

761—115.6(306A) Liability. The following are conditions of a permit:

115.6(1) *The utility owner.* The utility owner will defend, indemnify and save harmless the state of Iowa, its agencies and employees from any and all causes of action; suits at law or in equity; for losses, damages, claims or demands; and from any and all liability and expense of whatsoever nature (including reasonable attorney fees) arising out of or in connection with the utility owner's use or occupancy of the primary road rights-of-way or noncompliance with rule 761—115.19(306,306A) to rule 761—115.24(306A).

115.6(2) *The state of Iowa.* The state of Iowa, its agencies or employees, will be liable for expense incurred by the permit holder in its use and occupancy of the primary road rights-of-way only when negligence of the state, its agencies or employees, is the sole proximate cause of such expense. Whether in contract, tort or otherwise, the liability of the state, its agencies or employees, is limited to the reasonable, direct expenses to repair damaged utilities, and in no event will such liability extend to loss of profits or business, indirect, special, consequential or incidental damages.

[ARC 9265C, IAB 5/14/25, effective 6/18/25]