

**EXECUTION VERSION**

**ORDINANCE NO.** 17,314

**AN ORDINANCE**

**EXTENDING THE AUTHORIZATION TO**

**Ameren Illinois Company  
d/b/a/ Ameren Illinois**

**ITS SUCCESSORS AND ASSIGNS**

**TO CONSTRUCT, OPERATE AND MAINTAIN  
AN ELECTRIC UTILITY SYSTEM**

**IN THE**

**City of Peoria**

**COUNTY OF PEORIA**

**AND**

**STATE OF ILLINOIS**

**PASSED** \_\_\_\_\_

**EXPIRES** \_\_\_\_\_

## **EXECUTION VERSION**

ORDINANCE NO. ~~17,314~~

AN ORDINANCE RENEWING AN EXISTING FRANCHISE AND GRANTING FOR A PERIOD OF 11 YEARS TO AMEREN ILLINOIS, A CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE FRANCHISE, RIGHT, PERMISSION AND AUTHORITY TO CONSTRUCT, RECONSTRUCT, EXCAVATE FOR, PLACE, REMOVE, EXTEND, MAINTAIN, AND OPERATE AN ELECTRIC UTILITY SYSTEM IN THE CITY OF PEORIA, COUNTY OF PEORIA AND STATE OF ILLINOIS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEORIA, COUNTY OF PEORIA, AND THE STATE OF ILLINOIS, AS FOLLOWS:

SECTION 1. It is the intent of the parties by this Ordinance to extend for an additional term, subject to the terms and conditions here stated, the authorization to Ameren Illinois, its successors and assigns, to construct, operate and maintain an electric public utility system within the City as originally authorized by Peoria Ordinance Granting An Electric Franchise to Central Illinois Light Company approved on June 20, 1967. The parties acknowledge that by so doing they are continuing an existing relationship authorizing the services of a public utility for the provision of electric energy and other purposes within the City for the benefit of its citizens and residents as well as other consumers of electric energy located within its corporate limits. For purposes of construing the terms, rights and obligations of the parties this authorization is granted pursuant to Section 14 of the Electric Supplier Act, 220 ILCS § 30/14, and the Illinois Municipal Code, 65 ILCS § 5-1-1-1, et seq.

SECTION 2. There is hereby given and granted to Ameren Illinois, its successors and assigns (hereinafter referred to as the "Company"), the right, privilege and authority to construct, operate, maintain and/or extend within the corporate limits, as the same now exists or may hereafter be extended, of the City of Peoria (hereinafter referred to as "Municipality"), an electric utility system for the transmission, distribution and/or sale of electric energy and other purposes (the "System"), together with the right, privilege and authority to erect, construct, install, operate and/or maintain all poles, conductors, wires, cables, conduits, equipment and/or other apparatus as may be necessary or convenient for the System, in, upon, along, over, under, through and/or across each and all of the streets, avenues, alleys, bridges, easements, rights of way and/or other public places owned or controlled by the Municipality ("Public Ways").

SECTION 3. All poles and other equipment placed or installed under this Ordinance in Public Ways, shall be so placed as not to interfere unnecessarily with travel on such Public Ways. All poles and other equipment placed or installed under this Ordinance shall be so located as not to damage unnecessarily any pipes, conduits, sewers, drains, pavement or other like public improvements, and said Company shall nevertheless promptly repair any damage caused to such improvements to the satisfaction of the official or officials of said Municipality having charge of the supervision thereof and in default thereof said Municipality may repair such damage and charge the cost thereof to, and collect the same from, the Company. All facilities of

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Company in said Municipality shall be installed and maintained in accordance with the applicable, rules and regulations of the Illinois Commerce Commission.

When any portion of a Public Way shall be graded, curbed, paved or otherwise changed, when there is a relocation of such Public Way so as to make the resetting or relocation of any poles or other equipment placed or installed under this Ordinance necessary, the Company shall make such resetting or relocation, at the Company's cost and expense. Municipality shall provide the Company with a suitable location for the resetting or relocation of such poles or other equipment, and the Company's obligation shall be limited to resetting or relocating poles or other equipment of the same type and configuration as the displaced poles or other equipment. Company shall make such resetting or relocation within a reasonable time after receiving written notice of the need for the same from the authorized representative of the Municipality, and the establishment by the Municipality of the permanent grade at the new location. Company shall provide Municipality reasonable advance notice in the event the resetting or relocation of any poles or other equipment placed or installed under this Ordinance becomes necessary, except in such event of an emergency where no advance notice is required; however, in the event of an emergency Company will provide Municipality such notice as soon thereafter as reasonably practical. Municipality and Company agree to use their best efforts to coordinate to the extent practicable the timing of construction activities of each so as to minimize any public inconvenience that might otherwise occur. Except as expressly stated, nothing in this Section requires the Company to bear responsibility for any costs or expenses to relocate its poles or other equipment for any other reason or cause.

SECTION 4. In order for Company to render efficient, safe, and continuous services, it will be necessary for Company to conduct vegetation management activities, including the trimming or pruning and cutting down of the trunks and branches of trees and/or vines and shrubs along or over Public Ways in said Municipality, and areas dedicated to the Municipality for public utility use, wherever the same are likely to interfere with its equipment; therefore, Company is hereby granted the right to conduct such vegetation management activities so as to enable it to erect, operate and maintain its equipment in a regular and consistent form and manner and to enable it to provide the most efficient, safe, and continuous service that the circumstances will permit; provided, however, that Company shall exercise proper care and discretion in its vegetation management activities. Company shall conduct its vegetation management activities in accordance with applicable law, including without limitation, 220 ILCS § 5/8-505.1, and any amendments thereto. Municipality may, from time to time, inform Company of any vegetation management activities and stability efforts that it intends to pursue, and seek to coordinate same with Company as it may relate to Company's rights hereunder. Company will timely provide Municipality with its annual System Average Interruption Duration and Frequency Index and Customer Average Interruption Duration and Frequency Index reports. Notwithstanding the foregoing, to the extent applicable law may be superseded or modified by an agreement between Municipality and Company, Municipality and Company reserve the right to enter into such an agreement.

SECTION 5. The rates to be charged by the Company for electric utility service rendered under this Ordinance shall be such as are approved from time to time by the Illinois Commerce Commission of the State of Illinois and/or such other duly constituted governmental authority as shall have jurisdiction thereof. All Rules and Regulations of the Illinois Commerce

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Commission of the State of Illinois applicable to the rights, privileges and authority granted by this Ordinance, in the event of conflict herewith, shall govern.

SECTION 6. Municipality shall have the right, free of charge, during the term of this Ordinance, to continue to use, for the operation of existing traffic signals and police and fire signals, those Company-owned poles or underground ducts or conduits, that are currently being so used by the municipality.

SECTION 7. Municipality shall provide Company reasonable advance notice of any proposed installation, modification, or removal of Municipal property that affects the Company's System, including copies of related installation, modification or removal plans, and Company shall reasonably consult and cooperate with Municipality to facilitate Municipality's installation, modification or removal of Municipal property that affects the Company's System.

SECTION 8. As a further consideration for the rights, privileges and authorities granted by this ordinance, effective as of January 1, 2015, the Company shall, in Year 1 of the agreement (from January 1, 2015-December 31, 2015), furnish municipality compensation in the amount of \$664,000 (payable in one lump sum payment of \$608,666.67 for January 1, 2015-November 30, 2015, made within 30 days after passage of this Ordinance, and one monthly payment of \$55,333.33 for December 2015, by the 15th of the month). In subsequent years payment will be made, after the anniversary date, on the following graduated scale: Year 2 (January 1, 2016 – December 31, 2016) - \$678,000 (payable in 12 equal monthly payments of \$56,500 by the 15th of each month); Year 3 (January 1, 2017 – December 31, 2017) - \$774,000 (payable in 12 equal monthly payments of \$64,500 by the 15th of each month); Year 4 (January 1, 2018 – December 31, 2018) - \$894,000 (payable in 12 equal monthly payments of \$74,500 by the 15th of each month); Year 5 and all remaining years that this Ordinance remains in effect (January 1, 2019-December 31, 2025 in the Initial Term) - \$1,014,000 (payable in 12 equal monthly payments of \$84,500 by the 15th of each month). Municipality may request a revision to the compensation amount after five years from the date of passage of this Ordinance if Municipality has a reasonable belief that its population has increased or decreased by 3% or more from the date of this Ordinance. Municipality must request the revision at least 60 days prior to the next anniversary date. If Company confirms that the number of customers served by the System within Municipality's corporate limits has increased or decreased by 3% or more from the date of passage of this Ordinance, the compensation amount will be revised by that percentage for the next and succeeding payments. Municipality may request similar revisions to compensation amounts under these criteria in additional five year periods throughout the term of this Ordinance.

SECTION 9. If, at any time, during the term of this Ordinance, Municipality permits another entity or person to provide electric distribution or similar services and Company reasonably believes the other entity or person is granted more favorable treatment, terms or conditions, then Company shall notify Municipality of such treatment, terms or conditions. Alternatively, if Municipality reasonably believes the other entity or person grants Municipality more favorable treatment, terms or conditions, then Municipality shall notify Company of such treatment, terms, or conditions. Upon receipt of such notice, Municipality and Company shall negotiate in good faith to amend this Ordinance to provide Company or Municipality such more favorable treatment, terms or conditions on an equivalent basis. Such amendment shall take into

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consideration all circumstances that distinguish between Company and the entity or person receiving the more favorable or less favorable treatment, terms or conditions.

SECTION 10. The Company shall be exempt from any special tax, assessment, license, rental or other charge during the term of this Ordinance, on all poles, conductors, wires, cables, conduits, equipment and other apparatus placed in any Public Way within the corporate limits of Municipality.

SECTION 11. The Company shall indemnify and hold harmless the Municipality and all contractors, officers, employees and representatives thereof from and against any and all claims, demands, causes of action, liability, judgments, costs and expenses or losses for injury or death to, or damage to property owned by, any person or persons whomever, whether or not such person or persons be any parties indemnified herein, which injury, death or damage arose out of, was caused by, or was a result of the Company's construction, erection, maintenance, use or presence of, or removal of, or any other act or omission relating to, any poles, wires, lines, cables, conduit, appurtenances thereto, or equipment or attachments thereto. The foregoing indemnification shall not apply to the extent any such claim, demand, cause of action, liability, judgment, cost, expense or loss arises out of, is caused by, or results from the negligent or wrongful willful act or omission of the Municipality or any contractor, officer, employee or representative thereof. At all times while this Ordinance is in effect, the Company shall, at its own cost, maintain third party liability insurance or self-insurance to protect the Municipality, its contractors, officers, employees and representatives from liability for death, injury or property damage due to activities of Company under this Ordinance

SECTION 12. The rights, privileges and authority hereby granted shall inure to and be vested in Company, its successors and assigns, successively, subject to all of the terms, provisions and conditions herein contained, and each of the obligations hereby imposed upon Company shall devolve and be binding upon its successors and assigns, successively, in the same manner.

SECTION 13. This Ordinance shall confer no right, privilege or authority on Company, its successors or assigns, unless Company shall within ninety (90) days after due notice to the Company of the enactment of this Ordinance, file with the City Clerk an acceptance of the terms and provisions hereof; provided, however, that if such acceptance be not so filed within said period of ninety (90) days, all rights, privileges, and authority herein granted shall become null and void.

SECTION 14. All rights, privileges and authority given and granted by this Ordinance are granted for a term of eleven (11) years from January 1, 2015, as hereinafter provided (the "Initial Term"), and thereafter on a year-to-year basis (each a "Subsequent Term") unless either the Company or Municipality notifies the other in writing of its desire to terminate this Ordinance at least six (6) months prior to the expiration of the Initial Term or any Subsequent Term.

SECTION 15. The Municipality acknowledges that Company is vested in rights, permissions and authority independent of this Ordinance. Neither acceptance of this Ordinance nor compliance with its provisions shall impair in any way or waive any right, permission or

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authority which Company may have independent of this Ordinance. In addition, neither use by Company of public property or places as authorized by this Ordinance nor service rendered by Company in said Municipality shall be treated as use solely of the rights, permission and authority provided for by this Ordinance and in no way shall indicate non-use of any right, permission or authority vested in the Company independent of this Ordinance. In the event the Municipality vacates any Public Way during the term of this Ordinance, Municipality agrees to reserve unto Company the rights, privileges and authority herein given and granted to the Company in upon, along, over and across each and all of such vacated premises which are at the time in use by the Company.

SECTION 16. All ordinances and parts of ordinances in conflict with this Ordinance or with any of its provisions are, to the extent of such conflict, hereby repealed.

SECTION 17. This Ordinance shall not relieve Company of the obligation to comply with any ordinance now existing in the Municipality or enacted in the future requiring Company to obtain written permits or other approval from the Municipality prior to commencement of construction of facilities within the streets thereof, except Company shall not be required to obtain permits or other approval from the Municipality for the maintenance, upgrading and repair of its constructed facilities. Company shall provide notice of excavation hereunder in accordance with the Illinois Underground Utility Damage Prevention Act (220 ILCS § 50/1, et seq.)

SECTION 18. If any provision of this Ordinance, or the application of such provision to particular circumstances, shall be held invalid, the remainder of this Ordinance, or the application of such provision to circumstances other than those as to which it is held invalid, shall not be affected thereby

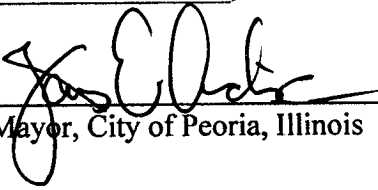
SECTION 19. Any conflict between the Franchise Ordinance and the provisions contained in the Electric Service Customer Choice and Rate Relief Law of 1997 (Public Act 90-561) will be resolved by giving the state statute mandatory priority over any contrary language contained in the Franchise Ordinance.

SECTION 20. This Ordinance shall take effect and the rights, privileges and authority hereby granted and renewed shall vest in Company upon its filing of an acceptance with the City Clerk according to the terms prescribed herein and as provided for in Section 12 and in IL Rev 35 ILCS § 645/5-4. This Ordinance shall be in full force from and after its passage, approval and ten (10) day period of publication in the manner provided by law.

SECTION 21. Municipality expressly reserves the right to adopt, from time to time, such ordinances, rules and regulations as it may deem necessary or appropriate, in the exercise of the police power for the protection of the health, safety and welfare of the Municipality's citizens and property, to the extent that such ordinances, rules and regulations are not in conflict with this Ordinance.


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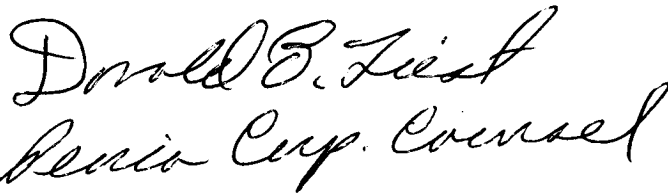
Passed and approved this 8th day of December, 2015.

  
\_\_\_\_\_  
Mayor, City of Peoria, Illinois

[SEAL]

ATTEST:

  
\_\_\_\_\_  
City Clerk

  
Donald B. Fiest  
Peoria Corp. Counsel

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STATE OF ILLINOIS )  
CITY OF PEORIA ) SS  
COUNTY OF PEORIA )

I, Beth Ball, City Clerk within and for the City of PEORIA, in the State and County aforesaid, do hereby certify that:

(1) the foregoing constitutes a full, true and correct copy of Ordinance No. <sup>17,314</sup> of said City as:

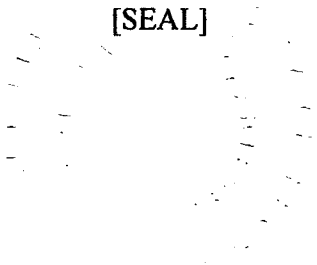
(a) introduced before the City Council on the 8th day of December, 2015; and

(b) passed by the City Council and approved by the Mayor on the 8th day of December, 2015, as fully as the same appears of record in my office;

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of PEORIA, Illinois, at my office in said City this \_\_\_ day of \_\_\_\_\_, 2015.

Beth Ball  
City Clerk

[SEAL]





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ACCEPTANCE

Ameren Illinois ("Company"), in consideration of the rights and privileges granted by Ordinance No. 17,314 of the City of Peoria, Illinois, passed December 8, A.D. 2015, approved December 8, A.D. 2015, and entitled "An Ordinance extending the authorization to Company, its successors and assigns, to construct, operate and maintain an electric utility system in the City of Peoria, County of Peoria, and State of Illinois", hereby accepts said Ordinance and all the provisions thereof.

In Witness Whereof, Company, as aforesaid has caused these presents to be signed by its President or a Vice President and attested by its Secretary or an Assistant Secretary and its corporate seal to be affixed this \_\_\_\_ day of \_\_\_\_\_, A.D. 2015.

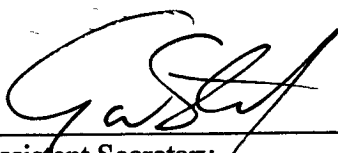
Ameren Illinois

By

  
 Richard J. Mark  
 President & CEO

(Corporate Seal)

Attest:

  
 \_\_\_\_\_  
 Assistant Secretary