

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: MIDAMERICAN ENERGY COMPANY	DOCKET NOS. E-22097 E-22098 E-22099
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**ORDER ESTABLISHING PROCEDURAL SCHEDULE, PROPOSING
TO TAKE OFFICIAL NOTICE, AND NOTICE OF HEARING**

(Issued November 18, 2013)

On December 19, 2012, MidAmerican Energy Company (MEC) filed three petitions with the Utilities Board (Board) requesting franchises to construct, operate, and maintain a total of 70.19 miles of 345,000 volt (345 kV) electric transmission line proposed to be constructed in Franklin, Butler, and Black Hawk Counties, Iowa. The petitions were identified as Docket Nos. E-22097 (Franklin County), E-22098 (Butler County), and E-22099 (Black Hawk County). MEC filed revisions to the petitions and additional information on April 10, June 14, June 20, July 3, July 9, August 30, September 12, and September 13, 2013.

The proposed transmission line is a part of the Midcontinent Independent System Operator, Inc. (MISO), 2011 Multi Value Project (MVP) Portfolio. The MISO 2011 MVP Portfolio is a part of the 2011 MISO Transmission Expansion Plan (MTEP) approved by the MISO Board on December 8, 2011. The proposed MEC line would connect to a proposed ITC Midwest LLC (ITC) 345 kV transmission line southwest of Hampton in Franklin County at one end, and to another proposed ITC 345 kV transmission line northeast of Dunkerton in Black Hawk County at the other end. The

connecting ITC lines must also receive franchises from the Board and do not yet have them. MEC has requested that the Board proceed with this franchise proceeding for its proposed transmission line even though ITC has not yet obtained franchises for its connecting lines.

The proposed route of the line is primarily on private right-of-way, generally along and parallel to division lines of land, except for public rights-of-way at road and highway crossings. The proposed route follows existing Corn Belt Power Cooperative and MEC 161 kV line corridors, except for approximately 0.63 mile in Franklin County and 3.7 miles in Black Hawk County. Approximately 21.79 miles of the proposed line would be in Franklin County, 25.75 miles of the proposed line would be in Butler County, and approximately 22.65 miles of the proposed line would be in Black Hawk County. For most of the proposed route, the proposed 345 kV line would be double circuited with existing 161 kV lines owned by either Corn Belt Power Cooperative or MEC.

MEC requests that it be vested with the power of eminent domain pursuant to Iowa Code § 478.6. As of the date of this order, MEC requests eminent domain authority for one parcel in Franklin County, designated as parcel E-1; for six parcels in Butler County, designated as parcels E-1, E-2, E-3, E-4, E-5, and E-6; and for eight parcels in Black Hawk County, designated as parcels E-1, E-2, E-3, E-4, E-5, E-6, E-7, and E-8.

As of the date of this order, no written objections have been filed in the three dockets.

Iowa Code § 478.6 (2013) requires a hearing to be held in an electric transmission line franchise proceeding if objections to a franchise petition are filed or if eminent domain is requested. If a proposed transmission line is more than one mile in length, the hearing must be held in the county seat of the county located at the midpoint of the proposed line. Iowa Code § 478.6. The midpoint of the proposed line is in Butler County. Therefore, the hearing in this case must be held in Allison, Iowa.

On November 1, 2013, the Board issued an order assigning this case to the undersigned administrative law judge to, among other things, set a procedural schedule, conduct a hearing, and issue a proposed decision.

THE BOARD'S AUTHORITY AND JURISDICTION

The Board has the authority to grant franchises to construct, erect, operate, and maintain electric transmission lines capable of operating at an electric voltage of 69 kV or more along, over, or across any public highway or grounds outside of cities for the transmission, distribution, or sale of electric current. Iowa Code § 478.1. The Board may grant franchises in whole or in part upon such terms, conditions, and restrictions, and with such modifications as to line location and route, as may seem to it just and proper. Iowa Code § 478.4. To obtain a franchise, the petitioner must show that the proposed line or lines are necessary to serve a public use and represent a reasonable relationship to an overall plan of transmitting electricity in the public interest. Iowa Code § 478.4.

The conduct of this case is governed by Iowa Code chapters 17A and 478, and by Board rules at 199 IAC 11.

With the exception of rules 199 IAC 7.22 (ex parte communications), 7.26 (appeals from a proposed decision of a presiding officer), and 7.27 (rehearing and reconsideration), none of the procedures in the Board's Chapter 7 procedural rules apply to electric transmission line hearings under Iowa Code chapter 478 and 199 IAC 11. 199 IAC 7.1(3). Procedural rules applicable to this proceeding are found in 199 IAC 11.

THE ISSUES

In Exhibit D of its petitions, MEC discusses the purposes of the proposed transmission line. Among other things, MEC states the proposed line is a part of the MISO 2011 MVP portfolio that will: 1) enhance the ability to interconnect and deliver generation, including substantial amounts of renewable generation; 2) provide reliability benefits; and 3) decrease congestion in the MISO footprint. MEC also states the proposed line will provide a new transmission source to the Waterloo-Cedar Falls metropolitan area, which will increase reliability of service to that area.

MEC must demonstrate that the proposed transmission line is necessary to serve a public use. Iowa Code § 478.4. It must also show the proposed line represents a reasonable relationship to an overall plan of transmitting electricity in the public interest. Iowa Code § 478.4.

The proposed MEC line would connect to a proposed ITC Midwest LLC (ITC) 345 kV transmission line southwest of Hampton in Franklin County at one end, and to another proposed ITC 345 kV transmission line northeast of Dunkerton in Black

Hawk County at the other end. The connecting ITC lines must also receive franchises from the Board and do not yet have them. MEC has requested that the Board proceed with this franchise proceeding for its proposed transmission line even though ITC has not yet obtained franchises for its connecting lines. One of the issues in the case is whether it is appropriate for the Board to proceed to a decision in these dockets at this time, and MEC must demonstrate that it is. In addition, MEC must comply with the requirements of 199 IAC 11.3(5). This rule requires MEC to establish the need to serve the public use for the total line and to include affidavits from ITC certifying that ITC will construct their segments of the line if franchises are granted by the Board.

MEC must demonstrate that the transmission line is proposed to be constructed near and parallel to roads, to railroad rights of way, or along division lines of land, wherever practical and reasonable, and so as not to interfere with the public use of the highways or streams of the state, nor unnecessarily interfere with the use of any lands by the occupant, as required by Iowa Code § 478.18; or it must demonstrate that the route selected is in conformance with prior decisions of the Iowa Supreme Court and the Board. Gorsche Family Partnership v. Midwest Power, et al., 529 N.W.2d 291 (Iowa 1995); Anstey v. Iowa State Commerce Commission, 292 N.W.2d 380 (Iowa 1980); Hanson v. Iowa State Commerce Commission, et al., 227 N.W.2d (Iowa 1975); In re: MidAmerican Energy Company, Docket Nos. E-21752, E-21753, and E-21754, "Order Affirming Proposed Decision and Order Granting Franchises" (September 12, 2006), and "Proposed Decision and Order Granting Franchises" (July 26, 2006); In re: MidAmerican Energy Company, Docket Nos. E-

21621, E-21622, E-21625, E-21645, and E-21646, "Proposed Decision and Order Granting Franchises," (December 8, 2004). MEC must also show that the proposed line conforms to the construction and safety requirements of Iowa Code §§ 478.19 and 478.20 and applicable Board rules at 199 IAC 11 and 25. In addition, the undersigned will determine whether any terms, conditions, and restrictions on the franchise, if granted, should be imposed, and whether modifications of line location and route would be just and proper. Iowa Code § 478.4.

Before MEC can be vested with the power of eminent domain, it must demonstrate that the taking of private property described in its petitions is necessary for public use. Iowa Code §§ 478.6 and 478.15. If the requested franchises are granted, MEC is entitled to be vested with the power of eminent domain only if and to the extent as the Board may approve, prescribe, and find necessary for public use. Iowa Code §§ 478.6 and 478.15.

Any person whose rights may be affected by the proposed transmission line may file an objection with the Board. Iowa Code § 478.5. Objections must be filed in writing with the Board no later than 20 days after the date of the second publication of the notice required by Iowa Code § 478.5. As of the date of this order, no written objections have been filed. The issues raised in written objections filed in the future, if any, are also issues in the case.

As discussed below, Board staff Mr. Bao Nguyen and Mr. Don Stursma filed a report regarding the petitions and proposed transmission line dated November 4, 2013. Mr. Nguyen and Mr. Stursma raised a number of issues in their report, and those issues are also issues in the case. On November 15, 2013, Mr. Stursma and

Board staff attorney Mr. Cecil Wright filed a supplemental report regarding the proposed transmission line. Mr. Stursma and Mr. Wright raised a number of legal issues in their report, and those issues are also issues in the case.

PREPARED TESTIMONY AND EXHIBITS

All parties will be given the opportunity to present evidence and argument on all issues involved in this proceeding and to respond to evidence presented by opposing parties. Parties may choose to be represented by counsel at their own expense. Iowa Code § 17A.12(4). The proposed decision and order that the undersigned administrative law judge will issue in this case must be based solely on evidence contained in the record and on matters officially noticed in the record. Iowa Code §§ 17A.12(6) and (8). Unless contrary arrangements are made on the record at the hearing, all evidence will be received at the hearing, and the record will be closed to any further evidence at the conclusion of the hearing.

The submission of prepared evidence prior to hearing will help to identify disputed issues of fact to be addressed at the hearing. Prepared testimony contains all statements that a witness intends to give under oath at the hearing, set forth in question and answer form. When a witness who has submitted prepared testimony takes the stand, the witness does not ordinarily repeat the written testimony or give a substantial amount of new testimony. Instead, the witness is cross-examined by the other parties concerning the statements already made in writing. The use of prepared testimony prevents surprise at the hearing and helps each party to prepare adequately for the hearing, so that a full and true disclosure of the facts can be

obtained. Iowa Code §§ 17A.14(1), 17A.14(3) and 478.4. This procedure also tends to diminish the length of the hearing and spares the parties the expense and inconvenience of additional hearings.

MEC must file prepared direct testimony, exhibits, and a brief prior to the hearing in conformance with the procedural schedule set forth below. At a minimum, MEC's prepared testimony and exhibits must address the issues listed above, provide support for the statements made and information provided in MEC's petitions, address each of the issues and questions raised in the report filed by Mr. Nguyen and Mr. Stursma and the supplemental report filed by Mr. Stursma and Mr. Wright, and address each of the issues raised by the objectors, if any. When MEC addresses the questions in the staff report and supplemental report, it must address all questions and issues raised even if they are not listed at the summary at the end of the report or supplemental report. The staff report recommends that MEC address a number of issues either in prefiled testimony or at the hearing. MEC must address all the listed topics in prefiled testimony.

In its prepared testimony, MEC must discuss the various routes it considered, the criteria it used to evaluate the routes, and explain why it chose the proposed route. This discussion must include, but not be limited to, information regarding the cost of the various alternatives considered and whether the route and design MEC chose provides superior reliability compared to each of the alternatives considered.

If objections are filed and suggest alternate routes, MEC must evaluate each of the suggested alternate routes, address each route in its prepared testimony, and explain the advantages and disadvantages of each alternative route in comparison to

the route proposed by MEC. This evaluation and comparison must include, but not be limited to, a comparison of the cost of each alternative route with the proposed route. If objections are filed, MEC must state in its prepared testimony what could be done to address each of the objectors' concerns, discuss the feasibility and consequences of any actions that might be taken in response to the concerns, and state what it would be able and willing to do to address the concerns.

If objections are filed in this case, MEC's prepared direct testimony must respond to issues raised in all written objections that are received by MEC at least seven (7) days before the deadline for filing MEC's prepared testimony. New written objections filed with the Board and received by MEC less than seven (7) days before the deadline for filing MEC's prepared direct testimony, or received by MEC after it files its prepared direct testimony and at least seven (7) days prior to the deadline for filing MEC's prepared rebuttal testimony, must be addressed in MEC's prepared rebuttal testimony.

MEC has the burden to prove that its proposed transmission line meets all applicable statutory and regulatory requirements. Failure to file adequate prepared testimony and exhibits to support its petition for franchise may result in delays of these proceedings or denial of the requested franchise.

The Consumer Advocate Division of the Department of Justice (Consumer Advocate), persons with an interest in an eminent domain parcel, and any objectors may also file prepared testimony, exhibits, and a brief before the hearing in accordance with the procedural schedule in this order. Parties other than MEC who choose not to file prepared testimony and exhibits or a brief before the hearing will

not be precluded from participating in the proceedings. If an objector, for example, does not intend to present evidence going substantially beyond the information contained in the letter of objection, it is unnecessary for the objector to file prepared testimony. However, when a party (including an objector) has a substantial amount of information to present to the Board about the proposed project, if the information has not been previously disclosed to the Board, it should be presented in the form of prepared testimony and exhibits according to the procedural schedule established below. Similarly, if the Consumer Advocate takes the position that MEC should not be granted the requested franchise, or that restrictions on the grant should be imposed, it must file prepared testimony or a brief in support of its position according to the procedural schedule.

PARTIES AND THE ELECTRONIC FILING SYSTEM

MEC and the Consumer Advocate are parties to this proceeding. Iowa Code §§ 17A.2(8) and 475A.2. Persons with an interest in an eminent domain parcel are considered to be parties, although they may choose not to participate in this proceeding. As of the date of this order, it appears that no objections to the petition have been filed with the Board.

Any person who files an objection pursuant to this order and Iowa Code § 478.5 will be presumed to be a party to this proceeding unless it is established at hearing that the objector has no right or interest that may be affected by the grant or denial of the franchise. Iowa Code §§ 478.5, 17A.2(5), and 17A.2(8). Therefore, objectors should be prepared to give evidence at the hearing that will explain the

nature of their specific rights or interests they believe should be protected, and that will show how these rights or interests will be affected by the proposed transmission line. As discussed above, to the extent that this evidence goes substantially beyond information already communicated to the Board in an objection letter, it should be written down and filed as prepared testimony according to the procedural schedule established below.

This proceeding is subject to the Board's electronic filing rules in 199 IAC chapter 14. Orders issued and documents filed in this proceeding may be viewed on the Board's Electronic Filing System (EFS) Web site at <https://efs.iowa.gov>. Pursuant to 199 IAC 14.4(4), objectors may file their written objections through the EFS or in writing, although electronic filing is preferred. There is a suggested objection form on the Board's Web site, but objectors are not required to use this form. Instructions for submitting an electronic filing can be found on the EFS Web site.

Objectors may file written objections on paper pursuant to 199 IAC 14.4(4). If an objector files a written objection on paper, the objection must be filed with the Executive Secretary of the Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069. Written objections will ordinarily be published on the Board's Web site. 199 IAC 14.4(4).

Both electronic and written objections must clearly state the objector's name and address and list the docket number on the objection.

Because objectors are presumed to be parties up to the time of the hearing, objectors who file their written objections through the EFS will receive electronic

notice of documents filed in this proceeding by other parties after their own objections have been filed with the Board. 199 IAC 14.16(2). However, if an objector files an objection in writing without using the EFS, the other parties must serve the objector with a hard copy of any document filed with the Board after the objector's objection has been filed. 199 IAC 14.16(2).

If a person files an objection after some or all of the prepared testimony and exhibits have been filed with the Board by other parties, the objector may view the documents through the Board's EFS. If the objector is unable to obtain documents through the EFS, the objector should make direct contact with the other parties to obtain a copy of the documents.

After an objector has filed a letter of objection, all further communications from the objector to the Board having to do with this case (including motions or prepared testimony and exhibits) must be filed electronically through the Board's EFS. If an objector wants to submit further communications to the Board and cannot do so electronically, the objector must file an original and ten copies of a request for permission to file paper documents under Board rule 199 IAC 14.4(1) with the Board's Executive Secretary. The request must explain why the objector is unable to use the Board's Internet-based EFS. The Board will issue an order responding to the objector's request.

If an objector has been granted permission to file paper documents, the objector must send one copy of each document filed with the Board to each of the other parties to this case, except that three copies must be sent to the Consumer Advocate. 199 IAC 1.8(4) and 7.4(6). Along with the communication being sent, the

objector must file a certificate of service that conforms to 199 IAC 2.2(16), which verifies that a copy of the document was served on the other parties.

Unless the Board has given permission to file paper documents, parties (including objectors) must file all communications through the EFS.

These procedures are necessary to comply with Iowa Code § 17A.17, which prohibits ex parte communication. Ex parte communication is when one party in a contested case communicates with the judge without the other parties being given the opportunity to be present. In order to be prohibited, the communication must be about the facts or law in the case. Calls to the Board to ask about procedure or the status of the case are not ex parte communication. Ex parte communication may be oral or written. This means the parties in this case may not communicate about the facts or law in this case with the undersigned administrative law judge unless the other parties are given the opportunity to be present, or unless the other parties are provided with a copy of the written documents filed with the Board.

The parties should examine Iowa Code chapter 478, and Board rules at 199 IAC 11, 14, and 25, 199 IAC 1.8, 7.1(3), 7.22, 7.26, and 7.27 for other substantive and procedural rules that apply to this case. There are links to the Iowa Code and the administrative rules on the Board's Web site at www.state.ia.us/iub.

PROPOSAL TO TAKE OFFICIAL NOTICE

Mr. Bao Nguyen, utility regulatory engineer for the Board, and Mr. Don Stursma, manager of the Board's Safety & Engineering Section, have prepared a report in the form of a memo dated November 4, 2013, concerning MEC's petitions

pursuant to Iowa Code § 478.4. Mr. Stursma and Mr. Cecil Wright, assistant general counsel for the Board, have prepared a supplemental report dated November 15, 2013, raising additional legal issues concerning MEC's petitions. A copy of the report and the supplemental report is attached to this order. Pursuant to Iowa Code § 17A.14(4), the undersigned administrative law judge proposes to take official notice of the report and the supplemental report and of the facts contained therein, thus making them a part of the record of this case. Iowa Code §§ 17A.12(6)(c) and 17A.14(4). Any party objecting to the taking of official notice of the report must file such objection as soon as possible, and no later than five days prior to the hearing. The parties will have the opportunity to contest any information contained in the report and supplemental report in prefiled testimony, prefiled brief, and at the hearing, and they may also cross-examine Mr. Nguyen and Mr. Stursma concerning the contents of their report at the hearing. Since the supplemental report raises only additional legal issues that staff recommends be addressed by the parties, it appears unnecessary to provide the opportunity to cross-examine Mr. Stursma and Mr. Wright regarding their supplemental report. However, if a party wishes the opportunity to cross-examine Mr. Stursma or Mr. Wright regarding their supplemental report, the party must file a request to cross-examine them according to the procedural schedule below.

EMINENT DOMAIN

As of the date of this order, MEC has requested the right of eminent domain for one parcel of property in Franklin County (Docket No. E-22097), designated as

parcel E-1. MEC has requested the right of eminent domain for six parcels of property in Butler County (Docket No. E-22098), designated as parcels E-1, E-2, E-3, E-4, E-5, and E-6. MEC has requested the right of eminent domain for eight parcels of property in Black Hawk County (Docket No. E-22099), designated as parcels E-1, E-2, E-3, E-4, E-5, E-6, E-7, and E-8. MEC must notify the Board of any changes regarding these requests and keep Exhibit E of each petition current. MEC must also serve written notice on the owners and persons in possession of those parcels as required by Iowa Code § 478.6 and 199 IAC 11.5(3). MEC has not yet filed the eminent domain notice for each docket with the Board for approval as required and it must do so within seven days of the issuance of this order.

IT IS THEREFORE ORDERED:

1. Each person who files an objection to one of MEC's petitions in this proceeding will be presumed to be a party in the proceeding unless it is established at hearing that the objector has no right or interest that may be affected by the grant or denial of the requested franchises.
2. As discussed in the body of this order, objections must be filed through the Board's Electronic Filing System (EFS) or in paper filed with the Executive Secretary of the Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069. Objections must be filed no later than 20 days after the date of the second publication of notice unless good cause is shown for the late filing. As discussed in the body of this order, objectors must file all subsequent communications to the Board through the EFS, or if granted permission to file in paper, must file an original and ten copies with the Executive Secretary. If filed in

paper, the communications must be served on the other parties and be accompanied by a certificate of service as discussed in this order.

3. A telephone prehearing conference in this proceeding was held on November 12, 2013, at which the participants agreed to the procedural schedule and preferred hearing dates. The following procedural schedule is established:

a. On or before December 9, 2013, MEC must file prepared direct testimony and exhibits as discussed in this order. In its prepared testimony, MEC must address the issues discussed in the body of this order. When it files exhibits, MEC should use exhibit numbers one and following. MEC must file a prehearing brief addressing the legal issues discussed in the body of this order on or before December 9, 2013. If MEC wishes the opportunity to cross-examine Mr. Stursma or Mr. Wright concerning their supplemental report, MEC must file this request with its prepared direct testimony.

b. On or before December 30, 2013, the Consumer Advocate, any objector, and any person with an interest in one of the eminent domain parcels may file prepared testimony, exhibits, and a prehearing brief. If the Consumer Advocate takes the position that MEC should not be granted the requested franchises, or that restrictions on the grant should be imposed, it must file prepared testimony or a brief in support of its position on or before December 30, 2013. If it files exhibits, the Consumer Advocate should use exhibit numbers 100 and following. If any objector files exhibits, the objector should use exhibit numbers starting with the person's initials and numbers 200 and following, such as "Exhibit LJ-200" etc. If any person with an interest in

one of the eminent domain parcels files exhibits, the person should use exhibit numbers starting with the person's initials and numbers 300 and following, such as "Exhibit JS-300" etc. If the Consumer Advocate, an objector, or a person with an interest in an eminent domain parcel wishes the opportunity to cross-examine Mr. Stursma or Mr. Wright concerning their supplemental report, they must file this request with their prepared direct testimony.

c. On or before January 6, 2014, MEC may file prepared rebuttal testimony and exhibits and a reply brief.

d. A public hearing for the presentation of evidence and the cross-examination of witnesses concerning the issues identified in this notice of hearing will be held beginning at 9:30 a.m. on Tuesday, January 21, 2014, in the City Hall Community Room, Allison City Hall, 410 North Main Street, PO Box 647, Allison, Iowa 50602. If needed, the hearing will continue on Wednesday, January 22, 2014, beginning at 9:00 a.m. in the same location. Each party must provide a copy of its prepared testimony and its exhibits to the court reporter at the hearing. Persons with disabilities who will require assistive services or devices to observe this hearing or participate in it should contact the Utilities Board at (515) 725-7334 as soon as possible and at least ten business days in advance of the hearing date to request that appropriate arrangements be made.

4. As discussed in the body of this order, this proceeding is subject to the Board's electronic filing rules in 199 IAC 14. Any party who has been granted

permission to file paper copies of documents must file an original and ten copies of all documents filed with the Board. 199 IAC 1.8(4), 7.4(4), 14.4(1).

5. The undersigned administrative law judge proposes to take official notice of Mr. Nguyen's and Mr. Stursma's report dated November 4, 2013, attached to this order, and of the facts contained therein. The undersigned administrative law judge also proposes to take official notice of Mr. Stursma's and Mr. Wright's supplemental report dated November 15, 2013, also attached to this order. Any party objecting to the taking of official notice of the report or supplemental report should file such objection as soon as possible, and must file such objection no later than five days prior to the hearing.

6. This order will be served on MEC and the Consumer Advocate electronically pursuant to 199 IAC 14.16. As of the date of this order, there are no persons who have filed written objections with the Board. To the knowledge of the undersigned, persons with an interest in the eminent domain parcels have not provided their e-mail addresses to the Board. Pursuant to Iowa Code § 478.6, a copy of this order will be served by ordinary mail upon the persons listed in Exhibit E of each of the petitions in Docket Nos. E-22097, E-22098, and E-22099 (the owners of record and parties in possession of the parcels over which MEC requests the right of eminent domain).

7. All objectors and the persons with an interest in the eminent domain parcels are encouraged to provide their E-mail address to the Board so they may receive electronic notice of all orders issued and documents filed in this proceeding.

8. MEC must notify the Board of any changes regarding the requests for eminent domain and keep Exhibit E for the petitions in Docket Nos. E-22097, E-22098, and E-22099 current.

9. Board staff will provide MEC with a notice to be published and MEC must publish the notice in Franklin, Butler, and Black Hawk Counties as required by Iowa Code § 478.5 and 199 IAC 11.5(2)"a." MEC must file proof of publication of notice with the Board at least five business days prior to the hearing. MEC must also serve notice as required by 199 IAC 11.5(2)"b" and file copies with the Board in conformance with the rule. (The ordinary mail notice required by 199 IAC 11.5(2)"b" is not required for parties whom MEC serves by certified mail pursuant to ordering clause 10 and 199 IAC 11.5(3).)

10. MEC must file proposed eminent domain notices for Docket Nos. E-22097 (Franklin County), E-22098 (Butler County), and E-22099 (Black Hawk County), with the Board for approval within seven days of the issuance of this order. Iowa Code § 478.6; 199 IAC 11.5(3). Once approved, MEC must serve the notice on each of the owners of record and parties in possession of the parcels over which MEC requests the right of eminent domain by certified mail, return receipt requested, in accordance with the requirements of Iowa Code § 478.6 and 199 IAC 11.5(3). MEC must file return receipts with the Board not less than five days prior to the hearing date.

11. The Board's Records and Information Center is directed to electronically serve a copy of this order on ITC Midwest LLC.

UTILITIES BOARD

/s/ Amy L. Christensen
Amy L. Christensen
Administrative Law Judge

ATTEST:

/s/ Joan Conrad
Executive Secretary

Dated at Des Moines, Iowa, this 18th day of November 2013.

IOWA UTILITIES BOARD
Safety & Engineering Section

Docket No.: E-22097, E-22098, E-22099
Utility: MidAmerican Energy Company
Date: November 4, 2013

TO: The Docket Files

FROM: Bao Nguyen, Don Stursma

SUBJECT: Proposed MidAmerican Energy Company 345 kV Transmission Line in Franklin, Butler, and Black Hawk Counties.

I. Background and History

On November 8 and 9, 2012, in compliance with Iowa Code § 478.2, MidAmerican Energy Company (“MEC” or the “Company”), held informational meetings in Franklin, Butler, and Black Hawk Counties for a proposed 345,000 volt (345 kV) electric transmission line. The purpose of the line, as stated in the petition’s Exhibit D and in the notice letter to landowners, is to assist in providing for additional transmission capacity to enable new renewable generation development, relieve congestion on the existing transmission system and increase transmission system reliability in Iowa. The proposed 345 kV line is a part of the Midwest Independent System Operator (MISO) 2011 Multi Value Project (MVP) Portfolio. It would connect to proposed ITC Midwest LLC (ITC) 345 kV electric transmission lines southwest of Hampton in the Southwest Quarter of the Southeast Quarter of Section 14, Township 91 North, Range 21 West of the 5th P.M., Franklin County at one end, and at the other end northeast of Dunkerton in the Northwest Quarter of the Northeast Quarter of Section 27, Township 90 North, Range 11 West of the 5th P.M., Black Hawk County.

For Iowa Utilities Board (Board) administrative purposes the following docket numbers were assigned for to project segments in the affected counties¹:

Docket No. E-22097 – Franklin County
Docket No. E-22098 – Butler County
Docket No. E-22099 – Black Hawk County

At the time of the informational meetings a transmission line route approximately 70 miles long was proposed which mostly followed the existing Corn Belt Power Cooperative (CBPC) and MEC 161 kV line corridors, except for approximately 0.63 mile in Franklin County and 3.7 miles in Black Hawk County. (See Petition Exhibits B and G). The Company plans to use the existing 161 kV line corridor by rebuilding the existing line into a double circuit transmission line on single pole structures to accommodate for the proposed 345 kV circuit.

¹ A separate franchise is required in each county traversed by the project, therefore a separate docket number is assigned to the line segment in each affected county. 199 IAC 11.3(4).



Following the informational meetings and at the time of this report, there are no objections on file, but eminent domain is requested for fifteen (15) parcels of land.

On December 19, 2012, MEC filed the three petitions (all exhibits except Exhibit E – Eminent Domain) for franchise to erect, maintain, and operate a proposed 345 kV electric transmission line in Franklin, Butler, and Black Hawk Counties. On August 30, 2013, MEC filed final Exhibits E requesting the right of eminent domain over fifteen (15) property parcels in three counties. One (1) eminent domain parcel is located in Franklin County, six (6) eminent domain parcels are in Butler County, and eight (8) parcels are in Black Hawk County.

When eminent domain is requested, a hearing is required. As required by Iowa Code § 478.6, the hearing must be held in Allison, Iowa, the county seat of the county nearest the midpoint of the proposed line (Butler County).

The MEC transmission line would be connected at both ends to 345 kV circuits to be constructed by ITC. Those connecting lines must also be franchised by the Board. In Docket E-22152 (Franklin County) an informational meeting was held on October 18, 2013. In Docket E-22034, Amendment 1 (Black Hawk County), a petition for franchise was filed April 30, 2013, and is under review by Board staff. MEC has expressed its desire that the Board proceed with its dockets. *MidAmerican should address, in prefiled testimony or at hearing, why it is appropriate for the Utilities Board to proceed to decision in the MEC dockets at this time.*

II. The Petitions

On December 19, 2012, MEC filed petitions for electric franchise for a 345 kV electric transmission line to be located in Franklin, Butler, and Jackson Counties. The docket numbers assigned to the petitions and the length of electric line for which franchise is sought in each petition are:

Docket No. E-22097 – Franklin County – 21.79 miles

Docket No. E-22098 – Butler County – 25.75 miles

Docket No. E-22099 – Black Hawk County – 22.65 miles

The total project line length is 70.19 miles. The route selected is primarily on private right-of-way, generally along and parallel to division lines of land. The routes proposed in the petitions are close to the proposed routes shown on the informational meeting maps, which follow the existing CBPC and MEC 161 kV line routes, except for approximately 0.63 mile in Sections 35 and 36, Township 90 North, Range 21 West, Franklin County; 1.5 miles in Sections 23 and 24, Township 90 North, Range 14 West, Black Hawk County; and 2.2 miles in Sections 30, 29 and 28, Township 90 North, Range 11 West, Black Hawk County of new line routes.

There followed several exchanges between the Board staff and MEC (deficiency letters, e-mails, or direct contact) on February 26, March 1, 4 & 15, June 5, 14 & 20, and

September 12, 2013 with MEC responses on April 10, June 14 & 20, July 3 & 9, August 30, and September 12 & 13, 2013, which provided information and petition amendments responding to Staff's review of the filing by correcting errors and clarifying or updating content.

As the filings approached their final form after corrective and update amendments, Board staff reviewed the route of the proposed line plus nearby areas. Subsequently, Docket Nos. E-22097, E-22098, and E-22099 were considered by Staff to be in sufficient order to be set for hearing.

Each petition includes the following content:

Form of Petition

This document requests granting of a franchise, introduces the exhibits, and makes certain statements concerning the project and process.

Exhibit A

Contains a legal description of the route based on the public lands survey system (section, township, range). This information is included in the published notice of the franchise petition, and is attached to franchises issued by the Board as the record of the approved line location. 199 IAC 11.2(1)"a".

Exhibit B

A map of the route showing the proposed electric line location and its relationship to natural, public, utility and private features of the area being crossed. 199 IAC 11.2(1)"b".

Exhibit C

Engineering information and drawings. 199 IAC 11.2(1)"c".

Exhibit D

Contains information required by Iowa Code § 478.3, including on need and planning issues. 199 IAC 11.2(1)"d".

MEC also filed, as Exhibit D-1, a copy of the route study prepared for the project by a consultant. The study is titled "Multi Value Project No. 4, Transmission Line Routing & Siting Study", and was prepared by Electrical Consultants, Inc.

Exhibit E

Contains property-specific information on the rights and extent of taking being sought through eminent domain. 199 IAC 11.2(1)"e". Exhibits E were filed in all three counties.

Exhibit F

A showing that notice of the petition filing was made to the owners of potentially affected utilities and other infrastructure near the route. 199 IAC 11.2(1)"f".

Exhibit G

An affidavit required by Iowa Code § 478.3 stating that required informational meetings were held and providing copies of the forms of notice used. 199 IAC 11.2(1)"g".

Iowa Code § 478.6 states that a public hearing must be held if an objection is filed or if the right of eminent domain is requested. Since the right of eminent domain is requested in all three dockets, hearing is required.

Iowa Code § 478.6 further states that when a hearing is required, if a proposed line is more than a mile long, the hearing must be held in the county seat of the county at the midpoint of the proposed line. The midpoint of the total project in these dockets falls in Butler County, therefore the hearing must be held in Allison, Iowa.

Staff recommends all three dockets be consolidated for hearing. Consolidation is desirable because the three dockets are interrelated parts of a larger project, and the "public use" and "reasonable relationship" tests of Iowa Code § 478.4, as well as the routing of any one segment, might be influenced by other segments.²

III. Description of Project

The project as now proposed consists of 70.19 miles of 345 kV nominal voltage (362 kV maximum voltage) electric transmission line connecting to future ITC Midwest LLC (ITC) 345 kV electric transmission lines in the Southwest Quarter of the Southeast Quarter of Section 14, Township 91 North, Range 21 West of the 5th P.M., Franklin County and in the Northwest Quarter of the Northeast Quarter of Section 27, Township 90 North, Range 11 West of the 5th P.M., Black Hawk County, as part of the Midwest Independent System Operator (MISO) 2011 Multi Value Project (MVP) Portfolio. The proposed 345 kV line is to enhance the ability to interconnection and deliver generation, including substantial amounts of renewable generation, to provide reliability benefits, and to decrease congestion in the MISO footprint. Out of 70.19 miles of line, the proposed line follows the same line route as existing CBPC and MEC 161 kV lines for approximately 65.86 miles, resulting in a project that is multiple circuit construction on existing right-of-way. The rest of proposed line would also be a multiple circuit construction but following of new route, except for approximately of 0.35 mile as single 345 kV line in the Northeast Quarter of Section 35, Township 90 North, Range 21 West, Franklin County.

Starting in Franklin County, the proposed 345 kV line would run south following the existing CBCP 161 kV line route, from a connecting point to future ITC 345 kV line, which is approximately 800 feet north of Section 14's south quarter corner, Township 91 North, Range 21 West, approximately 8.35 miles. It then goes easterly crossing Franklin County a distance of 13.45 miles to Franklin – Butler County Line. The proposed line continues easterly the next 17.25 miles in Butler County. Then it goes north along north – south half section lines for a distance of 2.0 miles. Then it proceeds

² Gannon vs. Iowa State Commerce Commission, Polk County District Court, Case No. 92922 (1970).

easterly again crossing Butler County approximately 6.5 miles to Butler – Black Hawk County Line. In Black Hawk County, the proposed line continues easterly 4.5 miles, then northerly 0.25 mile, easterly 1.0 mile, and southerly 0.25 mile approximately. The last three line segments are on new line route. The proposed line continues east following an existing MEC 161 kV line for the next 12 miles. It then proceeds southeasterly a distance of 0.9 mile. It continues easterly 0.6 mile along Section 19's south line, Township 90 North, Range 11 West. Then it goes south 0.25 mile, east 1.8 miles paralleling to existing MEC 161 kV line, and northeast 0.2 mile, all along new line route. Thence, the proposed 345 kV line heads east to and terminates at a connecting point with future ITC 345 kV line in Section 27, Township 90 North, Range 11 West, a distance of 1.0 mile. This point is presently also a connecting point of existing MEC and ITC 161 kV lines.

The line route primarily follows existing CBPC and MEC 161 kV transmission line routes and is mostly on private right-of-ways along and parallel to division lines of land, except for public roads rights of way crossings. There are a few line segments that deviate from division lines of land but these reportedly reflect landowner preference (See filed Exhibits D).

The proposed transmission line design is a single-pole construction of a combination of single circuit (345 kV), and of double circuit (345 kV & 161 kV). For approximately 8.35 miles the route follows and parallels existing CBPC 161 kV line right-of-way, and for 57.16 miles follows and parallels existing MEC 161 kV line routes. These lengths include small deviations but not substantial departures from existing right-of-way. The existing lines would be rebuilt to carry both the existing 161 kV circuit and the proposed 345 kV circuit.

The proposed 345 kV line's conductors would be vertically mounted on one side of pole, and the existing 161 kV line's conductors mounted vertically on the opposite side of the pole. Single shafted steel poles, 100 to 160 feet in height (above ground), with steel arms in lengths of 20.5 to 24.5 feet (for tangent and angle structures) and of 12 to 14 feet (for dead-end structures), suspension polymer insulators, and at an average span of 1000 feet and a maximum span of 1200 feet, will constitute the typical construction of the proposed line (See filed Exhibits C, structure drawings "DC 345 – 161 kV Tangent Monopole", "DC 345 – 161 kV Angle Monopole", and "DC 345 – 161 kV Deadend Monopole"). All structures are self-supported poles on concrete drill pier foundations with anchor bolts. The proposed 345 kV line conductors per phase will be twin-bundle T2 Dove or T2 556.5 kcmil (bundle of two T2 Dove, a conductor code word (1113 kcmil equivalent)). The design includes two (2) shield wires which are optical ground wire (OPGW) for 345 kV side and EHS (extra high strength) steel wire for existing 161 kV side, mounted on steel arms at the top of structure, for lightning protection and communications between MEC electrical facilities for its monitoring and operations.

Under worst case conditions³, the above ground and roadway crossing clearances of the proposed 345 kV circuit conductors would be at least twenty-six and eight tenths (26.8) feet. The proposed 345 kV circuit would be at least thirty-seven and eight tenths (37.8) feet above railroads (where present). In addition, the proposed 345 kV circuit would be at least twenty-five and three tenths (25.3) feet above non-suitable for sail boating water areas, twenty-eight and eight tenths (28.8) feet above sail boating water areas of less than twenty acres, and thirty-six and eight tenths (36.8) feet above sail boating water areas of over twenty to two hundred acres (where present). The petition Exhibits C do not show any communication underbuild on the proposed line.

Along the route, the proposed 345 kV line would cross over some other existing transmission lines and be fairly close to buildings/barns/grain bins at some locations. In the filings, MEC provided Exhibit C structure and/or "Plan and Profile" drawings indicating of how the proposed line crossed over them and/or the vertical separations between them, as well as the horizontal distances away from buildings/barns/grain bins. The drawings appear to show adequate clearances will be provided. However, in response to Staff comment about the proposed 345 kV line's safety clearances to a grain bin located near the west quarter corner of Section 34, Township 90 North, Range 17 West in Butler County, MEC said in the letter dated April 10, 2013 that negotiations were on-going to have the grain bin removed by the landowner; if unsuccessful, then MEC will later submit a revised Exhibit C noting the presence of the grain bin. At the time of this report, there is still more information needed regarding to grain bin issue. This leaves unclear issue of safety code compliance near a grain bin. *MEC should update or address this issue in prefiled testimony or at hearing.*

In Franklin County the proposed line follows the existing CBPC and MEC 161 kV line routes, except for 0.63 mile of new route. At the time of this report the petition in Docket No. E-22097 shows MEC has obtained 88 out of 90 needed easements.⁴ MEC is requesting the right of eminent domain for one (1) parcel. Apparently one additional easement is needed for which eminent domain is not requested. *MEC needs to update the easement status.*

In Butler County, at the time of this report, the petition in Docket No. E-22098 shows MEC has obtained 97 out of 112 needed easements. MEC has requested the right of eminent domain for six (6) parcels, but needs to obtain nine (9) additional easements. The proposed line completely follows the existing MEC 161 kV line route. *MEC needs to update the easement status.*

In Black Hawk County, the petition in Docket No. E-22099 shows MEC has obtained 92 out of 105 needed easements. MEC has requested the right of eminent domain for eight (8) parcels, but needs to obtain thirteen (13) more easements. The route in this county primarily follows an existing MEC 161 kV line route but there is also 3.7 miles on new route. *MEC needs to update the easement status.*

³ Minimum clearances at maximum design temperature or under ice loading conditions as defined in the National Electrical Safety Code.

⁴ The franchise petition form asks for the number of easements required for the proposed line, and the number that have been obtained.

Subject to clarification of how MEC will resolve the grain bin issue discussed above, Staff review has concluded that the design of the proposed typical facilities as described in the Exhibit C is consistent with the National Electrical Safety Code (NESC) and other safety and engineering provisions adopted by the Board in rule 199 IAC 25.2.

IV. Requirements of Iowa Code Section 478.4

Under Iowa Code § 478.4, to grant a franchise the Board “shall make a finding that the proposed line or lines are necessary to serve a public use and represents a reasonable relationship to an overall plan of transmitting electricity in the public interest.”

To obtain the information necessary to address these and other issues, Board rule 199 IAC 11.2(1)d(1) states:

d. Exhibit D. The exhibit shall consist of a written text containing the following:
(1) An allegation, with supporting testimony, that the line is necessary to serve a public use, plus such additional substantiated allegations as may be required by Iowa Code section 478.3(2).⁵

a. Necessary to serve a public use

The most relevant statements on this issue found in Exhibits D are:

MidAmerican’s proposed 345 kV electric transmission line is a part of the Midwest Independent System Operator (“MISO”) 2011 Multi Value Project (“MVP”) Portfolio that enhances the ability to interconnect and deliver generation, including substantial amounts of renewable generation, provides reliability benefits, and decreases congestion in the MISO footprint. The MISO 2011 MVP Portfolio is a part of the 2011 MISO Transmission Expansion Plan (“MTEP”) approved by the MISO Board on December 8, 2011. (Page 1, middle paragraph)

The proposed 345 kV line is a critical component of the MISO 2011 Portfolio of Projects and would allow for subsequent renewable energy additions in the area that would bring significant economic benefit to the area. The proposed 345 kV line will also enhance electric transmission reliability throughout the area and will help to assure present and future business of an adequate power supply for present and future economic development of the area. (Page 3, paragraph “A.”)

These MEC statements taken together appear to be the allegation that the proposed construction is necessary to serve a public use. These statements assert that MEC’s needs to provide an alternate or new transmission source to Waterloo/Cedar Falls

⁵ Iowa Code 478.3 specifically requires that the petition include allegations regarding the need to serve a public use and the reasonable relationship issue, and contain other specified information.

metro area, and increase the reliability of service to the area, are sufficient to meet that test.

In setting these dockets for hearing, the Board or ALJ should consider if these statements are sufficient to make a finding on this issue. If not, then MEC should be instructed to expand on its Exhibit D statements in its prefiled hearing testimony or at hearing.

b. Represents a reasonable relationship to an overall plan of transmitting electricity in the public interest

The most relevant statements on this issue found in Exhibits D and D-1 are:

.... The proposed line will typically be built in existing 161 kV line corridors from a point southwest of the Hampton, Iowa area in Franklin County, through Butler County and to a point to the east of the Waterloo, Iowa area in Black Hawk County. The proposed 345 kV line will be double circuited with an existing Corn Belt Power Cooperative 161 kV line from that point located to the southwest of the Hampton, Iowa, area southerly to MidAmerican 's Franklin Substation area, then continuing easterly for a few spans as a single circuit 345 kV line, and then join up and be double circuited in an existing line corridor with an existing MidAmerican 161 kV line from the Franklin Substation area to MidAmerican's Black Hawk Substation located in Black Hawk County in Section 23, Township 90 North, Range 13 West of the 5th P.M., and then continuing easterly as a double circuited line in an existing line corridor with an existing MidAmerican 161 kV line to that point to the east of the Waterloo, Iowa, area. (Page 2, last paragraph, lines 3 to 8, Page 3, lines 1 to 6)

The proposed line would extend from an ITC Midwest, LLC (ITC Midwest) electrical connection point near Hampton, Iowa, southerly and easterly to an existing MEC substation, then continuing easterly to another ITC Midwest electrical connection point east of the Waterloo, Iowa area. (Exhibit D-1, Page 5, paragraph "ES.1.", sub-paragraph 1, lines 3 to 6)

In addition, Petition Exhibits D, Items a through h, contain responses to a series of issues that Iowa Code § 478.3(2) requires petitioners to address in a franchise filing. They deal with the relationship of the proposed project to economic development, electrical system, public, and land use considerations, presently and in future. The allegations by MEC in these items contain statements possibly relevant to the "reasonable relationship" issue. MEC includes the following statements:

A core component of the MISO's regional transmission planning process, as described in the MISO Tariff, is its annual MTEP. The MTEP is the result of a multi-faceted transmission planning effort aimed at improving electric grid performance in the MISO footprint by ensuring continued compliance with North American Electric Reliability Corporation ("NERC") reliability standards, addressing transmission constraints, providing economic benefits such as increased market efficiency, facilitating energy policy objectives such as meeting Renewable Portfolio Standards,

and addressing other issues and goals identified in the stakeholder policy such as facilitating the development of new generation resources. (Pages 3 and 4, paragraph "B.", sub-paragraph 1)

MEC should be instructed to explain in prefiled testimony or at hearing the location of the nearest existing and/or future transmission substations (beyond the proposed 345 kV line's west and east termini) that the proposed line and/or future ITC 345 kV line would be connected to, providing a broader picture of 345 kV system.

MEC's statements in Exhibits D and D-1, including those quoted above, could be construed to be the required allegations on the "reasonable relationship" issue.

In setting these dockets for hearing, the Board or ALJ should consider if the contents of Exhibits D and D-1 are sufficient to make a finding on the "reasonable relationship" test or on other issues that Iowa Code § 478.3(2) requires be addressed in a petition. If not, then MEC should be instructed to expand on its Exhibit D and/or D-1 statements in its prefiled hearing testimony or at hearing.

V. The Route

The location of the proposed route is described in Petition Exhibits A (legal description) and B (map). The line route is mostly on private right-of-way along and parallel to division lines of land or roads, except for public right-of-ways at road/highway crossings.

Current land use on the line route is predominantly agricultural. For approximately ninety nine percent (99%) of total line route, the proposed 345 kV line will be double circuited with existing 161 kV lines. The existing lines are owned by either CBPC or MEC.

The current filings do not state whether MEC has a fully executed agreement with CBPC for use of their right-of-way and rebuilding of their line. MEC should explain this in prefiled testimony or at hearing.

Iowa Code § 478.18(2) and 199 IAC § 11.1(7) contain these provisions for the routing of electric lines:

Iowa Code § 478.18(2)

A transmission line shall be constructed near and parallel to roads, to the right-of-way of the railways of the state, or along the division lines of the lands, according to the government survey, wherever the same is practicable and reasonable, and so as not to interfere with the use by the public of the highways or streams of the state, nor unnecessarily interfere with the use of any lands by the occupant.

Iowa Code § 478.20 Distance from buildings.

No transmission line shall be constructed, except by agreement, within one hundred feet of any dwelling house or other building, except where said line crosses or passes along a public highway or is located alongside or parallel with the right-of-way of any railway company. In addition to the foregoing, each person, company, or corporation shall conform to any other rules, regulations, or specifications established by the utilities board, in the construction, operation, or maintenance of such lines.

199 IAC § 11.1(7)

The planning for a route that is the subject of a petition for franchise must begin with routes that are near and parallel to roads, railroad rights-of-way, or division lines of land, according to the government survey, consistent with the provisions of Iowa Code section 478.18(2). When a route near and parallel to these features has points where electric line construction is not practicable and reasonable, deviations may be proposed at those points, when accompanied by a proper evidentiary showing, generally of engineering reasons, that the initial route or routes examined did not meet the practicable and reasonable standard. Although deviations based on landowner preference or minimizing interference with land use may be permissible, the petitioner must be able to demonstrate that route planning began with a route or routes near and parallel to roads, railroad rights-of-way, or division lines of land.

Further, no transmission line shall be constructed outside of cities, except by agreement, within 100 feet of any dwelling house or other building, except where such line crossed or passes along a public highway or is located alongside or parallel with the right-of-way of any railroad company, consistent with the provisions of Iowa Code section 478.20.

The meaning and intent of Iowa Code section 478.18(2) has several times been the basis for court appeal of a Board franchise decision, most notably in the Iowa Supreme Court cases of *Hanson v. Iowa State Commerce Commission*, 227 N.W.2d 157 (Iowa 1975), *Anstey v. Iowa State Commerce Commission*, 292 N.W.2d 380 (Iowa 1980), and *Gorsche Family Partnership v. Midwest Power, et al.*, 529 N.W.2d 291 (Iowa 1995). Hanson first established, and Anstey upheld, that route selection must begin by examining routes near and parallel to railroads and division lines of land;⁶ only after such routing was found impracticable or unreasonable could deviating routes be considered. It was to advise prospective petitioners of the need to comply with 478.18(2) and the ramifications of Hanson and Anstey in their route selection process that the Board adopted rule 11.1(7).

In addition to Exhibits D, MEC filed an Exhibit D-1 (Multi Value Project No. 4 – Transmission Line Routing & Siting Study) which details the specifics of the route analysis and the route along existing electric transmission line corridors that was selected. Exhibit D-1 is prepared by Electrical Consultants, Inc. (ECI), a consultant

⁶ At the time of the Hanson and Anstey cases the law did not include roads; that was added in a subsequent amendment to Iowa Code § 478.18.

engineering firm, performed a detailed route study to determine the most reasonable and practicable route for the proposed line. ECI had been instructed by MEC to start the route planning in compliance with Iowa Code § 478.18(2) and 199 IAC § 11.1(7). The report describes the Siting Methodology used as follows (Exhibit D-1, page 5 (ES-1), paragraph “ES.2”):

The initial 345 kV line study area is located within Franklin County, Butler County, Bremer County and Black Hawk County, all located within the state of Iowa. A greenfield route was initially considered for the proposed 345 kV line. However, the potential for using an existing corridor was identified very early in the routing analysis. Based on the result of this study, the 345 kV line route is proposed to be constructed primarily along existing 161 kV line corridors that generally meet the IUB routing criteria. This study also identifies potential deviations from these routing criteria, other issues that may constrain the co-location of this new line along the existing line corridors, and alternatives to address these constraints. A double circuit monopole structure is proposed to be used to accommodate both the new 345 kV line and the existing 161 kV line.

The proposed route typically follows the routes of existing 161 kV lines, and is primarily near or on division lines of land, but there are a number of deviations. The deviations are typically small and due to the location of buildings or development near the existing routes, landowner preference, and to minimize interference with land use. The location of and rationale for the deviations is given in Section 4.1 of the route study. In addition, according to Exhibit D, MEC apparently entered negotiations with some landowners with buildings within 100 feet of the existing line route but could not reach an agreement. (Iowa Code § 478.20 restricts the placement of electric transmission lines within 100 feet of a house or building, except by agreement.)

The deviations appear to represent locations where rigid adherence to a division lines of land route would not be “practicable or reasonable,” or which reduce interference with land use, and are therefore allowable.

In Black Hawk County the route passes through what appear to be two public areas; Black Hawk Park and the Wapsi River Bird Conservation Area. The route at these locations is existing, eminent domain is not requested, and no objections have been received related to those areas.

It has been noted that most of the proposed route would follow existing line routes, and most of the existing routes follow mid-section/section lines or division lines of land. Because use of an existing route will generally result in less new interference with land use than a new route, they may be regarded more favorably by landowners than new routes. The Board has granted franchises for routes that followed existing routes, including departures from division lines of land.⁷ The weight to be given to landowner

⁷ Docket Nos E-21043, E-21044, E-21045, Midwest Power, 27.29 miles of 345 kV line in Madison, Warren and Polk Counties and subsequent *Gorsche Family Partnership v. Midwest Power, et al.*, 529 N.W.2d 291 (Iowa 1995).

preference for a deviating route has not been adjudicated by the courts, nor is Staff aware of past cases before the Board where the issue was addressed. But given the importance Iowa Code chapter 478 attaches to landowner notification and opportunity for input, Staff believes it must be considered significant and a factor to be considered by the Board in determining if those segments of a proposed route should be accepted.

However, lines carrying multiple circuits also have their downside, especially in the areas of reliability and lack of system redundancy. A single event, such as a tornado, ice storm, sabotage or structural failure could take out multiple major electric supply circuits. This creates potential conflict with that part of Iowa Code § 478.4 which says that to grant a franchise the Board must find the line “represents a reasonable relationship to an overall plan of transmitting electricity in the public interest.” *MEC should include evidence in prefiled testimony or at hearing on why the proposed double circuit 345/161 kV would not conflict with system reliability and redundancy.*

VI. Eminent Domain

Iowa Code § 478.15 gives the Board the authority to grant “the right of eminent domain to such extent as the utilities board may approve, prescribe and find to be necessary” to serve a public use.

The majority of the route is on existing transmission line right-of-way, which presumably has easements. The filings do not explain why MEC needs new easements. Presumably either the existing easement is too narrow, and/or the existing easements would not allow a 345 kV second circuit to be installed. It seems that as part of the “necessary” component MEC should explain why new rights are needed for an existing route.

For this project MidAmerican typically requests a maximum right-of-way width of 150 feet, a little less in some areas, and as low as 100 feet on part of eminent domain Parcel E-2 in Butler County. In those instances the poles would be on or near the center of the easement. Where the route is adjacent to a property line, the width is typically 80 feet on the property that has the poles, and 70 feet on the other. In most cases the poles would be located five feet from the property line. For properties without poles, an easement is still needed for overhang.

The rights sought would allow MidAmerican to survey for, construct, operate and maintain an electric line or lines for the transmission and distribution of electric energy, including the right to remove trees and brush. The easement contains no limit on the number of lines or their voltage. The Board typically grants eminent domain rights only to the extent necessary for a proposed project. It appears the easement right proposed

would allow construction of additional lines or circuits. Nor is it clear why “distribution” should be part of these easements.

MEC should be instructed to address in prefiled testimony or at hearing why it needs new easements to construct this project, and why it seems to be asking for eminent domain rights beyond the needs of this project.

As of the date of this report, eminent domain is requested for one (1) parcel in Franklin County (Docket No. E-22097) which is designated as E-1; for six (6) parcels in Butler County (Docket No. E-22098) which are designated as E-1, E-2, E-3, E-4, E-5 and E-6; and for eight (8) parcels in Black Hawk County (Docket No. E-22099) which are designated as E-1, E-2, E-3, E-4, E-5, E-6, E-7 and E-8. None of the persons with ownership interest in these parcels have filed objections.

As previously noted, according to the petitions MEC has some remaining easement to obtain in all three counties for which eminent domain is not requested (2 remaining easements and 1 eminent domain parcels in Franklin County, 15 remaining easements and 6 eminent domain parcels in Butler County, and 13 remaining easements and 8 eminent domain parcels in Black Hawk County). MEC is not required to have obtained all easements to obtain a franchise, and since eminent domain is not requested MEC is presumably confident it can obtain those easements voluntarily. However, there are specific mailed notice requirements in 199 IAC § 11.5(2)^b which apply in this situation. *MEC is reminded of the specific mailed notice and filing requirements that apply to owners of property from whom an easement has not been obtained, and for which eminent domain is not requested.*

a. Summary of Eminent Domain in Franklin County

Condemnation Parcel E-1 (Tract no. IA-FR-188.000)

The proposed eminent domain easement would be 80 feet wide and 1304 feet long along the north border of the property. The poles would be 5 feet inside the property and there would be conductor overhang. It is along the north 80 feet of the W1/2 of the SW1/4 of Section 34, T90N, R19W. Condemnation Parcel E-1 involves one parcel titled to Michael J. De Berg and Janet K. De Berg. This parcel is described as:

Parcel ID 1634300001 - NW1/4 SW1/4⁸

The parcel contains no visible buildings with the predominant land use being agricultural. A single pole is proposed approximately 423 feet east of W1/4 corner of section and 5 feet south of north easement line. The proposed line’s centerline is approximately 5 feet south of north easement line. Aerial photos show approximately half the easement crossing uncultivated land with few trees.

b. Summary of Eminent Domain in Black Hawk County

⁸ Property descriptions are brief tax descriptions only and not full legal descriptions.

Condemnation Parcel E-1 (Tract no. IA-BL-502.000)

The proposed eminent domain easement is for a quarter mile of 70 ft. wide easement plus an additional 80 feet for 30 feet. It is along the south 80 feet of the east 30 feet of the NW1/4, the north 70 feet of the NW1/4 of the SE1/4, and the north 70 feet of the NE1/4 of the SW1/4 except the portion that lies within Parcel B as recorded in 346 Misc 52, all of Section 19, T90N, R13W. Condemnation Parcel E-1 involves three parcels titled to Chad M. Rinehart. These parcels are described as:

Parcel ID 901319126003 – East 30 feet of NW1/4

Parcel ID 901319401001 – NW1/4 SE1/4

Parcel ID 901319326002 – NE1/4 SW1/4 except that part lying within Parcel B.

Parcel ID 901319401001 contains one building located approximately 123 feet south of the proposed line's centerline. The proposed line's centerline is approximately 5 feet north of Section 19's east – west half section line. The predominant land use is agricultural.

No poles/structures, and only conductor overhang, is indicated on the maps for this property. However, the proposed easement would allow placement of poles and other infrastructure. *MEC should be asked to explain, in prefiled testimony or at hearing, why the right to place structures on the ground is requested for this property.*

Condemnation Parcel E-2 (Tract no. IA-BL-508.000)

The proposed eminent domain easement is along the south 80 feet of the east 1144 feet of the SE1/4 of the NE1/4 of Section 19, T90N, R13W. Condemnation Parcel E-2 involves one parcel titled to Ryan and Elizabeth Pontasch. This parcel is described as:

Parcel ID 901319276003 – Beginning at the east quarter corner of section, west 1144 feet, north 495 feet, east 1144 feet, and then south to the beginning point.

The parcel contains buildings with the closest one approximately 150 feet north of the proposed line. The predominant land use is agricultural. A single pole is proposed approximately 40 feet west of section's east quarter corner and 5 feet north of property south line. The proposed line's centerline is 5 feet north of property south line.

Condemnation Parcel E-3 (Tract no. IA-BL-509.000)

The proposed eminent domain easement is along the north 70 feet of the east 348 feet of the NE1/4 of the SE1/4 of Section 19, T90N, R13W. Condemnation Parcel E-3 involves one parcel titled to Gary L. and Diane M. Wallace. This parcel is described as:

Parcel ID 901319426002 – Beginning at the east quarter corner of section, west 348 feet, south 626 feet, east 348 feet, then north 626 feet to the beginning point.

The parcel is a wooded lot with the closest building approximately 375 feet south of north property line. The proposed line's centerline is approximately 5 feet north of parcel north line. There appears no pole would be on the property, only overhanging

line conductors along the edge of the property. This proposed easement is written for overhang rights only.

Condemnation Parcel E-4 (Tract no. IA-BL-510.000)

The proposed eminent domain easement is for 1321 feet along the south 80 feet of the SW1/4 of the NW1/4 of Section 20, T90N, R13W. Condemnation Parcel E-4 involves one parcel titled to Deseret Trust Company located in Salt Lake City, Utah. Bradley C. Renner is a tenant whose address is 31254 Willow Avenue, New Hartford, Iowa 50660. This parcel is described as:

Parcel ID 901320151001 – SW1/4 NW1/4

The parcel contains no visible buildings. The predominant land use is agricultural. A single transmission pole is proposed approximately 5 feet north of property south line and 319 feet west of the SE corner of the property.

Condemnation Parcel E-5 (Tract no. IA-BL-513.000)

The proposed eminent domain easement is for 2640 feet along the north 70 feet of the NW1/4 of the SE1/4, and the north 70 feet of the NE1/4 of the SW1/4, all of Section 20, T90N, R13W. Condemnation Parcel E-5 involves two parcels titled to Deseret Trust Company in Salt Lake City, Utah. Bradley C. Renner is a tenant whose address is 31254 Willow Avenue, New Hartford, Iowa 50660. These parcels are described as:

Parcel ID 901320401001 – NW1/4 SE1/4

Parcel ID 901320326001 – NE1/4 SW1/4

This parcel contains no visible buildings. The predominant land use is agricultural.

The proposed line's centerline is approximately 5 feet north of north property line. No poles/structures, and only conductor overhang, is indicated on the maps for this property. However, the proposed easement would allow placement of poles and other infrastructure. *MEC should be asked to explain, in prefiled testimony or at hearing, why the right to place structures on the ground is requested for this property.*

Condemnation Parcel E-6 (Tract no. IA-BL-533.000)

The proposed eminent domain easement is 89 to 96 feet wide for 385 feet, excluding a railroad right-of-way. The area being described as: Beginning at the east quarter corner of Section 22, T90N, R13W, thence west approximately 384.88 feet along the south line of NE1/4, thence north approximately 89 feet, thence east 385 feet to a point on the east line of said NE1/4, thence south 96 feet to the beginning point, except a 50-foot wide strip of railroad right-of-way of the Mississippi Valley Corporation. Condemnation Parcel E-6 involves one parcel titled to Bernard E. and Donna R. Nanke. This parcel is described as:

Parcel ID 901322276003 – Part of NE1/4 described as: Beginning at the southeast corner of NE1/4, then west 383.88 feet along said quarter south line, then north 1525.29 feet, then east 389.84 feet to said quarter's east line, then south 1528.58

feet to the beginning point, except for railroad right-of-way of Mississippi Valley Corporation.

The parcel contains visible buildings with the closest one at approximately 830 feet north of south property line. The predominant land use is agricultural. The proposed line's centerline is approximately 14 feet (at west end) and 21 feet (at east end) north of south property line. There are no proposed poles but only conductor overhang is indicated on the maps for this property. However, the proposed easement would allow placement of poles and other infrastructure.

The route centerline is generally located 5 feet on one side of a division line of land. The 14- and 21-foot distances proposed for this parcel are atypical, and mean more overhang and a wider easement. No explanation was found in the route study.

Also, Exhibit E-6 shows a railroad right-of-way crossing this property. The eminent domain request does not include the railroad right-of-way. However, it appears the railroad is gone and perhaps abandoned. If the right-of-way has reverted to the landowner, the eminent domain request is incomplete.

MidAmerican should be asked to explain, in prepared testimony or at hearing, the unusual dimensions of the easement sought, why the route centerline on Parcel E-6 is further from the section line than is usual, the ownership status of the railroad right-of-way that crosses this parcel, and why the right to place structures on the ground is requested for this property.

Condemnation Parcel E-7 (Tract no. IA-BL-592.000)

The proposed eminent domain easement is for 1334 feet along the south 80 feet of the SW1/4 of the NW1/4 of Section 23, T90N, R12W. Condemnation Parcel E-7 involves one parcel titled to Wade L. Olson as contract buyer. This parcel is described as:

Parcel ID 901223151001 – SW1/4 NW1/4

The parcel contains no visible buildings. The predominant land use is agricultural. A single transmission pole is proposed at 5 feet north of property south line and 312 feet west of property east line. The proposed line's centerline is approximately 5 feet north of south property line.

Condemnation Parcel E-8 (Tract no. IA-BL-669.000)

The proposed eminent domain easement is a 2878 by 150-foot wide strip of land across the N1/2 of the NE1/4 of Section 28, T90N, R11W. The centerline of said strip of land is more or less particularly described as: from the SW corner of the N1/2 of the NE1/4 of said section, proceeding northeasterly parallel and adjacent to the right-of-way of Chicago Great Western Railroad (Union Pacific Railroad Company) an approximate distance of 1150 feet, then continuing easterly to NE1/4 east line a distance of 1749 feet. Condemnation Parcel E-8 involves one parcel Charles S. Heene. This parcel is described as:

Parcel ID 901128226001 – N1/2 NE1/4 Section 28, excluded that part lying northwest of Chicago Great Western Railroad tracks and highways

This parcel contains no visible buildings. The predominant land use is agricultural. There are three proposed poles on the eminent domain parcel. The route is partly along a railroad right-of-way, and partly across open field.

c. Summary of Eminent Domain in Butler County

Condemnation Parcel E-1 (Tract no. IA-BU-247.000)

The proposed eminent domain easement would be 150 ft. wide for 1975 feet and 70 ft. wide for 407 feet. It is along the north 70 feet of the SW1/4, except the east 255 feet and the portion that lies within Illinois Central Railroad right-of-way, the south 80 feet of the W1/2 of the NW1/4, except the portion that lies within Illinois Central Railroad right-of-way, and the south 80 feet of lot 3 of the NW1/4, all in Section 31, T90N, R18W. Condemnation Parcel E-1 involves two parcels titled to Richtsmeier Farms, Inc. These parcels are described as:

Parcel ID 1331100042 – W1/2 NW1/4 and a track in SE1/4 NW1/4 (lot 3), except the portion that lies within Illinois Central Railroad right-of-way

Parcel ID 1331300043 – SW1/4, except the east 255 feet and the portion that lies within Illinois Central Railroad right-of-way

This parcel contains visible buildings with the closest one at approximately 1440 feet south of east – west half section line. The predominant land is agricultural and pastures along Beaver Creek and railroad tracks. There are apparently three transmission poles located approximately 96 feet and 914 east of section's west quarter corner, and 1220 feet west of section's center point. The proposed line's centerline is approximately 5 feet north of east – west half section line.

Condemnation Parcel E-2 (Tract no. IA-BU-263.000)

The proposed eminent domain easement is a strip of land ranging from 100 to 150 feet wide for 1312 feet, across the SW1/4 of the NE1/4 and the W1/2 of the SE1/4, following the east – west half section line and overlapping 335th Street roadway at some points, all in Section 32, T90N, R18W. Condemnation Parcel E-2 involves two parcels titled to Brian L. and Dixie J. Kuper. These parcels are described as:

Parcel ID 1332200042 – SW1/4 NE1/4

Parcel ID 1332400042 – W1/2 SE1/4, except Parcel B (recorded no. 2002-2382) located in the SW1/4 SE1/4

The parcels contain two buildings which are located approximately 95 and 52 feet south of the proposed line/easement centerline and outside of eminent domain easement strip of land. The predominant land is agricultural and pastures (along Beaver Creek). Two transmission poles are proposed adjacent to north and south sides of 335th Street. One pole is located at 157 feet northeast of the section center, and the other pole at 252 feet west of and 30 feet south of the NE corner of the W1/2 of the SE1/4.

Although there are buildings within 100 feet, the electric line is along and crosses a public road right-of-way, so appears to meet Iowa Code § 478.20.

Condemnation Parcel E-3 (Tract no. IA-BU-282.000)

The proposed eminent domain easement is 80 feet wide for 450 feet along the north edge of the property. More specifically, 80 feet of the west 450 feet of the NW1/4 of the SE1/4 of Section 34, T90N, R18W. Condemnation Parcel E-3 involves one parcel titled to Craig H. and Kathleen M. Donnelly. This parcel is described as:

Parcel ID 1334400043 – N 515 feet, W 450 feet of NW1/4 SE1/4

The parcel contains no visible buildings. The predominant land use is agricultural. A single transmission pole is proposed at approximately 254 feet east of the section center. The proposed line's centerline is approximately 5 feet south of north property line.

Condemnation Parcel E-4 (Tract no. IA-BU-329.000)

The proposed eminent domain easement 147.8 feet wide and 1254 feet long along the south 77.8 feet of the SW1/4 of the NW1/4, except the west 50 feet, and the north 70 feet of the W1/2 of the SW1/4, all in Section 31, T90N, R16W. Condemnation Parcel E-4 involves two parcels titled to Stephen L. and Molly L. DeGroote. These parcels are described as:

Parcel ID 1531151041 – an area of the south 77.8 feet and the east 1254 feet of SW1/4 NW1/4

Parcel ID 1531300040 – W1/2 SW1/4

This parcel contains no visible buildings. The predominant land use is agricultural. One transmission pole is proposed at approximately 207 feet east of the west quarter corner of section. The proposed line's centerline is approximately 5 feet north of the east – west half section line.

Condemnation Parcel E-5 (Tract no. IA-BU-343.000)

The proposed eminent domain easement is along a 150 feet wide strip of land across W1/2 of the NE1/4 of Section 33, T90N, R16W, the centerline of which is more particularly described as follows: beginning at the SE corner of the W1/2 of the NE1/4, thence north 145 feet along the east line of said W1/2 NE1/4 to the point of beginning of said easement centerline, thence S77°36'28"W 707 feet to the point on the south line of said W1/2 NE1/4, with said point being 629 feet west of the SE corner of said W1/2 NE1/4 and being the point of termination of said easement centerline, with said easement lines beginning on the east line of said W1/2 NE1/4 and ending on the south line of said W1/2 NE1/4; the south 80 feet of said W1/2 NE1/4 lying west of the previously described 150 feet wide easement; the south 80 feet of the NW1/4, all in Section 33; and the south 80 feet of the E1/2 of the NE1/4 of Section 32, T90N, R16W. Condemnation Parcels E-5 involves three parcels titled to Hassman Farms, LLC. These parcels are described as:

Parcel ID 1532200044 – E1/2 NE1/4 of Section 32
Parcel ID 1533100040 – NW1/4 of Section 33
Parcel ID 1533200040 – N1/2 NE1/4 and SW1/4 NE1/4 of Section 33

This property contains one visible building at approximately half mile north of the proposed line (particularly in Parcel ID 1533200040). The predominant land use is agricultural. Five transmission poles are proposed, of which one pole is at approximately 762 feet east of the west line of the E1/2 of the NE1/4 of Section 32, three poles are in the NW1/4 of Section 33, and the last pole is 661 feet west of the SE corner of the W1/2 of the NE1/4 of Section 33. The proposed line's centerline is approximately 5 feet north of south property lines.

There is an existing MEC 161 kV line along the south edge of this property, although it is unclear if there are presently poles on the property. In the southeast corner of the property (SW1/4 NE1/4 Section 33), a new route cuts across the property at a diagonal for 629 feet (Approx. 1/8 mile). This is the beginning of one of the "deviations" from division lines of land discussed earlier, as the route was shifted north to be further away from buildings on the adjoining property. No poles would be placed on this diagonal on this property. The easement width would be 80 feet along the south property line, and 150 feet on the diagonal, for a total length of approximately one mile.

Condemnation Parcel E-6 (Tract no. IA-BU-372.000)

The 150 foot wide, 2602 ft. long eminent domain easement is along the east 80 feet of the SE1/4 of the SW1/4, the west 70 feet of the SW1/4 of SE1/4 of Section 25, the east 80 feet of the NE1/4 of the NW1/4 of Section 36 lying north of the Illinois Central Railroad, and the west 70 feet of the N1/2 of the NE1/4 of Section 36 lying north of the Illinois Central Railroad, all in T90N, R16W. Condemnation Parcel E-6 involves four parcels, all titled to Molly J. Chase. These parcels are described as:

Parcel ID 1525300041 – E1/2 SE1/4 SW1/4 of Section 25
Parcel ID 1525400041 – SW1/4 SE1/4 and a track in SE1/4 SE1/4 (of Book D, pages 5 and 6), all in Section 25
Parcel ID 1536100041 – E1/2 NE1/4 NW1/4 of Section 36
Parcel ID 1536200040 – NE1/4 North of railroad, Section 36

This parcel contains no visible buildings. The predominant land is agricultural and pastures along Beaver Creek. Three transmission poles are proposed along the proposed line's centerline which is approximately 5 feet west of the north – south half section line.

d. Staff overview of Eminent Domain

Staff has reviewed the written rights that MEC proposes to obtain through eminent domain. As noted above, staff has questions about the need for some proposed easement comment, both generically and for several individual parcels.

Iowa Code §§ 478.15 normally limits the width of the right-of-way that can be obtained by eminent domain to 100 feet. However, for lines of 200 kV or higher a petitioner can apply to the Board for wider right-of-way, which the Board may grant for “good cause.”

In its petition MEC indicates the line is to operate at a nominal voltage of 345 kV, so the project is eligible for wider right-of-way. As of the time of this report, MEC has yet to apply to the Board for wider right-of-way. *MEC should be instructed to apply for and to provide, in prefiled testimony or at hearing, evidence that there is good cause for the Board to approve a 150-foot wide right-of-way (where applicable).*

With the exception of right-of-way width, none of the available information shows that other limitations on the use of eminent domain found in Iowa Code §§ 478.15 and .20 apply to these parcels.

It appears at least arguable that, under Iowa Code §§ 478.15 and 6B.2B, for eminent domain to be “necessary” a party seeking eminent domain must have made a good faith effort to obtain voluntary easements. *MEC should address this consideration in prefiled testimony or at hearing.*

Under Iowa Code 478.6 and 199 IAC 11.5(3), owners of record and parties in possession of property over which the right of eminent domain is sought shall be served a written notice of the hearing by certified mail, using a form of notice prescribed by the Board. *Customarily, the petitioner submits a proposed form of notice for Board approval. That form of notice and attachments will need to be reviewed and approved by the Board or hearing officer.*

VII. Conclusion

Board staff finds the petitions in these dockets to be sufficiently in order to be set for hearing.

The project as proposed appears to meet the engineering standards adopted by the Board, although further information is requested on a few details.

The route proposed by MEC appears to comply with Iowa Code § 478.18(2) and 199 IAC § 11.1(7) and Board precedent. Beyond that, the decision in these dockets will need to address if that routing is reasonable given the factors and circumstances of this project.

These dockets are being advanced, at MEC request, even though the franchise process for the circuits this line will connect to is not nearly as far along. The merits of franchising a line with speculative termini should be considered.

There are a number of questions on the rights being sought through eminent domain, both for individual parcels and generically.

The procedural order for these dockets should put MEC on notice that there are italicized items in this report that MEC should address in prefiled testimony or at hearing, to improve the record on which a decision will be based.

In addition, MEC should be reminded that the proposed form of hearing notice to owners of eminent domain parcels should be provided to the Board for examination.

IOWA UTILITIES BOARD
Safety and Engineering Section
General Counsel

Docket Nos.: E-22097, E-22098, E-22099
Utility: MidAmerican Energy Company
Date: November 15, 2013

TO: The Docket Files

FROM: Don Stursma, Cecil Wright

SUBJECT: Supplemental Report Addressing Proposed MidAmerican Energy Company 345 kV Transmission Line in Franklin, Butler, and Black Hawk Counties

I. Background and History

On November 8 and 9, 2012, in compliance with Iowa Code § 478.2, MidAmerican Energy Company (MidAmerican) held informational meetings in Franklin, Butler, and Black Hawk Counties for a proposed 345,000 volt (345 kV) electric transmission line. The purpose of the line, as stated in the petition's Exhibit D and in the notice letter to landowners, is to assist in providing additional transmission capacity to enable new renewable generation development, relieve congestion on the existing transmission system, and increase transmission system reliability in Iowa. The proposed 345 kV line is a part of the Midcontinent Independent System Operator, Inc. (MISO), 2011 Multi Value Project (MVP) Portfolio. It would connect to proposed ITC Midwest LLC (ITC) 345 kV electric transmission lines southwest of Hampton in the Southwest Quarter of the Southeast Quarter of Section 14, Township 91 North, Range 21 West of the 5th P.M., Franklin County at one end, and at the other end northeast of Dunkerton in the Northwest Quarter of the Northeast Quarter of Section 27, Township 90 North, Range 11 West of the 5th P.M., Black Hawk County.

For Iowa Utilities Board (Board) administrative purposes, the following docket numbers were assigned to project segments in the affected counties:

Docket No. E-22097 – Franklin County
Docket No. E-22098 – Butler County
Docket No. E-22099 – Black Hawk County

At the time of the informational meetings, a transmission line route approximately 70 miles long was proposed which mostly followed the existing Corn Belt Power Cooperative (CBPC) and MidAmerican 161 kV line corridors, except for approximately 0.63 mile in Franklin County and 3.7 miles in Black Hawk County. (See Petition Exhibits

B and G). MidAmerican plans to use the existing 161 kV line corridor by rebuilding the existing line into a double circuit transmission line on single pole structures to accommodate the proposed 345 kV circuit.

Following the informational meetings, there are no objections on file, but eminent domain is requested by MidAmerican for 15 parcels of land and, when eminent domain is requested, a hearing is required. The hearing is required by Iowa Code § 478.6 to be held in Allison, Iowa, the county seat of the county nearest the midpoint of the proposed line (Butler County).

The proposed MidAmerican transmission line is designed to be connected at both ends to 345 kV circuits to be constructed by ITC. Those connecting lines must also be franchised by the Board. In Docket No. E-22152 (Franklin County), an informational meeting was held on October 18, 2013. In Docket No. E-22034, Amendment 1 (Black Hawk County), a petition for franchise was filed April 30, 2013, and is under review by Board staff. ITC has also filed a petition in Docket No. E-22011 for a section of the MVP line located in Buchanan County that extends from the line in Docket No. E-22034 to the Hazleton Substation.

In the Staff Report filed in the three MidAmerican dockets on November 4, 2013, staff stated that MidAmerican had requested that the petitions be considered by the Board even though the interconnecting lines had not received franchises. Staff stated in the report that MidAmerican should be directed to address, in prefiled testimony or at the hearing, why it is appropriate for the Board to proceed to a decision on these petitions at this time.

In the Staff Report, staff discussed the requirements of Iowa Code § 478.4 where the Board is required to make findings that "the proposed line or lines are necessary to serve a public use and represents a reasonable relationship to an overall plan of transmitting electricity in the public interest." In addition, staff pointed out that Iowa Code § 478.3(2) lists factors that are required to be addressed in support of the allegation that the proposed line or lines represents a reasonable relationship to an overall plan of transmitting electricity in the public interest.

In the report, staff summarizes the most relevant statements addressing the issue of public use as presented by MidAmerican in Exhibits D as follows:

MidAmerican's proposed 345 kV electric transmission line is a part of the Midwest¹ Independent System Operator ("MISO") 2011 Multi Value Project ("MVP") Portfolio that enhances the ability to interconnect and deliver generation, including substantial amounts of renewable generation, provides reliability benefits, and decreases congestion in the MISO

¹ The Midwest Independent System Operator has changed its corporate name to the Midcontinent Independent System Operator, Inc.

footprint. The MISO 2011 MVP Portfolio is a part of the 2011 MISO Transmission Expansion Plan (“MTEP”) approved by the MISO Board on December 8, 2011. (Page 1, middle paragraph.)

The proposed 345 kV line is a critical component of the MISO 2011 Portfolio of Projects and would allow for subsequent renewable energy additions in the area that would bring significant economic benefit to the area. The proposed 345 kV line will also enhance electric transmission reliability throughout the area and will help to assure present and future business of an adequate power supply for present and future economic development of the area. (Page 3, paragraph “A.”)

In the report, staff stated that the Board or ALJ will need to consider whether the evidence presented by MidAmerican is sufficient to make the required statutory findings and, if not, MidAmerican will be required to provide additional evidence in support of the proposed line. Staff then discussed the statements made by MidAmerican to support the finding that the proposed line represents a reasonable relationship to an overall plan of transmitting electricity in the public interest. Staff summarized the statements from Exhibits D and D-1 as follows:

The proposed line will typically be built in existing 161 kV line corridors from a point southwest of the Hampton, Iowa area in Franklin County, through Butler County and to a point to the east of the Waterloo, Iowa area in Black Hawk County. The proposed 345 kV line will be double circuited with an existing Corn Belt Power Cooperative 161 kV line from that point located to the southwest of the Hampton, Iowa, area southerly to MidAmerican’s Franklin Substation area, then continuing easterly for a few spans as a single circuit 345 kV line, and then join up and be double circuited in an existing line corridor with an existing MidAmerican 161 kV line from the Franklin Substation area to MidAmerican’s Black Hawk Substation located in Black Hawk County in Section 23, Township 90 North, Range 13 West of the 5th P.M., and then continuing easterly as a double circuited line in an existing line corridor with an existing MidAmerican 161 kV line to that point to the east of the Waterloo, Iowa, area. (Page 2, last paragraph, lines 3 to 8, Page 3, lines 1 to 6)

The proposed line would extend from an ITC Midwest, LLC (ITC Midwest) electrical connection point near Hampton, Iowa, southerly and easterly to an existing MidAmerican substation, then continuing easterly to another ITC Midwest electrical

connection point east of the Waterloo, Iowa area. (Exhibit D-1, Page 5, paragraph "ES.1.", sub-paragraph 1, lines 3 to 6)

In addition, Petition Exhibits D, Items a through h, contain responses to a series of issues that Iowa Code § 478.3(2) requires petitioners to address in a franchise filing. They deal with the relationship of the proposed project to economic development, electrical system, public, and land use considerations, presently and in future. The allegations by MidAmerican in these items contain statements possibly relevant to the "reasonable relationship" issue. MidAmerican includes the following statements:

A core component of the MISO's regional transmission planning process, as described in the MISO Tariff, is its annual MTEP. The MTEP is the result of a multi-faceted transmission planning effort aimed at improving electric grid performance in the MISO footprint by ensuring continued compliance with North American Electric Reliability Corporation ("NERC") reliability standards, addressing transmission constraints, providing economic benefits such as increased market efficiency, facilitating energy policy objectives such as meeting Renewable Portfolio Standards, and addressing other issues and goals identified in the stakeholder policy such as facilitating the development of new generation resources. (Pages 3 and 4, paragraph "B," sub-paragraph 1)

Staff recommended that MidAmerican be directed to explain in prefiled testimony or at the hearing the location of the nearest existing and/or proposed substations (beyond the proposed 345 kV line's west and east termini²) that the proposed line and/or future ITC line would be connected to present a broader picture of the 345 kV MVP project. Staff pointed out that the Board or ALJ will be required to decide if the evidence provides the necessary support of this statutory finding and, if not, then MidAmerican will be required to provide additional evidence in support of the finding.

Finally, staff in the report stated that the three franchise petitions were being considered even though the franchises for the circuits that this line will connect to are not nearly as far along in the review process. Staff points out that the Board or ALJ will need to consider the merits of franchising a line with speculative termini.

II. Additional Recommendations

² Subrule 199 IAC 11.3(6) defines "termini" as "the electrically functional end points of an electric line, without which it could not serve a public use. Examples include generating stations, substations, or other electric lines. In any franchise petition the termini must be identified in Exhibit A, B, or D."

After filing the report on November 4, 2013, staff reviewed the issues raised in that report further and has concluded that additional recommendations should be provided regarding the findings required by Iowa Code § 478.4. This supplemental memo discusses the issues in more detail and presents additional recommendations.

Each of the petitions for an electric transmission line franchise in the dockets above present the fundamental issue of whether the Board can, or should, approve a proposed transmission line in one petition when the support for that proposed line is that it is a segment of an entire MVP project that includes other segments not being addressed and where some of the other segments are owned by other transmission owners. Approval of a segment of an MVP line with a finding that the line is necessary to serve a public use and represents a reasonable relationship to an overall plan of transmitting electricity in the public interest based upon evidence about the need for the entire MVP line in a petition for a segment of the MVP line could arguably prejudice the entire line before the Board considers the other sections of the MVP line.

MidAmerican has presented the three petitions being considered by the ALJ as one line. The proposed lines in these three dockets raise several issues that will need to be addressed by MidAmerican. These issues are mainly legal issues involved with the required statutory findings. The first issue presented by the three petitions is whether a proposed line with no established termini, in this case at either end, can be found to be legally sufficient without the other sections of the line being considered at the same time. The proposed MidAmerican line in these three dockets is proposed to interconnect with ITC lines at both termini and ITC has not filed petitions for all necessary connecting lines. In addition, the ITC lines interconnect with other segments of the MVP line in other counties where petitions may, or may not, have been filed.

Staff understands it would be impractical for the Board to require all of the petitions for franchises for an entire MVP line to be presented for consideration at the same time. However, staff considers it necessary for lines that connect with lines owned by other transmission companies at yet to be determined points to be considered together before a franchise is issued for any of these segments. Staff considers it reasonable for the Board to consider petitions for lines that have termini at existing substations to be considered at one time. Staff understands that this may require companies owning different segments of line between two existing substations to coordinate the filing of petitions. Staff does not consider this to be an unreasonable requirement.

For the three MidAmerican petitions being considered by the ALJ, staff recommends that the ALJ require MidAmerican to brief the legal issues raised by the three petitions and give notice to ITC so ITC has the opportunity to brief the issues. Those issues include:

1. Whether making the findings required by Iowa Code § 478.4 and granting of a franchise for a segment of an MVP line based upon evidence or statements supporting the entire MVP line prejudices the statutory findings for all other segments of the MVP line.

2. Whether it is legally possible for the Board to make the required statutory findings and grant a franchise for a line that has no established termini, at one or both ends of the line.

3. Whether the Board can make the required statutory findings for segments of an MVP line between existing substations, if there is evidence supporting the findings other than evidence for the entire MVP line.

4. Whether the Board can make the required statutory findings for segments of an MVP line that has no established termini where there is evidence, or statements, that supports the proposed segments other than evidence, or statements, that support the entire MVP line.

Staff recommends the ALJ issue an order requiring the briefing of these issues prior to the hearing so that MidAmerican is put on notice that there are questions whether a decision on the three petitions can be issued prior to consideration of the ITC lines the three segments are to connect to.

/ciw