

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: MIDAMERICAN ENERGY COMPANY	DOCKET NOS. E-21752 E-21753 E-21754
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ORDER DENYING REHEARING

(Issued October 20, 2006)

On September 12, 2006, the Utilities Board (Board) issued an "Order Affirming Proposed Decision and Order Granting Franchises." On October 2, 2006, Matthew G. Clark filed an application for rehearing. MidAmerican Energy Company filed a response to the application for rehearing on October 5, 2006; Mr. Clarke responded to MidAmerican on October 11, 2006.

Mr. Clarke's application for rehearing or response does not raise any new legal or factual arguments that were not thoroughly considered by the Board in its September 12, 2006, order and by the administrative law judge in her July 26, 2006, proposed decision. Because no new legal or factual arguments have been raised, the request for rehearing will be denied.

The Board notes again that the legal and factual issues raised by Mr. Clarke primarily relate to issues Mr. Clarke has with the eminent domain process, which is governed by Iowa Code chapters 6A and 6B. The Board is not involved in the process of determining just compensation for an easement on any particular

property. The Board's sole involvement in the eminent domain process is granting a public utility the right to pursue condemnation of an easement for a particular parcel or parcels if voluntary negotiations are unsuccessful. The actual amount of compensation to be paid for an easement across a parcel is determined by negotiations or, if eminent domain is necessary, by a county compensation board with appeal rights to the district court.

Mr. Clarke also complained about the inclusion of certain persons on the Board's service list. Mr. Clarke apparently believes that one or more people identified on the service list as having an interest in the same parcel as Mr. Clarke claims an interest in fact have no interest, at least with respect to any eminent domain proceedings. The Board wants to make it clear that the Board's electric transmission line franchise process and the eminent domain process are two separate proceedings with the Board having no involvement in setting compensation or determining who is entitled to compensation in an eminent domain proceeding. Inclusion on the Board's service list only provides notice of the Board's transmission line franchise proceedings and does not determine who is entitled to any compensation awarded in an eminent domain proceeding.

The eminent domain exhibits identified James G. Clarke and Mary G. Clarke as titleholders of an affected property in which Mr. Clarke has an interest. Pursuant to 199 IAC 11.5(3), owners of record of property over which eminent domain is sought are included on the Board's service list. If the record incorrectly identifies the

interest of one or more of the persons listed, inclusion on the Board's service list only provides notice of the Board's proceedings and does not grant any property or compensation rights. Compensation rights, both with respect to amount and recipient, are determined by the county compensation commission in the eminent domain proceeding. The Board is not involved in this proceeding.

Likewise, Steve Sweckhammer, identified as a tenant of the affected property, is included on the service list pursuant to 199 IAC 11.5(3) because tenants have an interest in electric line routing issues and are required to be notified of the transmission line franchise hearing. Again, a tenant's inclusion on the service list for the transmission line franchise proceeding does not grant or deny him any compensation rights in the eminent domain process.

Inclusion on the Board's service list only provides notice of the Board's proceedings and does not grant any person any rights that they would not otherwise have. If a person received notice of these proceedings that in fact was not required to be served by statute or rule, there is no harm done because the mere fact of receiving notice does not extend to that person any property or other rights that he did not already possess.

IT IS THEREFORE ORDERED:

The application for rehearing filed by Matthew G. Clarke on October 2, 2006,
is denied.

UTILITIES BOARD

/s/ John R. Norris

/s/ Diane Munns

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Curtis W. Stamp

Dated at Des Moines, Iowa, this 20th day of October, 2006.