost.
- The Code of Iowa carefully defines the conditions, requirements and limitations imposed upon a utility conducting its business under a franchise agreement.
- A franchise agreement is approved through the normal city ordinance process, which includes public notification, a public hearing and three city council readings.
- A franchise agreement is specifically focused on use of right-of-way, and not on other land use or ownership within a community.

### QUESTIONS AND ANSWERS

#### **Q: WHAT ARE THE ADVANTAGES OF A FRANCHISE AGREEMENT FOR THE CITIZENS OF AMES?**

- **Indemnification**

Due to the nature of operating a natural gas distribution system, significant damages can result from incorrect actions by those maintaining and operating the system. In today's litigious society, such an event would likely result in legal action against both the City and the utility. Our franchise specifically creates a contractual obligation for Alliant Energy to protect the City of Ames through indemnification for acts and omissions by the company, its employees and its contractors.
- **Relocation of services for road improvements**

If the city is planning to widen or improve streets and alleyways, it's the general practice for Alliant Energy to relocate its assets in city rights-of-way at no charge to a community with a valid franchise agreement. We will consult with the city and relocate

equipment to complement the road improvement project and maintain system reliability. When a valid franchise is not in place, communities pay the costs of relocating equipment for improvement projects.

➤ **Partnership programs**

Alliant Energy has several partnership programs which are made available to franchised communities such as economic development assistance, corporate contributions and in-kind donation opportunities.

➤ **System investment and long-term planning**

Alliant Energy will maintain the current utility system in your community, keeping it modern and up-to-date with sufficient capacity to supply the community's existing and future energy demands. The long-term nature of a franchise allows the utility to make long-term system plans including capacity expansions, safety improvements and system replacement.

➤ **Franchise Fee**

Alliant Energy's franchise agreement includes language that is consistent with recently passed state legislation allowing cities to collect franchise fees. This language provides an option to the City Council to set a franchise fee, by way of ordinance, that allows for cost recovery for public infrastructure and improvements.

**Q: WHAT ARE THE ADVANTAGES OF A FRANCHISE FOR ALLIANT ENERGY?**

- Franchise agreements are the only method authorized by state law for granting Alliant Energy the right to utilize the public right-of-way in a city for our natural gas distribution system.
- Alliant Energy requires franchise agreements in the incorporated cities it serves for three critical reasons: Regulatory, financial and investments.
  - Regulatory
    - As an investor-owned utility in Iowa, we are governed by the Iowa Utilities Board (IUB). In the case of natural gas, the market in Iowa is deregulated and service territories are not defined or governed by the IUB. However, the IUB does define and regulate Alliant Energy's natural gas rates, safety standards and service reliability.
    - The Iowa Legislature has set the parameters of franchises in the Code of Iowa, specifically for the term of 25 years to allow for long-term financing that is needed for on-going utility operations.
  - Financial

- A well-franchised utility company is able to attract investors. This is critical to our infrastructure because improvements and additions to the system are financed by the sale of stock and bonds. Franchises serve as security for these "loans," which lowers financing costs, ultimately saving customers by stabilizing rates.
- Investments
  - Without the right to do business in a city as granted in a franchise, it is difficult to plan ahead and to make the necessary investments for future load growth.