

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

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IN RE:  CEDAR FALLS UTILITIES	DOCKET NO. E-21647
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**REVISED PROCEDURAL ORDER AND NOTICE OF HEARING**

(Issued February 22, 2005)

On May 27, 2004, Cedar Falls Utilities (Cedar Falls) filed a petition with the Utilities Board (Board) requesting a franchise to erect, maintain, and operate a 161 kilovolt (kV) (169 kV maximum) electric transmission line approximately 2.5 miles long proposed to be constructed in Black Hawk County, Iowa. The proposed transmission line would connect Cedar Falls' existing Union Substation to a new Industrial Park Substation.

On December 23, 2004, the Board issued an order assigning the case to the undersigned administrative law judge. On January 11, 2005, the undersigned issued an order establishing a procedural schedule, proposing to take official notice, and notice of hearing that set the hearing for Monday, March 14, 2005, in the R.J. McElroy Trust Room of the Grout Museum of History & Science, 503 South Street, Waterloo, Iowa 50701.

On January 24, 2005, Cedar Falls filed a motion to continue the hearing. Cedar Falls stated that its primary (and perhaps only) witness had already purchased tickets and made arrangements to be on vacation from March 11, 2005 to March 16,

2005, prior to the issuing of the order setting the hearing. Cedar Falls requested that the hearing be set on a date after March 16, 2005. Cedar Falls filed prepared direct testimony, exhibits, and a brief on January 31, 2005.

On February 1, 2005, the undersigned administrative law judge issued a revised procedural order and notice of hearing that changed the hearing date to March 29, 2005, but otherwise left the procedural schedule unchanged.

On February 18 and 22, 2005, Mr. Bert and Mrs. Diane Schou, who had previously filed a written objection to the proposed transmission line, filed letters and exhibits with the Board. The February 22, 2005, filing was a correction to the February 18, 2005, filing. Since there is no certificate of service attached to the letters, it is unclear whether the Schous sent a copy of the letters to the other parties to this case as required by the Board's rules and the Procedural Order issued January 11, 2005. Therefore, copies of the letters and exhibits are attached to this order. All parties, including the Schous, should review the January 11, 2005 Procedural Order, pages 9-10, that states the following:

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 sent to the Executive Secretary. A party (including objectors) must file an original and four copies of each communication with the Executive Secretary, and the party must send one copy to each of the other parties to this case, except three copies must be served on the Consumer Advocate. 199 IAC 1.8. Along with the communication being sent, the party must file with the Board a certificate of service that conforms to 199 IAC 2.2(16), that verifies a copy of the document was served upon the other parties.

The certificate of service that must be attached to each document filed with the Board must state the following: "I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding in accordance with the requirements of the rules of the Iowa utilities board. Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2005." The certificate must be signed by the person who served the document and the person's name and address must be printed as well. The document may be served by mailing it to the other parties at the same time the document is sent to the Board.

In their letters, the Schous request additional time to submit evidence supporting their objection. The Schous also request a continuance of the hearing date, and they request certain accommodations for the hearing. Some of the information in the letters appears to be testimony and exhibits supporting the objection. Although the information is not in traditional form, the Schous are unrepresented by counsel. Therefore, the information in the letters filed February 18 and 22, 2005, will be treated as the Schous' prepared testimony and exhibits and motions.

The Schous' motion for additional time to file evidence is not unreasonable and should be granted. Under the current procedural schedule, Cedar Falls' rebuttal testimony is due by March 1, 2005. This date will also need to be adjusted.

This is the first request for a continuance of the hearing date by the Schous. A previous request for a continuance filed by Cedar Falls was granted. Therefore,

the motion to continue the hearing date should be granted and the hearing rescheduled. Due to the unavailability of the Grout Museum, the location of the hearing will have to be moved.

The Schous included the following request for accommodation: "Diane will need the following accommodations for her electrical/magnetic sensitivities: no cell phones, no wireless communication (microphones, computers, cordless telephones) and refrigerators must be unplugged and fluorescent lights, ceiling fans and motors on furnaces and air conditioners off." The Board will make reasonable accommodations for persons who are disabled so they may participate in the hearing. However, the Board must be able to function when holding its hearings, and it will not make unreasonable accommodations. The undersigned is not aware of any site for the hearing in Waterloo that would allow for accommodation of all of the Schous' requests. It is reasonable to expect that all persons will turn their cellular telephones off in the hearing room during the hearing and on breaks in the hearing room if Ms. Schou attends the hearing in person. It is reasonable to expect that there be no use of wireless microphones, wireless computers, and cordless telephones in the hearing room during the hearing if Ms. Schou attends the hearing in person. It is not reasonable to expect that there will be no cellular telephones or wireless communication devices (microphones, computers, cordless telephones) in use in the building in which the hearing will be held. It is not reasonable to expect that refrigerators in the building will be unplugged. It is not reasonable to expect that

fluorescent lights, ceiling fans, motors on furnaces and air conditioners in the hearing room and the building will be turned off. The Board has offered the accommodation that Ms. Schou may be connected to the hearing by telephone conference call if these accommodations are insufficient for her.

**IT IS THEREFORE ORDERED:**

1. If the Schous wish to file additional testimony or exhibits, they must do so on or before Tuesday, March 22, 2005. The Schous must comply with all requirements regarding filing and service set forth in the order issued January 11, 2005. The other parties and objector in this case who must be served are Cedar Falls Utilities, the Consumer Advocate Division of the Department of Justice, and Ms. Lorraine Joens. The Board's rules are available through a link on its website at [www.state.ia.us/iub](http://www.state.ia.us/iub).

2. If Cedar Falls wishes to file prepared rebuttal testimony or exhibits, it must do so on or before Wednesday, April 6, 2005.

3. The hearing in this case is rescheduled to Friday, April 15, 2005, beginning at 10:30 a.m., in Tama Hall, Room 108, Hawkeye Community College, 1501 E. Orange Road, Waterloo, Iowa 50704. If any party or objector wishes to be connected to the hearing by telephone conference call, the person must contact the Utilities Board at (515) 281-5256 as soon as possible and no later than Tuesday, April 12, 2005, to request that appropriate arrangements be made. Each party and

objector who has filed prepared testimony and exhibits must provide a copy of its prepared testimony and exhibits to the court reporter at the hearing.

4. The following accommodations are reasonable and will be made during the hearing if Ms. Schou attends the hearing in person: 1) all cellular telephones will be turned off in the hearing room during the hearing and during breaks in the hearing room as long as Ms. Schou is present; and 2) there be no use of wireless microphones, wireless computers, and cordless telephones in the hearing room during the hearing if Ms. Schou attends the hearing in person.

5. It is not reasonable to expect that there will be no cellular telephones or wireless communication devices (microphones, computers, cordless telephones) in use in the building in which the hearing will be held. No order is issued restricting their use other than in paragraph four. It is not reasonable to expect that refrigerators in the building will be unplugged. No order is issued restricting their use. It is not reasonable to expect that fluorescent lights, ceiling fans, motors on furnaces and air conditioners in the hearing room and the building will be turned off. No order is issued restricting their use.

6. Other than the changes made specifically in this order, the "Order Establishing Procedural Schedule, Proposing to Take Official Notice, and Notice of Hearing" issued January 11, 2005, remains in effect.

**UTILITIES BOARD**

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

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

Dated at Des Moines, Iowa, this 22<sup>nd</sup> day of February, 2005.