

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: CORN BELT POWER COOPERATIVE	DOCKET NO. E-21570
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ORDER SCHEDULING SHOW CAUSE PROCEEDING

(Issued January 9, 2002)

On December 11, 2001, Corn Belt Power Cooperative (Corn Belt) filed with the Utilities Board (Board) a petition for franchise to construct and operate 2.65 miles of 69 kV electric transmission line in Kossuth County, Iowa. The proceeding is identified as Docket No. E-21570. The petition for franchise has not been granted or otherwise ruled upon by the Board.

On January 8, 2002, a Board staff inspector was inspecting the proposed line route. The visual inspection found that the line was already under construction in that approximately two miles of new poles were installed complete with framing and insulators for a 69 kV circuit, with the remainder of the poles laid out ready for installation. The majority of Corn Belt's proposed line is on a route currently occupied by a 24 kV line belonging to Interstate Power and Light Company f/k/a IES Utilities Inc. (Interstate Power). The petition for franchise filed by Corn Belt shows that a portion of the proposed line will be a double circuit line containing both Interstate Power's 24 kV circuit and Corn Belt's proposed 69 kV line. The 24 kV line was taken out of service temporarily in order to transfer the conductors to the new poles.

Iowa Code chapter 478 governs the franchise of electric transmission lines.

Iowa Code § 478.1 provides, in part:

A person shall not construct, erect, maintain, or operate a transmission line, wire, or cable which is capable of operating at an electric voltage of thirty-four and one-half kilovolts or more along, over, or across and public highway or grounds outside of cities for the transmission, distribution, or sale of electric current, without first procuring from the utilities board within the utilities division of the department of commerce a franchise granting authority as provided for in this chapter.

Chapter 478 does not allow construction to proceed absent the granting of a franchise, unless a temporary permit is obtained from the Board. A temporary permit, however, may only be issued for transmission lines that do not exceed one mile in length. Iowa Code § 478.31. The line at issue, according to the petition for franchise filed by Corn Belt, is in excess of one mile.

The Board's staff verbally notified Corn Belt that construction must cease immediately and not resume until a franchise was obtained from the Board. The Board's staff, however, did give verbal approval for completion of such work as is necessary to restore Interstate Power's 24 kV circuit to service so that customers' service would not be impacted by Corn Belt's actions. The Board agrees and will permit Corn Belt to restore this circuit to service, but all other construction activities must cease.

Iowa Code chapter 478 provides for a wide range of remedies for violation of its provisions. Iowa Code § 478.22 allows the Board to seek injunctive or other appropriate relief in district court. The Board does not believe it is necessary to

pursue this relief unless Corn Belt continues with construction subsequent to being advised by the Board's staff, and the Board in this order, to halt all construction activities except for restoration of the 24 kV line. The chapter also provides for possible criminal sanctions for construction without a franchise or other violations of the chapter. Iowa Code § 478.24.

Finally, Iowa Code § 478.29 provides that "[a] person who violates a provision of this chapter is subject to a civil penalty, which may be levied by the board, of not more than one hundred dollars per violation or one thousand dollars per day for a continuing violation, whichever is greater." The provisions of Iowa Code chapter 478 are designed to safeguard the interests of ratepayers, adjoining landowners, and the public generally by providing that, before granting a franchise, the Board must determine, among other things, that the proposed line is necessary to serve a public use and represents a reasonable relationship to an overall plan of transmitting electricity in the public interest. Iowa Code § 478.4. Therefore, the Board will schedule a hearing for Corn Belt to show cause why civil penalties should not be imposed by reason of the alleged violations of Iowa Code chapter 478 outlined in this order.

IT IS THEREFORE ORDERED:

1. A hearing shall be held for Corn Belt Power Cooperative to show cause why civil penalties should not be imposed for alleged violations of Iowa Code chapter 478 beginning at 9 a.m. on February 15, 2002. The hearing shall be held in the Board's hearing room at 350 Maple Street, Des Moines, Iowa 50319-0069.

Persons with disabilities requiring assistive services or devices to observe or participate should contact the Utilities Board at (515) 281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

2. Any prehearing motions shall be filed on or before January 31, 2002.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

Dated at Des Moines, Iowa, this 9th day of January, 2002.