

### PUBLIC UTILITIES AND ENTERPRISES

#### CHAPTER 451

#### FRANCHISES; PERMITS

##### **451.01 STREET RAILWAY FRANCHISES; CONNECTIONS OF STREET RAILWAYS WITH OTHER TERRITORY.**

The calling of a special election by the city council to be conducted in all respects as required by the general election laws of the city for the submission of a franchise ordinance to the voters of the city for ratification, to be held not later than 90 days after the filing of the acceptance of the proposed franchise by the car company, is a sufficient compliance with the provisions of L. 1915, c. 124; and a suit by a taxpayer will not lie to restrain the holding of an election under such circumstances. *Meyers v Knott*, 144 M 199, 174 NW 842.

Power of public utility commissions to alter rates of public service corporations fixed by contract between the municipality and the public service corporation. 4 MLR 526.

Power of a city to compel the operation of a street railway at a loss where the franchise granting the right to operate the street railway also embraces the right to engage in another business which is profitable. 9 MLR 379.

Due process in valuation of public utilities. 13 MLR 409.

##### **451.03 CONNECTING STREET RAILWAYS.**

Abutting property owners suffering a special injury from obstructions by nuisances in the street fronting their property different from that suffered by the general public may maintain an action for an injunction restraining the nuisance. If the nuisance be placed in the street by a corporation, the property owners so offended may challenge the authority of the corporation in the premises and its right to exercise a street car franchise. The power and authority to construct and operate a street railway cannot be conferred upon a private corporation organized for the purpose of dealing in real estate. *Internat'l Lumber v American Suburbs Co.* 119 M 77, 137 NW 395.

##### **451.07 CITIES MAY GRANT PERMITS.**

A gas company which has contracted to furnish gas to a city and its inhabitants for a term of ten years at fixed rates cannot be given the right by a court of equity to violate this contract and increase its rates because war conditions have rendered them unprofitable. *Moorhead v Union Light Co.* 255 F. 920.

The valuation of a gas plant on which the rates are to be based is the reasonable value of the property employed at the time it is being used for the public; and the cost of reproduction at the time of the use, less depreciation, is not necessarily that value but such cost is only one of several factors to be considered in determining the value. The cost of the litigation by which the rate a gas company is entitled to charge is fixed should not be considered in determining the rate. In estimating the cost of reproduction, overhead items which were of such a nature that it was practically certain they were actually incorporated in the original construction of the plant, may be allowed, although there is no evidence of their having been incurred. *Winona v Wisconsin Municipal Light Co.* 276 F. 996.

In the city of Waseca a proposition to grant a gas franchise to renew and replace the present franchise requires a majority of the votes cast on the proposition. OAG March 28, 1947 (36-c-3).

# MINNESOTA STATUTES 1947 ANNOTATIONS

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FRANCHISES; PERMITS 451.07

Is a rate schedule for gas included in franchise granted by municipality, subject to change by the legislature? 3 MLR 529.

Discontinuance of service by public utilities. 13 MLR 181, 325.

Control of public utilities in Minnesota. 16 MLR 457.