

End-of-Franchise Options for West Branch  
Information on Municipal Gas Option per City Request

There are 51 municipal gas utilities in Iowa. The closest one to West Branch is Tipton. With a population of about 2,300, it is likely that Alliant has between 900 and 1,000 gas customers in West Branch. IAMU maintains comprehensive data for municipal and investor-owned utilities, including sales and revenue by customer class. As a member of IAMU, West Branch has ready access to that data. The ten municipal gas systems closest in size are listed below with a few relevant data points. The rate data in this chart are revenue per MCF for residential customers in 2010.

TEN MUNICIPAL GAS UTILITIES CLOSEST IN SIZE TO A WEST BRANCH UTILITY

<u>Municipal Gas Utility</u>	<u>Yr. Estab.</u>	<u>Meters</u>	<u>Gov. Body</u>	<u>2010 \$/mcf*</u>
Montezuma	1967	799	Council	\$ 7.85
Lamoni	1960	809	Council	\$ 8.83
Guthrie Center	1953	816	Board	\$ 11.37
Manning	1961	881	Board	\$ 9.85
Corning	na	897	Board	\$ 10.12
Cascade	1961	954	Board	\$ 11.97
Hawarden	na	1,044	Council	\$ 11.04
Sac City	1976	1,083	Council	\$ 10.17
Bloomfield	na	1,131	Council	\$ 8.02
Rock Rapids	1985	1,187	Board	\$ 7.70

\* Revenue/MCF is the total \$ collected from residential customers, divided by total thousand cubic feet of gas. This is the standard proxy for rates, as rate schedules are not readily comparable due to variance in monthly service charges.

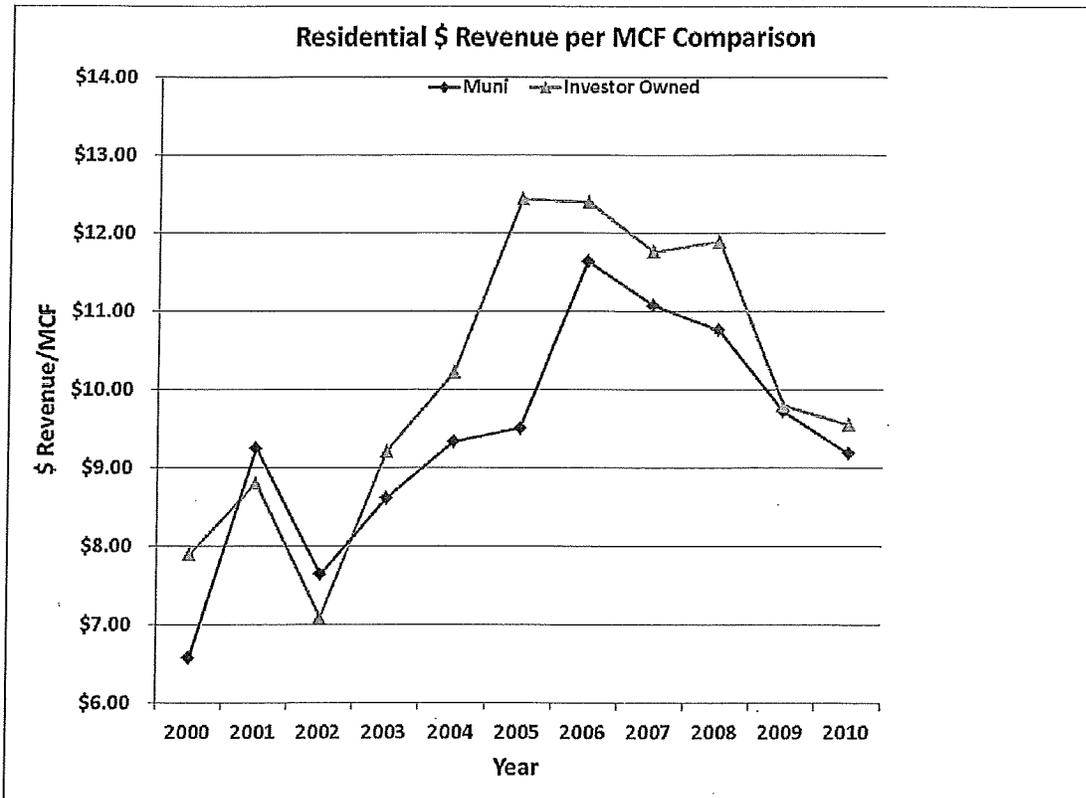
Ave. \$/MCF for 10 munis above in 2010	\$ 9.69
Ave. \$/MCF for Alliant Energy (IPL) in 2010	\$ 9.85

**Establishment.** A favorite claim of municipalization opponents is that, while it might have been possible to establish a municipal gas or electric utility in the distant past, utility assets are too costly and the business too complicated today. Ten municipal gas utilities have been established since 1980; the most recent being: Everly in 1991, Orange City in 2002, Mapleton in 2009, and Alton, also in 2009. (An election to authorize a municipal gas system in Pocahontas failed earlier this year.) Among the 10 utilities that would be close to West Branch in size, consider that Rock Rapids was established in 1985, when municipal bond rates were above 9% and 30-year treasury bonds were in a range of from 10% to 11.8%.

**Governance.** As you can see, the chart shows that half of these utilities are governed directly by the city council and half by utility boards of trustees. If the council put to voters the question of whether to establish a municipal gas utility, it could include a second question on whether the utility should be governed by either a 3 member or 5 member board of trustees.

**Rates.** The rates of Iowa's municipal gas utilities are comparable to those of Alliant. Among the 10 utilities shown in the chart above, those that have rates that are higher than Alliant's,

tend to make significant transfers from the gas department to other city funds. For example, the Sac City Gas Department pays 100% of the salaries of the City Administrator, City Clerk, and City Utility Clerk, in addition to those of the Gas Superintendent and a Gas Operator. The department also transfers \$71,000 annually to support other utilities and community services and makes periodic transfers for special projects, such as a \$110,000 transfer for purchase of a new garbage truck. The graph below compares residential rates of all municipal gas utilities and the state's investor-owned gas utilities from 2000 through 2010 (as measured by revenue per MCF).



**Emergency response.** Another claim often made by investor-owned utilities is that a municipal utility lacks the personnel to respond to service calls and emergencies. In fact, one of the great benefits of a municipal utility is that the service personnel live in the community and response times are short. As for emergencies, municipal utilities participate in a mutual aid program through IAMU. When a tornado hit Mapleton in April of this year, uprooted tree roots broke through a gas main and service lines. Gas to all businesses and residents had to be turned off before service could be repaired. Based on the extent of damage, the county sheriff estimated that it would be two weeks before gas service was restored. However, mutual aid crews from other municipal utilities were on the job soon after the storm passed and service was restored to all occupied buildings one day after the tornado hit.

**Value to community.** Citizens value municipal utilities for many reasons, including local control, but often overlooked is the value of the good jobs the utility provides and the economies achieved in operating an additional utility. Based on the staffing of similar-sized utilities, we would expect West Branch would need to gas operators, though one slot could possibly be filled through cross-training of

water utility operators. Economies are also available when utilities share managers, office personnel, billing systems and equipment. In preparation for the council working session, IAMU requested personnel information from the ten utilities listed above. In the short time available, the number of responses was limited but they may help.

- Lamoni: Gas system pays  $\frac{1}{4}$  of utility manager's salary and benefits (manages 4 city utilities). With shared expenses of office and billing personnel, Lamoni's gas department supports about 3 full time equivalent jobs. Operating the gas distribution system takes 2 FTEs, but through cross training, four are qualified to perform operations. Work load in all the utilities vary with special projects, seasonal demands, vacation, sick leave, etc., so having employees who can work in more than one utility area helps all the utilities.
- Rock Rapids: The municipal utility payroll was \$154,122 last year. In addition to two full-time gas system employees, gas revenue is used for 1/3 of the salaries of the city administrator and city/utility office staff. It is not clear from the response whether the payroll includes electric and water personnel.
- Hawarden: The gas department pays for 20% of the following positions: public works supt., billing clerk, utility administrative assistant, and meter reader for a total of \$30,720. Salaries for the gas foreman and gas assistant total an additional \$74,300. According to Public Works Supt. Tom Kane, "These employees spend money at local stores, have kids in the school system and are volunteers in many areas of the community." The gas utility also spends about \$45,000 per year for supplies, of which \$7,000 to \$10,000 can be purchased locally. About \$3,500 is spent locally on gasoline for utility vehicles. Outside contractors use the local motel and spend money at the gas stations and restaurants in town. In addition, Hawarden's municipal utilities (electric, gas, water, and make very subs
- Sac City: Payroll and transfers for Sac City are described in the notes for "rates" above. The number of gas operators is consistent with other respondents, i.e., a gas superintendent and an operator.

Sac City Gas Utility

Position (salary) - Years of Service

- City Administrator (58,548) - 4
- City Clerk (50,648) - 28
- City Utility Clerk (43,618) - 21
- Gas Superintendent (50,648) - 32
- Gas Operator (40,955) - 12

Salary	Benefits
100%	0%
100%	0%
100%	100%
100%	100%
100%	100%

Cost of Admin and Clerk are cycled between funding sources every so often

Property Owned

- City Utility Department Office
- 2 Trucks
- Welding Equipment

Community Outreach

- Kids World
- Community Center
- Trees Forever - Trees Please

\$20,000  
\$30,000  
\$1,000

All 3 are part of an annual grant process including other utilities

Transfers

- Intergrated Services Fee (General Fund)
- Garbage Department Donation

\$20,000  
\$110,000

This is passed via Resolution which allows the gas department to pay for the services provided by general fund departments (water, garbage/recycling, storm sewer, and sanitary sewer)

1 time grant approved by the council from the gas to the garbage/recycling to pay for part of a new packing truck

  
IOWA  
ASSOCIATION OF MUNICIPAL  
UTILITIES

## End of Franchise Options

**West Branch, Iowa**  
October 17, 2011

By  
Bob Haug, IAMU Executive Director



## What is a franchise?

- In modern times, a utility franchise is simply a grant of right to a utility to use the streets, alleyways, and other public rights of way.
- There is no franchise competition, as new grantee would have to buy incumbent's gas distribution system or build a new one.

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## Value of franchise to holder

- Allows access to public rights of way
- Usually provides eminent domain authority to holder
- Affords some liability protection to holder
- Blocks condemnation by city for the term of the franchise

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## Value of franchise to city

- Possible franchise fee
  - Fee of up to 6% is collected by holder from customers in the city. It does not come from company shareholders.
- Utilities sometimes waive service fees at franchise renewal, e.g., for relocation of facilities. Practice may not be acceptable to IUB as it shifts costs to other ratepayers.

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## No exclusive franchise

- A franchise cannot be given exclusively to one provider.
- A franchise for electric service is effectively exclusive in the franchise holder's exclusive service territory.
- Gas utilities do not have exclusive service territories. In theory there could be competing systems.

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## Gas franchise options

- Renew franchise
- Delay renewal while considering franchise terms and options (some cities go years before renewing)
- Consider municipal gas option, either through condemnation of incumbent system or overbuild with new facilities

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## Renewal of franchise

- Term of franchise
  - Does not need to be 25 years. Incumbents must pay costs of franchise election, so they argue for long term agreements.
  - Code allows council to waive election to avoid costs.
  - Authority to waive creates opportunity to offer extension

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## Municipal gas utilities

- Iowa has 51 municipal gas systems
  - Tipton is closest muni gas to W. Branch
  - Others of similar size include:
    - Montezuma
    - Cascade
    - Lamoni
    - Hawarden
    - Guthrie Center
    - Sac City
    - Manning
    - Bloomfield
    - Corning
    - Rock Rapids

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## Other municipal utilities

- Iowa has 136 municipal electric utilities, many of which have been in continuous operation for more than 100 years
- Some 28 cities now operate cable TV or broadband telecommunications systems
- All 545 IAMU members, including West Branch, operate municipal water utilities

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## What are muni advantages?

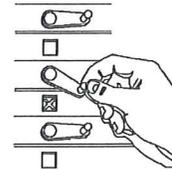
- Local control
  - Not-for-profit operation
  - Historically lower rates
  - Local payroll with local service
  - Access to tax-exempt financing
  - Potential source of city revenue

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## What steps to establish muni?

- Validate through feasibility study
- Set election to authorize establishment (also consider governing body)
- *Alternative election options:*
  - Hold election to test support for feasibility study – the vote does not obligate the city to move forward
  - Schedule the election after completion of full study



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## What's in a feasibility study?

- Identifies potential savings & effect on rates
- Establishes value of incumbent assets
- Focus on capital & operating costs (including alternatives for power supply with range of expected savings)
- Identifies fatal flaws, risks & benefits and recommends next steps

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## Who does study at what cost?

- Studies are performed by a qualified engineer with experience
- Based on recent cost in Traer, cost would approach \$10,000 for feasibility
- Additional \$10,000 to proceed with condemnation for valuation of incumbent assets, plus legal and engineering costs that can vary widely

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## What other steps?

- Develop and implement negotiating strategy to purchase distribution facilities (incumbent's stated position may change after election)
- File for condemnation proceeding in district court or build new system
- Operating permit from IUB (IAMU can provide necessary support/documents)

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## What other steps?

- Final steps include implementing business plan (financing, recruitment of management & staff, materials & equipment, facility transfer, gas supply initiation, and commencement of operations)

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## What about tax impact?

- No change in local tax revenue authorities – utility tax system replaced in 1999; new municipal utility would pay the replacement tax rate of the incumbent utility.
- A change in the rate for replacement tax zone would require an act of the legislature

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## What other revenue to city?

- Most, but not all Iowa munis, make payments in lieu of taxes (PILOTs)
- PILOT in range of 5 to 6 percent is common, total of PILOT and replacement tax at that level would be reasonable

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## What about emergencies?

- IAMU mutual aid program has been well tested and proven effective in weather and other emergencies
- Recent gas mutual aid in Mapleton proved exceptional
- IAMU has two experienced gas operators with fully-equipped service trucks (able to take lead in response)

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## How about qualified staff?

- New munis often hire local personnel of incumbent utility, if any
- IAMU has model operator qualification program to train new employees
- New program links experienced retirees to utilities needing temporary assistance, on-the-job training, mentoring, and project management

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## Contact information

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## Relevant Iowa Franchise Law

### 478.9 Exclusive rights — duration of franchise .

No exclusive right shall ever be given by franchise or otherwise to any person, company, corporation or city to conduct electrical energy, or to place electric wires, along or over or across any public highway or public place or ground; and no franchise or privilege shall ever be granted for any such purpose for a longer period than twenty-five years.

[C24, 27, 31, 35, 39, §8316; C46, 50, 54, 58, 62, §489.8; C66, 71, 73, 75, §489.9; C77, 79, 81, §478.9]

### 364.2 Vesting of power — franchises.

1. A power of a city is vested in the city council except as otherwise provided by a state law.
2. The enumeration of a specific power of a city does not limit or restrict the general grant of home rule power conferred by the Constitution of the State of Iowa. A city may exercise its general powers subject only to limitations expressly imposed by a state or city law.
3. An exercise of a city power is not inconsistent with a state law unless it is irreconcilable with the state law.
4. a. A city may grant to any person a franchise to erect, maintain, and operate plants and systems for electric light and power, heating, telegraph, cable television, district telegraph and alarm, motor bus, trolley bus, street railway or other public transit, waterworks, or gasworks, within the city for a term of not more than twenty-five years. When considering whether to grant, amend, extend, or renew a franchise, a city shall hold a public hearing on the question. Notice of the time and place of the hearing shall be published as provided in section 362.3. The franchise may be granted, amended, extended, or renewed only by an ordinance, but no exclusive franchise shall be granted, amended, extended, or renewed.  
  
b. Such an ordinance shall not become effective unless approved at an election. The proposal may be submitted by the council on its own motion to the voters at any city election. Upon receipt of a valid petition as defined in section 362.4 requesting that a proposal be submitted to the voters, the council shall submit the proposal at the next regular city election or at a special election called for that purpose before the next regular city election. However, the city council may dispense with such election as to the grant, amendment, extension, or renewal of an electric light and power, heating, or gasworks franchise unless there is a valid petition requesting submission of the proposal to the voters, or the party seeking such franchise, grant, amendment, extension, or renewal requests an election. If a majority of those voting approves the proposal, the city may proceed as proposed. The complete text of the ordinance shall be included on the ballot if conventional paper ballots are used. If an optical scan voting system is used, the proposal shall be stated on the optical scan ballot, and the full text of the ordinance posted for the voters pursuant to section 52.25. All absentee voters shall receive the full text of the ordinance.  
  
c. Notice of the election shall be given by publication as prescribed in section 49.53 in a newspaper of general circulation in the city.  
  
d. The person asking for the granting, amending, extension, or renewal of a franchise shall pay the costs incurred in holding the election, including the costs of the notice. A franchise shall not be finally effective until an acceptance in writing has been filed with the council and payment of the costs has been made.

e. The franchise ordinance may regulate the conditions required and the manner of use of the streets and public grounds of the city, and it may, for the purpose of providing electrical, gas, heating, or water service, confer the power to appropriate and condemn private property upon the person franchised.

f. A franchise fee assessed by a city may be based upon a percentage of gross revenues generated from sales of the franchisee within the city not to exceed five percent, without regard to the city's cost of inspecting, supervising, and otherwise regulating the franchise. Franchise fees collected pursuant to an ordinance in effect on May 26, 2009, shall be deposited in the city's general fund and such fees collected in excess of the amounts necessary to inspect, supervise, and otherwise regulate the franchise may be used by the city for any other purpose authorized by law. Franchise fees collected pursuant to an ordinance that is adopted or amended on or after May 26, 2009, to increase the percentage rate at which franchise fees are assessed shall be credited to the franchise fee account within the city's general fund and used pursuant to section 384.3A. If a city franchise fee is assessed to customers of a franchise, the fee shall not be assessed to the city as a customer. Before a city adopts or amends a franchise fee rate ordinance or franchise ordinance to increase the percentage rate at which franchise fees are assessed, a revenue purpose statement shall be prepared specifying the purpose or purposes for which the revenue collected from the increased rate will be expended. If property tax relief is listed as a purpose, the revenue purpose statement shall also include information regarding the amount of the property tax relief to be provided with revenue collected from the increased rate. The revenue purpose statement shall be published as provided in section 362.3.

g. If a city grants more than one cable television franchise, the material terms and conditions of any additional franchise shall not give undue preference or advantage to the new franchisee. A city shall not grant a new franchise that does not include the same territory as that of the existing franchise. A new franchisee shall be given a reasonable period of time to build the new system throughout the territory.

5. If provided by ordinance, a city may enter into a chapter 28E agreement for the collection of delinquent parking fines by a county treasurer pursuant to section 321.40 at the time a person applies for renewal of a motor vehicle registration, for violations that have not been appealed or for which appeal has been denied. The city may pay the treasurer a reasonable fee for the collection of such fines, or may allow the county treasurer to retain a portion of the fines collected, as provided in the agreement.

[C51, §664; R60, §1047, 1056, 1057, 1090, 1094, 1095; C73, §454 – 456, 471, 473, 474, 517, 523, 524; C97, §695, 720 – 722, 775, 776; S13, §695, 720 – 722, 776; C24, 27, 31, 35, §5738, 5904, 5904-c1, 5905 – 5909, 6128, 6131 – 6134; C39, §5738, 5904, 5904.1, 5905 – 5909, 6128, 6131 – 6134; C46, 50, §368.1, 386.1 – 386.7, 397.2, 397.5 – 397.8; C54, 58, 62, 66, §368.2, 386.1 – 386.7, 388.5 – 388.9, 397.2, 397.5 – 397.8; C71, 73, §368.2, 386.1 – 386.7, 397.2, 397.5 – 397.8; C75, 77, 79, 81, §364.2]

83 Acts, ch 127, §5; 93 Acts, ch 143, §49; 98 Acts, ch 1123, §15; 98 Acts, ch 1148, §1, 9; 2001 Acts, ch 82, §1; 2001 Acts, ch 98, §1; 2005 Acts, ch 54, §11, 12; 2006 Acts, ch 1010, §96; 2007 Acts, ch 190, §42; 2009 Acts, ch 57, §89; 2009 Acts, ch 179, §228, 231

## Iowa Code Provision for Establishment of a Municipal Utility

### 388.2 Submission to voters.

1. *a.* The proposal of a city to establish, acquire, lease, or dispose of a city utility, except a sanitary sewage or storm water drainage system, in order to undertake or to discontinue the operation of the city utility, or the proposal to establish or dissolve a combined utility system, or the proposal to establish or discontinue a utility board, is subject to the approval of the voters of the city, except that a board may be discontinued by resolution of the council when the city utility, city utilities, or combined utility system it administers is disposed of or leased for a period of over five years.

*b.* Upon the council's own motion, the proposal may be submitted to the voters at the general election, the regular city election, or at a special election called for that purpose. Upon receipt of a valid petition as defined in section 362.4, requesting that a proposal be submitted to the voters, the council shall submit the proposal at the next regular city election.

*c.* If the special election is to establish a gas or electric utility pursuant to this section, or if such a proposal is to be included on the ballot at the regular city or general election, the mayor or council shall give notice as required by section 376.1 to the county commissioner of elections and to any utility whose property would be affected by such election not less than sixty days before the proposed date of the special, regular city, or general election.

*d.* A proposal for the establishment of a utility board must specify a board of either three or five members.

2. *a.* If a majority of those voting for and against the proposal approves the proposal, the city may proceed as proposed.

*b.* If a majority of those voting for and against the proposal does not approve the proposal, the same or a similar proposal may not be submitted to the voters of the city for at least four years from the date of the election at which the proposal was defeated.

[C73, §471; C97, §720, 721; S13, §720, 721; C24, 27, 31, 35, 39, §6131 – 6133, 6144; C46, 50, 54, 58, §397.5 – 397.7, 397.29; C62, 66, 71, 73, §397.5 – 397.7, 397.29, 397.43; C75, 77, 79, 81, §388.2]

90 Acts, ch 1206, §4; 2007 Acts, ch 215, §109, 110