

**STATE OF IOWA
BEFORE THE IOWA UTILITIES BOARD**

<p>IN RE: ITC MIDWEST LLC DAIRYLAND POWER COOPERATIVE</p>	<p>DOCKET NO. E-22386</p> <p>ITC MIDWEST LLC AND DAIRYLAND POWER COOPERATIVE'S PRE-HEARING BRIEF</p>
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On May 11, 2018, ITC Midwest LLC (“ITC Midwest”) and Dairyland Power Cooperative (“Dairyland”) (together, “Applicants”) filed with the Iowa Utilities Board (“Board”) a petition for franchises to construct, operate, and maintain approximately 14.25 miles of a new 345 kilovolt (“kV”) transmission line extending north from the Hickory Creek Substation in Dubuque County to the Iowa border in Clayton County (the “Project”). The Applicants hereby submit their pre-hearing brief in support of the Project to summarize the evidence to be submitted in the proceeding that demonstrates the Project: 1) will serve a public use by providing economic, public policy, and renewable energy benefits; and 2) represents a reasonable relationship to an overall plan of transmitting electricity in the public interest, as shown through the various study efforts initiated over a decade ago that culminated in the Project being designated a Multi-Value Project (“MVP”) by the Midcontinent Independent System Operator, Inc. (“MISO”) in 2011.

LEGAL STANDARD

Iowa Code § 478.4 requires that the Board make two findings to grant an electric franchise:

Before granting the franchise, the utilities board shall make a finding that [1] the proposed line or lines are necessary to serve a

public use and [2] represents a reasonable relationship to an overall plan of transmitting electricity in the public interest.¹

DISCUSSION

I. THE STATUTORY REQUIREMENTS FOR GRANTING APPLICANTS' REQUESTED FRANCHISES HAVE BEEN MET.

A. The Project is Necessary to Serve a Public Use.

The transmission of electricity to the public constitutes a public use under § 478.3(1)(h). *See South East Iowa Coop. Elec. Ass'n v. Iowa Utils. Bd.*, 633 N.W.2d 814, 820 (Iowa 2001). Additionally, the term “public” as it relates to the terms public use and public interest is not limited to consumers located in Iowa. Iowa Code § 478.3(3). As detailed in testimony, the Project was developed “through a robust multi-year planning process” and is a critical component of the MISO MVP Portfolio. *See, e.g.*, Eddy Direct at 4, 19, 21–22; *see also* Baer Direct at 5 (Revised) (“The process for Cardinal-Hickory Creek was largely the same as the other MVP lines, only much more extensive in terms of steps for review and analysis.”). The Office of Consumer Advocate (“OCA”) recognizes the economic benefits of the MVP Portfolio and does not dispute the Applicants’ justification for the need and public use of the Project. Bents Reply at 5.

The MVP Portfolio consists of 17 transmission projects designed by MISO to facilitate compliance with state or federal energy policy mandates or laws, provide economic benefits across pricing zones with a total benefit/cost ratio of at least 1.0, and/or address reliability

¹ The Board found that the three other MVPs located in Iowa, MVP 3, MVP 4 and MVP 7, satisfied the statutory criteria. *See In re MidAmerican Energy Company and ITC Midwest LLC*, Docket Nos. E-22097 et al. (Consolidated), “Proposed Decision and Order Granting Franchises” at 19–38 (IUB, May 7, 2015) (finding need established for MVP); *In re ITC Midwest LLC*, Docket Nos. E-22116 et al. (Consolidated), “Order Granting Petitions for Electric Franchises” at 17 (IUB, Dec. 22, 2016); *In re MidAmerican Energy Company and ITC Midwest LLC*, Docket Nos. E-22269 (Master Docket), “Order Granting Petitions for Electric Franchises” at 7–8, 8–12 (IUB, Aug. 18, 2017) (“The record supports a finding that the line will provide tangible and intangible benefits to the public that would improve the reliability of electric service provided to the public and improve integration of renewable generation into the regional grid.”).

compliance issues. Eddy Direct at 22. The Project is part of MVP 5. Specifically, MVP 5 consists of two projects – the Project and the Badger Coulee project between La Crosse and Madison, Wisconsin. The Badger Coulee project has already been constructed. Eddy Direct at 18.

The Project was included in the MVP Portfolio because it will enhance system reliability and increase deliverability of renewable energy within the MISO footprint, which includes Iowa, and because the Project will provide considerable economic benefits to Iowa. Eddy Direct at 21; *see also* Petersen Direct at 4 (“As an MVP, the Project is designed to provide a wide range of benefits, including improving electric transmission reliability, relieving congestion on the transmission system, and providing greater access to renewable generation, notably wind energy.”).

MISO determined the Project is necessary to address existing needs and constitutes a reasonable approach to addressing future needs. Eddy Direct at 21, 22 (“MISO’s review generally, and the *MTEP11 Report* specifically, show the need for the CHC Project as part of the MISO MVP Portfolio, including the Project for which the Applicants are seeking franchises in this proceeding.”).²

The needs that the Project would address have been studied and reaffirmed multiple times. In 2008, the governors of Iowa, Minnesota, North Dakota, South Dakota, and Wisconsin formed the Upper Midwest Transmission Development Initiative (“UMTDI”) with the goal of identifying and resolving regional transmission planning and cost allocation issues associated

² The Board has previously given weight to MISO review. *See, e.g., In re ITC Midwest LLC*, Docket No. E-22156, Proposed Decision and Order Granting Franchise at 9-10, 13 (Mar. 29, 2016); *In re MidAmerican Energy Company et al.*, Docket No. E-22097 (and consolidated dockets), Proposed Decision and Order Granting Franchises at 19-24 (May 7, 2015) (finding necessity and public use had been shown and discussing importance of MISO MVP projects in detail).

with delivering renewable generation from wind-rich areas to load centers throughout the MISO footprint. Eddy Direct at 11. A 345 kV connection between Dubuque and Madison, with a midpoint substation, was one of five “no regrets” transmission lines the UMTDI identified. *Id.* at 12. In 2009, MISO began the Regional Generation Outlet Study that similarly concluded that a 345 kV line between the Dubuque area and Madison was needed to support west to east flows and provide more areas with increased access to high wind areas. *Id.* at 13. In 2011, MISO named the Project an MVP.

The Project’s need has been reinforced by recent generator interconnection process results. Ellis Direct at 32–33, 39 (explaining that the 2017 Triennial MVP Review analysis “provided a second comprehensive update to the projected economic and public policy benefits of the initially approved MVP portfolio”); *see also* Goggin Rebuttal at 13 (“[T]he operating wind capacity in Iowa, Minnesota, North Dakota and South Dakota already greatly exceeds the amount MISO expected when it designed the MVP Portfolio. The reliability concerns identified by MISO still exist and are actually *increasing* due to generation additions outpacing the rate MISO predicted in 2010.”).

Multiple witnesses identified the critical role the Project will play in delivering renewable energy generation—in particular, wind generation—to the grid. In doing so, the Project furthers the public policy of the state of Iowa as codified in Iowa Code § 476.53A:

It is also the intent of the general assembly to encourage the use of renewable power to meet local electric needs and the development of transmission capacity to export wind power generated in Iowa.

More than 3,800 MW of wind generation has been constructed and connected in the state of Iowa since MISO approved the MVP Portfolio in 2011. Eddy Rebuttal at 2. A conservative estimated capital cost of these projects is \$6.5 billion. Eddy Rebuttal at 2.

The Project “will provide a needed 345 kV connection between Iowa and Wisconsin” that will “improve the reliability and flexibility of the transmission system, increase transfer capability between Iowa and Wisconsin by approximately 1,300 MW and support the interconnection of at least 8.4 GW of new generation.” Eddy Direct at 4; *see also* Ellis Rebuttal at 4–5 (“The CHC Project provides an important link between new western generation and eastern loads, optimizing the natural and geographic diversity of new renewable sources of generation.”). Approximately 7.2 GW of this generation is expected to be wind generation. Eddy Direct at 4. Mr. Eddy described how significant renewable generation is conditional on the Project:

As of August 2019, there were 5.3 GW of generation associated with executed interconnection agreements that are conditional on the CHC Project, including those under construction. An additional 2.3 GW of generation has completed the MISO Generator Interconnection Queue process where interconnection agreements, if executed, would necessarily be conditional on the CHC Project. The absence of an in-service CHC Project would require MISO to restudy many units whose interconnection is conditional on the CHC Project. Such a situation would also likely result in the need for MISO to restudy the ongoing interconnection queue projects in the MISO West, East-ATC, and Central Regions.

Eddy Direct at 22; Eddy Rebuttal at 1; *see also* Eddy Direct at 23. This means that until the Project is in service, generating units whose interconnections are conditional on the Project “are subject to studies that could result in annual/quarterly operating limits, rendering them unable to deliver their full output.” Eddy Direct at 23.

The Project will “be the first 345 kV connection between Iowa and Wisconsin and only the fourth connection from Iowa to the east at this voltage. As such, it will be an important outlet for electricity generated in Iowa and desired by electricity customers to the east.” Petersen Direct at 5. Mr. Petersen further explained that the Project is important to advancing Iowa state policy:

Iowa law specifically establishes a policy of encouraging new generation investment in Iowa, and particularly renewables; the ability to transmit that energy, including out of state, is a critical piece of advancing Iowa's state policy. The line provides a needed outlet—a farm-to-market road—for Iowa's wind energy, increasing the transfer capability between Iowa and Wisconsin by approximately 1,300 MW.

Petersen Direct at 5; *see also* Ellis Direct at 8 (explaining that the Project “provides a high voltage transmission path that increases the reliability of the regional transmission system while enhancing the ability of the Iowa transmission system to meet local load serving needs”); Goggin Direct at 2 (testifying that the Project “is necessary for the cost-effective delivery of power from wind and other generation resources in Iowa, Minnesota, South Dakota and North Dakota to parts of MISO east of the Mississippi River”). Similarly, Clean Energy Intervenors (“CEI”) witness Mr. Baer testified that “[t]he important benefits that renewable energy provides to Iowa depend on expanding transmission, including [the Project].” Baer Direct at 12 (Revised).

Further, as OCA recognized, the Project will alleviate overloading on three transmission lines in southwestern and south-central Wisconsin and reduce system constraints on the transmission system in eastern Iowa. Bents Reply Ex. 1 at 24. These overloads are currently managed through operating guides that are typically considered short-term solutions. *Id.*

In contrast to the significant benefits to Iowa described above, the Iowa investment in the Project represents only eight percent of the Project cost, or \$39.38 million in capital costs, to ratepayers in Iowa. Eddy Rebuttal at 2. But projects like this (and the anticipation of this Project) have led to the installation of more than 3,800 MW of wind generation in Iowa since the end of 2011, representing a conservatively estimated \$6.5 billion investment (and this does not account for increased future state and local tax revenues). Eddy Rebuttal at 2. With this eight percent investment, as described by Mr. Eddy, “Iowa will be able to take advantage of 1,300 MW of transfer capability needed to get Iowa wind to market. In addition, the cost is only a small

percentage of the total investment in wind generation development in the state.” Eddy Rebuttal at 2.

B. The Project Represents a Reasonable Relationship to an Overall Plan of Transmitting Electricity in the Public Interest.

To establish that the Project represents a reasonable relationship to an overall plan of transmitting electricity in the public interest, the Applicants must address the eight criteria set forth in Iowa Code § 478.3(2)(a), including:

- The relationship of the proposed project to present and future economic development of the area;
- The relationship of the proposed project to comprehensive electric utility planning;
- The relationship of the proposed project to the needs of the public presently served and future projections based on population trends;
- The relationship of the proposed project to the existing electric utility system and parallel existing utility routes;
- The relationship of the proposed project to any other power system planned for the future;
- The possible use of alternative routes and methods of supply;
- The relationship of the proposed project to the present and future land use and zoning ordinances; and
- The inconvenience or undue injury which may result to property owners as a result of the proposed project.

The Applicants considered the eight factors identified in Iowa Code § 478.3(2)(a), and believe those factors support a determination that the Project represents a reasonable relationship to an overall plan of transmitting electricity in the public interest. *See* Petition Ex. D; Eddy Direct at 23–24. Mr. Eddy addressed the first five criteria in his Direct Testimony. Eddy Direct at 25–26. The remaining criteria were addressed by ITC Midwest witnesses Mr. Proctor and Mr. Middleton. Eddy Direct at 25.

Mr. Ellis testified that overall, “[t]he facilities proposed by the Petitioners would provide substantial reliability, economic, and public policy benefits to Iowa and across much of the MISO footprint. These facilities also fit well as a component of the MISO regional plan for the continued development of a reliable and efficient regional transmission system.” Ellis Direct at 53. In addition, CEI witness Mr. Goggin described the ways in which the Project has a reasonable relationship to a plan for transmission electricity that is in the public interest:

At the request of Midwest governors and state utility commissions, in 2010 MISO forecasted the location of wind development in the MISO footprint that would provide sufficient renewable energy output for states to comply with their renewable portfolio standard target volumes in 2026. That amount of generation could not be accommodated by the 2010 transmission systems, so MISO identified a portfolio of seventeen transmission projects that could reliably and cost-effectively deliver that wind to the MISO market while also addressing electric reliability and market efficiency needs.

Goggin Direct at 3. The Project is critical to accomplishing that objective. *Id.*; *see also* Goggin Rebuttal at 4 (“[T]ransmission actually protects consumers against the uncertainty and ‘changing face of generation’ that Ms. Klopp identifies by allowing more flexibility in our ability to shift from one generation source to another. The accelerating shift in the generation mix Ms. Klopp identifies—the fact that we are moving away from fossil fuel generation and towards renewable generation—is a primary reason why the Project is needed.”) *id.* at 15-16.

By contrast, if the Project were not constructed, Mr. Ellis testified that the existing transmission system would not be able to “reliably deliver the full output of renewable generators [T]he MISO analyses of the projects identified numerous transmission facilities that will be loaded above safe operating levels or below adequate voltage levels without the CHC Project.” Ellis Direct at 50. MISO witness Mr. Ellis further explained that, without the Project, “[t]he overall system would also be less secure, with additional voltage and transient stability

limitations. In addition, without the CHC Project, Iowa and the other states in the MISO footprint would not receive the full set of economic benefits that is provided by the MVP Portfolio.” Ellis Direct at 50; *see also*, Petersen Direct at 5 (explaining that many projects in the MISO queue have the Project as a “contingent transmission facility, meaning that failure to build the line would require MISO to restudy all such units. . . . The result could be operating limits, decreasing the level of interconnection, or withdrawal of the projects altogether”).

II. NONE OF THE OBJECTIONS PRECLUDES GRANTING THE REQUESTED FRANCHISES.

As summarized by Board Staff in its September 16, 2019 Staff Report, 43 objections were filed in this docket, two of which were from landowners Steve and Naomi Hoeger who granted an easement for the Project. Eleven of those objectors have Wisconsin addresses, and 15 with Iowa addresses are located more than one-quarter mile from the Project or did not identify an address. Nine objectors in Iowa are also eminent domain property owners.

The Applicants responded to the objections in the categories identified by Board Staff below.

A. Wisconsin Objectors.

The 11 Wisconsin objectors generally raised concerns regarding Project need, out-of-state impacts, alternatives, and environmental impacts. As discussed below, the Project is needed, is the most reasonable alternative, and will not result in significant adverse environmental or social impacts.

The objections regarding need are not well-founded. As Mr. Eddy summarized in his direct testimony in response:

I do not believe this concern is well-founded. . . . [T]he need for a 345 kV tie between Iowa and Wisconsin has been identified for more than a dozen years, starting with the UMTDI. It was analyzed by UMTDI and in the RGOS. Then MISO approved the Project in

MTEP 11 and restudied the benefits of the MVP Portfolio in the *MTEP 14 MVP Triennial Review* and *MTEP17 MVP Triennial Review*. The need for the line is also confirmed by the results of the DPP Study. In summary, the need for the line has been reaffirmed both repeatedly and recently.

Eddy Direct at 27. Similarly, the Project will provide benefits in excess of its costs. Eddy Direct at 28.

With respect to out-of-state impacts, the Public Service Commission of Wisconsin (“PSCW”) has already considered potential impacts in Wisconsin (including many of the arguments made by objectors in this docket). After considering the extensive record before it, the PSCW approved the Project and issued a Certificate of Public Convenience and Necessity (“CPCN”). The PSCW found “that the project represents an important step in moving towards a future with increased renewable generation.” Eddy Rebuttal Ex. 6 at page 30. The PSCW concluded by stating that, “issuing a CPCN for this project promotes the public health and welfare and is in the public interest.” *Id.* at 79.

With respect to alternatives to the Project, including non-transmission alternatives or local distributed generation, no other alternative has been put forth by any party to meet the needs addressed by the Project. As Mr. Eddy explained, the Project “is designed to accomplish specific objectives, including the transfer of energy across state lines” and some of the non-transmission alternatives are not well-suited to address this need. Eddy Direct at 28. Similarly, MISO considered local distributed generation in its MVP Study and “developed the MVPs with a combination of wind zones that relied upon local and regional wind generation sources and determined this method provides the lowest energy delivery option.” Eddy Direct at 28–29. Overall, as Mr. Eddy explained, the MVPs, including the Project, were designed to accommodate renewable energy needs, and the non-transmission and other alternatives identified—but not actually developed or analyzed—by objectors do not meet this need:

[The Project is needed] to move energy produced in the Dakotas, Minnesota and Iowa to points east. Consequently, adding transmission only in Minnesota would not meet the need. Although Minnesota does have rich wind resources, so does Iowa. The MVPs are designed to serve wind zones throughout both Iowa and Minnesota, roughly 5,000 MW in each state. In fact, Iowa has roughly 10,000 MW of wind capacity installed or in construction, nearly twice the amount of Minnesota. The MVPs were properly designed to accommodate the renewable energy needs of both Iowa and Minnesota.

Eddy Direct at 30. The PSCW also considered a range of potential alternatives, including battery storage and solar and concluded:

The Commission finds no other alternatives evaluated by the applicants, Commission staff, or intervenors are feasible or provide the amount of benefits as the project. The Commission did not find testimony regarding the viability of a battery or no-wires alternative to be sufficiently credible. Intervenors failed to demonstrate that such alternatives would be as effective at interconnecting new low-cost renewable generation, as the project is expected by the applicants to facilitate an additional 8.4 GW of new low-cost renewable energy resources in Wisconsin and in states to the west of Wisconsin.

Eddy Ex. 6 at pages 34–35.

With respect to environmental impacts, objectors generally identified potential impacts to the Driftless Area and climate change. The Applicants considered the Driftless Area in its design and routing of the Project. Specifically, the route in Iowa includes approximately 62 acres of woodlands in the right-of-way, which is approximately 0.00002% of the total Driftless Area in Iowa. Middleton Direct at 15. The Project in Iowa does not extend through any public or protected lands associated with the Driftless Area. The Project route avoids any algalic talus slopes, which is a unique ecosystem found in karst regions within the Driftless Area. Middleton Direct at 15. Further, in the federal Final Environmental Impact Statement (“FEIS”), and after years of study, the federal agencies selected the proposed route in this proceeding as the Agency Preferred Alternative, determining that it “strikes the balance between reducing impacts to

resources while also maintaining consistency with the state regulatory process.” Baer Rebuttal at 3; *see also* Middleton Rebuttal at 4–5 (summarizing the multiple reasons the federal agencies selected this route as the Agency Preferred Alternative).³ With respect to climate change, the Project “enables additional wind generation that will reduce emissions of harmful air pollutants.” Goggin Direct at 2; *see also* Goggin Rebuttal at 10.

In addition, Intervenor Klopp (a Wisconsin resident without property in Iowa) submitted reply testimony.⁴ Ms. Klopp seeks to speak as a representative of non-parties and reargues issues already decided in the Wisconsin proceeding; addresses topics for which Ms. Klopp lacks training, education, or experience; and contains misleading statements. *See* Eddy Rebuttal at 3–10. As such, the Board should not consider Ms. Klopp’s reply testimony.⁵

B. Objectors with Residences or Affected Property More than 0.25 mile from the Project or Unidentified Properties (“Non-Route Iowa Objectors”).

As described by Board Staff, the Non-Route Iowa Objectors generally identified issues related to property values, electric and magnetic fields (“EMF”) and its potential human and animal health effects, stray voltage, and safety in general.

With respect to property values, no party offered any facts to show that the Project will have any impacts on property values. Further, as discussed in Section II(C) below, landowners will be compensated by the Applicants for an easement on their properties; for voluntary

³ The agencies identified a different “Environmentally Preferred Alternative,” but specifically noted that they are not required to select that alternative. As explained by Mr. Middleton, the factors analyzed in making such a determination are limited. By contrast, all potential impacts were evaluated when selecting the “Agency Preferred Alternative.” Middleton Rebuttal at 6–7.

⁴ Because this testimony failed to comply with a Board order, Applicants have submitted a Motion to Strike Chris Klopp Reply Testimony and exhibits. Applicants continue to request that the Board grant the motion.

⁵ *See* Ellis Rebuttal at 10 (“The testimony of Ms. Klopp addressed in my Rebuttal Testimony mischaracterizes the testimony that was previously submitted and ignores other testimony. Her testimony selectively presents arguments from the Wisconsin case that considered the CHC Project, entirely failing to acknowledge that the Wisconsin commission granted the CPCN. The facilities proposed by the Petitions would provide reliability, economic, and public policy benefits to Iowa and across the MISO footprint.”); *see generally* Goggin Rebuttal (explaining why the claims made in Ms. Klopp’s reply testimony are unfounded, inaccurate, and/or misleading).

easements, ITC Midwest has offered to compensate landowners for the full fee value of the permanent right-of-way, even though only an easement will be obtained.

With respect to EMF, Applicants put forth un rebutted testimony that any EMF related to the Project is not anticipated to have negative impacts, including any negative impacts to human and animal health. EMF is found in many different environments, including homes, offices, schools, factories, hospitals, restaurants, shops, and stores. Silva Direct at 12. Mr. Silva calculated EMF levels for the Project. Silva Direct at 13. There are no state or federal limits for public exposures to magnetic fields in Iowa. In 2003, the Institute of Electrical and Electronics Engineers adopted a standard of 9,040 milligauss (“mG”) for public exposures to 60 hertz magnetic fields. Silva Direct at 15–16. As Mr. Silva testified, the EMF levels for the Project are well below this recommended level; specifically, depending upon configuration and location, EMF from the Project is expected to range between 0.05 mG and 88 mG. Silva Direct at 15–16.

Further, Dr. Lee testified that “there is no reliable scientific basis to conclude that exposure to power frequency EMF from the proposed [Project] will cause or contribute to adverse health effects in people living or working along the proposed line route.” Lee Direct at 17. Similarly, Dr. Mercer testified that “there is no reliable scientific basis to conclude that power frequency EMF from the proposed [Project] will cause or contribute to adverse health effects in animals living along the route of the transmission line.” Mercer Direct at 13. Similarly,

With respect to stray voltage, the Project is not anticipated to create stray voltage problems. High voltage transmission lines typically do not create stray voltage problems. Silva Direct at 16. “Because ‘stray voltage’ is not a typical feature of the operation of a transmission line, no problems related to stray voltage would be expected” from the Project. Silva Direct at 16.

Further, the Project will be constructed in accordance with all applicable laws and other requirements and is thus not expected to have negative safety impacts. Specifically, the Project will comply with National Electric Safety Code (“NESC”); proposed clearances above ground are more than that required by the NESC. Silva Direct at 17. A wide variety of common activities can continue to occur under and near transmission lines, including residential and commercial land uses, schools, sports fields, farming, playgrounds, tennis courts, horse trails, and other recreational activities. Silva Direct at 17.

C. Objectors with Residences or Affected Property 0.25 mile or less from the Project (“Route Iowa Objectors”).

The Route Iowa Objectors raised many of the same issues identified in Section II(B) above, which have already been addressed. In addition, the Route Iowa Objectors discussed tree removal and agricultural impacts.

Generally, the fee value payment for voluntary easements would include compensation for the value of, among other things, trees. Wilkinson Direct at 4, 12. In addition, the route proposed by Applicants limits woodlands within the proposed right-of-way, which also minimizes any tree clearing that will be required for the Project. Middleton Direct at 13-14, 16. The Applicants understand that Mr. Roger G. Bradshaw (Exhibit E-2 Dubuque) has specific concerns relating to tree removal in a wooded area on his property subject to a government contract, CP-22 (Riparian Buffer). ITC Midwest will work with Mr. Bradshaw and the Dubuque County Farm Service Agency office to ensure that all appropriate measures were taken to stay in compliance with the CP-22 contract and to compensate Mr. Bradshaw for any financial consequences relating to the CP-22 contract resulting from the Project.

D. Agricultural impacts are addressed through easement payments and payments for any crop damages in accordance with ITC Midwest's damage claim policy ("Eminent Domain Parcel Objectors").

The Eminent Domain Parcel Objectors identified many of the same issues detailed in Sections II(A) and (B) above. In addition, the Eminent Domain Parcel Objectors raised issues related to compensation and the easement acquisition process. As described by Mr. Wilkinson, the Applicants used the same easement acquisition process that ITC Midwest has used consistently and successfully for other projects approved by the Board. Wilkinson Direct at 5. The land agents presented offers that were fair in light of market values for the easements in a transparent and consistent fashion and maintained consistent communication with landowners. Wilkinson Direct at 5. Specifically, all initial offers contained the same terms and conditions and utilized the same payment calculation method based upon the 2017 land value survey from Iowa State University Extension, the most recent land value survey at the time negotiations began. Wilkinson Direct at 4. The initial offer price was based upon 100 percent of the average fee value of the easement area, even though ITC Midwest was acquiring only an easement. Wilkinson Direct at 4.

The Applicants have continued to coordinate with landowners regarding easement acquisition and expect to be able to submit an updated Exhibit E that withdraws Exhibit E-1 (Dubuque County). *See* Wilkinson Direct at 9–10; Pomerene Rebuttal at 4.

E. Dubuque County.

The Dubuque County Board of Supervisors passed a resolution regarding the Project on August 13, 2018 regarding the need for the Project, its rate impacts, future interconnections at the Hickory Creek Substation, and access to information regarding the Project. Curtis Direct at 3. ITC Midwest responded to this resolution in its September 12, 2018 correspondence, which was filed as Curtis Direct Ex. 3. In that correspondence, ITC Midwest explained that the Project was

not proposed in response to increased electricity demand, but rather to improve reliability, relieve congestion, and provide greater access to renewable generation. Curtis Direct Ex. 3 at 1. With respect to rate impacts, ITC Midwest noted that the accurate response to the question depends upon actions by distribution service utilities and regulatory proceedings, but that the Project was approved by MISO “because the benefits to customers of the entire portfolio are forecasted to be greater than the portfolio costs” and that more than 90 percent of Project costs would be paid by electric customers outside of Iowa. *Id.* at 2. With respect to future interconnections at the Hickory Creek Substation, ITC Midwest stated that it has not submitted for MISO review any plans for further line interconnections at the existing substation. *Id.* at 2–3. Finally, with respect to access to information regarding the Project, ITC Midwest explained the substantial public outreach that had already occurred for the Project, including open houses, public meetings, media interviews, and landowner and stakeholder engagement. *Id.* at 3–4.

III. THE PROPOSED ROUTE COMPLIES WITH ALL STATUTORY AND RULE REQUIREMENTS.

The Applicants engaged in an extensive route selection process and, as a result, the Project’s route complies with all applicable statutory and rule requirements. *See* Middleton Direct at 4–10 (describing in-depth route selection process); Baer Direct at 9 (“ITC Midwest engaged in a thorough, deliberative, and collaborative process to evaluate all options. The proposed route is a reasonable and, in fact, preferable choice compared to the alternatives.”).

The Applicants’ route selection process complied with applicable Iowa law. Specifically, for example, the Applicants first identified the “location of all roads, active railroad rights-of-way, and division lines of land (including section, quarter, and quarter-quarter section lines) within the Study area and in relation to the substation endpoints as required by Iowa Code § 478.18(2) and 199 IAC 11.1(7).” Middleton Direct at 10. Next, “each road, active railroad

right-of-way, and division line of land was then systematically investigated as a potential route segment.” Middleton Direct at 10; *see also id.* (discussing how the Project complied with the standards in Iowa Code § 478.20, as implemented by 199 IAC 11.1(7), in the route evaluation process).

Through this extensive route analysis, the Applicants determined that the proposed route, Route 45, “provided a reasonable alignment that minimized overall Project land use conflicts . . . [and] is also one of the shorter routes analyzed in the Study.” Middleton Direct at 13. Specifically, the Project is largely near or parallel to roads and minimizes land use conflicts. Middleton Direct at 14. The Project “also minimizes overall impacts to environmental and social resources compared to the other alternative routes analyzed[.]” Middleton Direct at 14. Similarly, as a result of the analysis in the federal FEIS, the federal agencies concluded that the Project’s route, as approved in Wisconsin, and proposed in Iowa, among other things:

- “use[s] existing and proposed linear [right-of-ways] by paralleling existing and proposed infrastructure and transmission lines;
- minimize[s] and mitigate[s] habitat fragmentation and resource impacts within the Refuge, when compared to other alternatives for crossing the Refuge;
- reduce[s] impacts to resources that are regulated by other laws, including the Endangered Species Act, National Historic Preservation Act, Clean Air Act, Clean Water Act, Farmland Protection Policy Act, and Executive Order 11988: Floodplain Management;
- reduce[s] impacts to resources that were raised by numerous comments from the public, such as potential impacts to forested areas, property values, and public health and safety[.]”

Middleton Rebuttal at 4 (quoting the FEIS, Middleton Rebuttal Ex. 4 at page 126); *see also id.* at 7 (“[The] Route Study and the recommended route therein adhere to the Iowa Utilities Board requirements and the recommended route is the best route overall for the Project in Iowa. The RUS agreed as they independently selected the same route as the Agency Preferred

Alternative.”). Thus, overall, the Project is not anticipated to have significant adverse environmental or social impacts.

IV. THE BOARD SHOULD GRANT EMINENT DOMAIN AUTHORITY FOR THE PARCELS REQUESTED BY APPLICANTS.

When the Board grants a franchise, it may authorize the franchisee to exercise the power of eminent domain to the extent such power is necessary for public use. Iowa Code § 478.6. The Board should grant the Applicants the requested eminent domain authority pursuant to Iowa Code § 478.15. A 150-foot right-of-way is necessary to safely construct, operate, and maintain the 345 kV transmission line in accordance with the requirements of the NESC, Iowa Electrical Safety Code, and North American Electric Reliability Corporation standard FAC-003-3. Proctor Direct at 10. The requested 150-foot right-of-way is also compliant with the Board’s May 7, 2015 decisions in *In re MidAmerican Energy Co.*, Docket Nos. E-22097, E-22098, E-22099, and *In re ITC Midwest LLC*, Dockets Nos. E-22152 and E-22153.

The Applicants have acquired voluntary easements for approximately 85 percent of the needed parcels in Iowa.⁶ Petersen Direct at 3. In the franchise applications, the Applicants seek authorization for the rights of eminent domain and a right-of-way of 150 feet on 14 parcels of property owned by seven landowners. Petersen Direct at 3. By the time of hearing, the Applicants expect to have withdrawn Exhibit E-1 (Dubuque County), and thus will be seeking eminent domain with respect to only 7 parcels owned by six landowners. Pomerening Rebuttal at 4.

ITC Midwest engaged in extended and good faith negotiations with the owners of each of the Exhibit E Parcels, as described in the portions of Mr. Wilkinson’s Direct Testimony included below:

⁶ The percentage will increase to 87 percent when E-1 Dubuque is withdrawn, as anticipated.

- Matt A. and Arica Goebel (Exhibit E-6 Dubuque). ITC Midwest, through its land agent, JCG, has worked diligently to negotiate with Matt and Arica Goebel for a voluntary easement. For one of the potential route options for the Project, Matt and Arica Goebel did enter into a voluntary easement agreement with ITC Midwest. Unfortunately, ITC Midwest was unable to secure all of the other easements necessary to make that route viable. Ultimately, ITC Midwest was able to acquire easements on property of another landowner, located across the road from the property owned by Matt and Arica Goebel, which removed nearly all of Matt and Arica Goebel's property from the route. The remaining easement on Matt and Arica Goebel's property shown on Exhibit E-6 is a small area that is necessary for overhang easement rights only. While ITC Midwest continues to offer 100 percent of fee value as reflected in the 2017 ISU Land Survey for the easement reflected on Exhibit E-6, Matt and Arica Goebel have declined to enter into such an easement agreement.
- Joseph A. Goebel and Mary A. Goebel (Exhibit E-5 Dubuque/E-2 Clayton). ITC Midwest, through its land agent, JCG, has been in consistent communication with Joe Goebel, much of the time in conjunction with Matt Goebel. Joe Goebel expressed several specific concerns related to crop damage settlements, easement language, compensation, and the process around line removal in the event of abandonment. Through the negotiation process, it appears that ITC Midwest has been able to address nearly all of Joe Goebel's concerns. The remaining issue that stands between ITC Midwest and Joe Goebel reaching a voluntary agreement appears to be the amount of compensation for the easement. Joe Goebel believes that he should receive a higher price per acre than the amount being offered by ITC Midwest. At the time of the filing of this testimony, JCG is still in communication with Joe Goebel and will continue to maintain communication with Joe Goebel throughout the process.
- Richard R. Deutmeyer and Helen M. Deutmeyer, Michael and Julie Deutmeyer (Exhibits E-3 and E-4 Dubuque). Following initial contacts by JCG, Mr. Michael Deutmeyer asked a number of questions and stated multiple concerns both in negotiations and in his March 29, 2018 objection filed in this matter. On June 29, 2018 representatives from ITC Midwest, including myself [Mr. Wilkinson], met with Mr. Deutmeyer at his residence. Subject matter experts were present to address several of the questions and concerns in his March 29, 2018 objection, such as crop damages, fencing, environmentally sensitive areas, fence ground, route alternatives, and easement value. At this meeting, we discussed damages and explained that his concerns relating to crop damages, fencing, and a creek area on his property would be covered under the ITC Midwest damage claim policy, a copy of which was included as part of the easement packet provided to him. Mr. Deutmeyer also stated his belief at the meeting that the Project would have adverse effects to his dairy

operation. We offered to have an expert call him to discuss those issues, but Mr. Deutmeyer did not appear interested in discussing the issues with the expert. JCG has since followed up with Mr. Deutmeyer on several occasions. Mr. Deutmeyer informed JCG that he did not have any further questions of them or ITC Midwest and that he intended to see the process through to the hearing. Mr. Deutmeyer did state that if he had further questions, he would contact JCG.

- Roger G. Bradshaw (Exhibit E-2 Dubuque). Following initial discussions with JCG on July 27, 2018, a JCG representative and I met in person with Mr. Bradshaw and his daughter, Lynn Berg. We attempted to address the questions and concerns identified in their objections filed in this matter. Their primary concerns appeared to be related to the wooded area in the proposed route on their property, as well as impacts to the environment, their CP-22 (Riparian Buffer) government contract, and value of trees. We offered to have ITC Midwest's vegetation management group review the proposed easement area to see if any trees could be allowed to remain. We also offered to review the proposal with the Dubuque County Farm Service Agency ("FSA") office to ensure that all appropriate measures were taken to stay in compliance with the CP-22 contract and to address any financial implications. However, when the FSA office contacted Mr. Bradshaw to get authorization to discuss those issues with ITC Midwest, Mr. Bradshaw declined to allow the communication. JCG continued to remain in contact with Mr. Bradshaw until he stated that he did not have any more questions regarding the project or reasons to meet with ITC Midwest representatives. Mr. Bradshaw stated that he would contact JCG in the event that he had any additional questions.

See Wilkinson Direct at 6–14. Nonetheless, negotiations with those landowners are at an impasse, and the Applicants believe that the grant of eminent domain is necessary.

V. PROJECT SCHEDULE.

The Applicants are in the process of obtaining the permits and approvals required for the Project. The PSCW has granted a CPCN for the Project; the petitions for reconsideration have been denied by operation of law, and there are currently no pending appeals. Petersen Rebuttal at 2. The Rural Utilities Service issued the federal FEIS in October 2019. The Record of Decision ("ROD") is expected in January 2020, before the Board is expected to render a decision on the

franchises. Petersen Rebuttal at 3.⁷ The Applicants will not conduct significant construction work in Iowa until the franchises and ROD are issued but will continue construction planning and landowner conversations so that construction could begin in a timely manner once all required approvals are obtained to meet the Project in-service date of December 31, 2023. The Applicants believe that doing preparation work is fiscally prudent in that it limits further delays to Project construction that might unnecessarily increase costs. Petersen Rebuttal at 3.

CONCLUSION

The Project is a critical addition to the transmission system not only in Iowa, but regionally. This investment will enhance reliability, reduce constraints, facilitate additional renewable energy development, and provide capacity to serve current and future transmission needs in Iowa and the upper Midwest. The need and benefits are supported not only by testimony, but also by the MISO planning process that the Board has previously viewed favorably. While there are objectors, ITC Midwest has obtained almost all of the land rights for this route through voluntary agreements based on good faith negotiations and extensive work with landowners. The remaining objections have been addressed above and in testimony, and do not provide a lawful basis for denial of the franchises. The Petitions meet the requirements of Iowa Code chapter 478. The Applicants respectfully request that the Board grant the requested franchises and confer eminent domain authority for all Exhibit E parcels.

⁷ See also Baer Rebuttal at 5 (“[T]he most recent milestones are on track for required federal approvals in both timing and substance. . . . These are positive indications regarding both timing and substance of required federal approvals.”).

Dated: November 21, 2019

By: /s/ Bret A. Dublinske

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ATTORNEYS FOR ITC MIDWEST LLC

And

Dated: November 21, 2019

By: /s/ Jeffrey L. Landsman

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