

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: MIDAMERICAN ENERGY COMPANY	DOCKET NO. E-21822
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**ORDER ESTABLISHING PROCEDURAL SCHEDULE, PROPOSING TO TAKE
OFFICIAL NOTICE, AND NOTICE OF HEARING**

(Issued October 31, 2006)

On July 10, 2006, MidAmerican Energy Company (MidAmerican) filed a petition with the Utilities Board (Board) requesting a franchise to erect, maintain, and operate a total of 4.64 miles of nominal 69 kV (72.5 kV maximum) electric transmission line proposed to be constructed in Floyd County, Iowa. The petition was identified as Docket No. E-21822. The proposed transmission line would begin at a connection to an existing MidAmerican 69 kV line located near the Charles City, Iowa corporate limits and terminate at a proposed MidAmerican substation near a new ethanol plant northwest of Charles City, Iowa. Part of the proposed line is within the Charles City corporate limits. This part of the line is not part of the franchise request because the Board does not have jurisdiction of transmission lines within city limits. Iowa Code § 478.1 (2005). MidAmerican filed revisions to the petition and additional information on August 11 and 28, and September 6, 2006.

MidAmerican does not request that it be vested with the power of eminent domain pursuant to Iowa Code § 478.6. As of the date of this order, the following

individuals have filed written objections with the Board: Ms. Martha Cavanaugh, Mr. Robert and Mrs. Tamara Den Hartog, the Floyd County Board of Supervisors, Mr. Larry Frahm, Mr. Dennis Hutchinson, Mr. L. Thomas Keiser, Mr. Kenneth Lovrien, Ms. Mary Kathryn McElroy, Mr. Roger Mulcahy, Mr. Dennis Sanvig, Mr. Daniel J. Squier, Ms. Neoma J. Thompson, and Mr. Jeffrey J. Weigel. Mr. Frahm also filed a petition with many signatures. Some of the objections appear to relate to alternate line routes no longer being considered by MidAmerican, so it is unclear how many of the objectors are still opposed to the proposed line.

Iowa Code § 476.6 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 new 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. Therefore, the hearing in this case must be held in Charles City, Iowa.

On October 4, 2006, VeraSun Energy Corporation (VeraSun), the company building the new ethanol plant, filed a petition to intervene in this case. The Board granted VeraSun's petition on October 17, 2006.

On October 24, 2006, the Board issued an order assigning this case to the undersigned administrative law judge to set a procedural schedule, conduct a hearing, issue a proposed decision, and exercise the authority provided in 199 IAC 7.3.

THE BOARD'S AUTHORITY AND JURISDICTION

The Board has the authority to grant franchises to construct, erect, maintain, and operate 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.

THE ISSUES

In Exhibit D of its petition, MidAmerican discusses the purposes of the proposed line. Among other things, MidAmerican states that:

MidAmerican currently serves the Charles City area. A new ethanol plant is in the process of being built northwest of Charles City and will be served by MidAmerican's electric system. The existing electric system cannot adequately support this new load, therefore, transmission system upgrades are needed. The construction of the proposed 69 kV line will allow MidAmerican to adequately serve the proposed ethanol plant.

MidAmerican 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. MidAmerican 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 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). MidAmerican 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.

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, a number of written objections and one petition filed by the persons listed above remain. The issues raised in the written objections, and any issues that may be raised in objections filed in the future, are also issues in the case.

As discussed below, Board staff Mr. Bao Nguyen and Mr. Dennis Hockmuth filed a report regarding the petition and proposed transmission line dated October 19, 2006. Mr. Nguyen and Mr. Hockmuth raised a number of 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.

MidAmerican must file prepared direct testimony and exhibits prior to the hearing in conformance with the procedural schedule set forth below. At a minimum, MidAmerican's prepared testimony must address the issues listed above, including each of the issues raised in the October 19, 2006, report filed by Mr. Nguyen and Mr. Hockmuth and each of the issues raised by each of the objectors. In addition, MidAmerican must file the additional information and two aerial maps prepared for

this project requested in the Nguyen/Hockmuth report. As discussed in the Nguyen/Hockmuth report at pages 4 and 11, MidAmerican should particularly note the questions raised regarding whether the proposed tap location of the south terminus of the line is a more preferable and/or more effective point of beginning of the proposed line than any other tap point locations in terms of the overall electric system and must explain why this terminus was selected. MidAmerican must evaluate each of the alternate routes suggested in the objections and address each route in its prepared testimony. In its prepared testimony, MidAmerican must state what could be done to address the objectors' concerns, discuss the 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. MidAmerican must discuss the various routes it considered and explain why it chose the proposed route. MidAmerican should discuss the transformer referred to by Mr. Keiser in his written objection and on pages 8-11 of the Nguyen/Hockmuth report.

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

MidAmerican's prepared rebuttal testimony, must be addressed in MidAmerican's prepared rebuttal testimony.

MidAmerican has the burden to prove that its proposed transmission line meets all the statutory and regulatory requirements discussed above. 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), VeraSun, and any objectors may also file prepared testimony and exhibits before the hearing in accordance with the procedural schedule in this order.

Although they are not required to participate further, objectors are encouraged to file a statement disclosing whether the proposed route addresses the concerns they expressed in written objections filed with the Board. This will help clarify which objectors are still objecting to the proposed route. In addition, Mr. Keiser is asked to provide additional information regarding the transformer he referred to in his objection as discussed on pages 8-11 of the Nguyen/Hockmuth report.

Parties other than MidAmerican who choose not to file prepared testimony and exhibits 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 MidAmerican 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 OBJECTORS

MidAmerican, VeraSun, and the Consumer Advocate are parties to this proceeding. Iowa Code §§ 17A.2(8) and 475A.2. As of the date of this order, it appears that a substantial number of objections to the petition filed with the Board remain.

The objectors, and anyone else who files an objection pursuant to this order and Iowa Code §§ 478.5, is presumed to be a party to this case. However, no objector is entitled to party status merely because that person has written a letter. To qualify as a party, the objector must be able to demonstrate some right or interest that may be affected by the granting of the franchise. Iowa Code §§ 478.5, 17A.2(5) and (8). An objector's status as a party may be challenged at the hearing, and an objector who cannot demonstrate a right or interest that may be affected by the granting of the franchise will no longer be considered a party. Therefore, at a minimum, 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 shows how their rights or interests will be affected by the 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.

Objections must be made in writing and filed with the Executive Secretary of the Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

Because objectors will be presumed to be parties up to the time of the hearing, an objector will receive copies of all documents that are filed after the letter of objection has been filed with the Board. If a person files an objection after some or all of the prepared testimony and exhibits have already been filed, that person will not receive copies of the previously filed documents. If a person files an objection after some or all of the prepared testimony and exhibits or other documents have already been filed with the Board by other parties, the objector should make direct contact with the parties who have already filed prepared testimony and exhibits in order to obtain a copy of those materials. Alternatively, the objector may view documents in the Board's Records and Information Center, 350 Maple Street, Des Moines, Iowa.

The official file of this case will be available for inspection at the Utilities Board Records and Information Center, 350 Maple Street, Des Moines, Iowa. Copies may be obtained, and there will be a charge to cover the cost of copying. If it has not

already done so, MidAmerican must serve a copy of the most current petition on each of the objectors who filed a written objection prior to the date of this order.

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 ten 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(4), 7.4(6). 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) and verifies a copy of the document was served upon the other parties.

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 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 website at www.state.ia.us/iub.

PROPOSAL TO TAKE OFFICIAL NOTICE

Mr. Bao Nguyen and Mr. Dennis Hockmuth, Utility Regulatory Engineers for the Board, have prepared a report in the form of a memo dated October 19, 2006, concerning MidAmerican's petition pursuant to Iowa Code § 478.4. A copy of the 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 of the facts contained therein, thus making them a part of the record of this case. Iowa Code §§ 17A.12(6)(c), 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 memo in prefiled testimony and at the hearing, and they may also cross-examine Mr. Nguyen and Mr. Hockmuth concerning the contents of their report at the hearing.

IT IS THEREFORE ORDERED:

1. If it has not already done so, MidAmerican must serve a copy of the most current petition in the relevant docket on each of the objectors who filed written objections prior to the date of this order.

2. Each person who files a written objection to MidAmerican's petition in this docket 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 franchise.

3. Objections must be made in writing and filed with the Executive Secretary of the Utilities Board, 350 Maple Street, 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. Objectors must file an original and ten copies of all subsequent communications to the Board with the Executive Secretary, and must send a copy of each communication to the other parties in the case, except three copies must be served on the Consumer Advocate. Along with the communication being sent, the party must file with the Board a certificate of service as discussed in this order.

4. The following procedural schedule is established:

a. On or before November 15, 2006, MidAmerican must file prepared direct testimony and exhibits and the additional information and aerial maps as discussed in this order. In its prepared testimony,

MidAmerican must address the issues discussed in the body of this order. If it files exhibits, MidAmerican should use exhibit numbers one and following. If it chooses to file a prehearing brief, MidAmerican must file it on or before November 15, 2006. If VeraSun chooses to file prepared testimony or a brief, it must do so on or before November 15, 2006. If it files exhibits, VeraSun should use exhibit numbers starting with the witness's initials and numbers 100 and following, such as "Exhibit LJ-100" etc.

b. On or before December 1, 2006, the Consumer Advocate and any objector may file prepared responsive testimony. If the Consumer Advocate takes the position that MidAmerican should not be granted the franchise, 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 1, 2006. If it files exhibits, the Consumer Advocate should use exhibit numbers two hundred and following. If any objector files exhibits, the objector should use exhibit numbers starting with the person's initials and numbers 300 and following, such as "Exhibit LJ-300" etc.

c. On or before December 8, 2006, MidAmerican 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 a.m. on Thursday, December 14, 2006, in

the District Court Courtroom, Third Floor, Floyd County Courthouse, 101 South Main, Charles City, Iowa 50616. If needed, the hearing will also be held on Friday, December 15, 2006, beginning at 9 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) 281-5256 as soon as possible and at least ten business days in advance of the hearing date to request that appropriate arrangements be made.

5. Required number of copies. All parties must file an original and ten copies of all documents filed with the Board. 199 IAC 1.8(4), 7.4(4).

6. The undersigned administrative law judge proposes to take official notice of Mr. Nguyen's and Mr. Hockmuth's report dated October 19, 2006, attached to this order, and of the facts contained therein. Any party objecting to the taking of official notice of the report should file such objection as soon as possible, and must file such objection no later than five days prior to the hearing.

7. Pursuant to Iowa Code § 478.6, a copy of this order will be served by ordinary mail upon MidAmerican, VeraSun, and the objectors who filed written objections prior to the date of this order. This order will be delivered to the Consumer Advocate.

8. Board staff will provide MidAmerican with a notice to be published and MidAmerican must publish the notice in Floyd County as required by Iowa Code § 478.5 and 199 IAC 11.5(2). MidAmerican must file proof of publication of notice with the Board at least five business days prior to the hearing.

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 31st day of October, 2006.

IOWA UTILITIES BOARD
Safety & Engineering Section

Docket No.: E-21822

Utility: MidAmerican Energy Company

Date: October 19, 2006

TO: The Docket File

FROM: Bao Nguyen and Dennis Hockmuth, P.E.

SUBJECT: MidAmerican Energy Company's Proposed 69 kV Transmission Line to Serve VeraSun Energy in Floyd County.

I. Background and History

On May 25, 2006, in compliance with Iowa Code § 478.2, MidAmerican Energy Company (MidAmerican) held an informational meeting in Charles City, Iowa, for a proposed of 69,000 volt (69 kV) electric transmission line to provide service to a proposed VeraSun Energy Corporation (VeraSun) ethanol plant to be located in Floyd County northwest of Charles City. The informational meeting presented several alternative routes, ranging from approximately 3.5 to 4.5 miles in length. For administrative purposes the Iowa Utilities Board (Board) assigned Docket Number E-21822 to the project.

On July 10, 2006, MidAmerican filed a petition for electric franchise for 4.64 miles of nominal 69 kV (72.5 kV maximum) electric transmission line to be located in Floyd County. The route selected is on both public and private property, with the petition stating all required easements have been obtained for the portions on private property.

There followed several exchanges of letters between the Board staff (deficiency letters dated August 8, 18, & 31) and MidAmerican (responses dated August 11, 28, & September 6), which provided answers and petition amendments to staff's questions on the filing by correcting errors and clarifying or updating content.

There is landowner opposition to this proposal. The Board received the first objection on May 5, 2006, twenty days before the informational meeting. Altogether, nineteen (19) individual objections (by 13 objectors) and one petition have been filed with the Board. Three objections concerned a private airplane landing strip that certain route options were close to. For other landowners, frequently stated reasons for objecting were interference with land use, impact on property values, visual impact, concern over the possible health risk of electromagnetic fields (EMF), effect on personal electrical equipment including a pacemaker, and opposition to tree removal.

As the filings approached their final form after corrective and update amendments, the Board staff examined the route, and the properties of objectors located on and off the current proposed route. The Board staff inspected that route of the proposed line, plus nearby areas, on May 25, July 24 & 25, and September 13. Docket No. E-21822 was considered by staff to be in sufficient order following amendments filed on September 6, 2006, the date of latest amendment filing.



By Board order dated October 17, 2006, VeraSun was granted intervener status.

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 objections are on file, a 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 project is entirely in Floyd County, so the hearing must be held in Charles City.

II. The Petitions

The 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 government land survey system (section, township, range). This description 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".

Exhibit E

Provides specific information on properties that would be the subject of an eminent domain request. As MidAmerican is not requesting the right of eminent domain, no Exhibit E was filed. 199 IAC 11.2(1)"e".

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 meeting was held and providing copies of the forms of notice used. 199 IAC 11.2(1)"g".

III. Description of Project

The project as proposed consists of 4.64 miles of new 69 kV nominal electric transmission line from a tap location on an existing MidAmerican 69 kV transmission line near the east line of the SE ¼ of Section 2, Township 95 North, Range 16 West, to the proposed Quarry Road Substation in the NW ¼ of Section 33, Township 96 North, Range 16 West. The proposed transmission line is a single circuit line with some single-phase and three-phase distribution underbuild (UB) lines of 7.2 kV and 12.47 kV respectively. The line route is primarily a new route with its majority to be placed on private right-of-way, mostly parallel and adjacent to the public road right-of-way of 195th Street and Ocean Avenue. However, in the area near the intersection of the above said roads, the proposed line follows an existing established gas and communication utility corridor around a residence (for about sixteen hundredths mile), instead of being adjacent to the public road rights-of-way.

A combination of single wood and steel poles, 60 to 90 feet tall, with horizontal post insulators, and with an average pole spacing of 300 feet and a maximum spacing of 400 feet, will constitute the typical construction of the proposed line (see filed Exhibits C-1.1 and C-1.2). At 90° angle corners, a combination of self-supporting single steel poles bolted to concrete foundations/bases (see filed Exhibit C-1.4) and single wood/steel poles with guying and anchoring assemblies (see Exhibit C-1.3), plus suspension strain insulators will be used. The transmission line conductors will be T-2 Penguin (2 – 4/0) and a shield wire of $\frac{3}{8}$ inch Extra High Strength (EHS) steel at the top of the structure for lightning protection.

The width of a private right-of-way easement adjacent to public road right-of-way is generally 25 feet, with the poles to be typically located 2 feet onto private property from the road right-of-way line. For portions of the line to be constructed on public right-of-way, the poles would typically be located 5 feet onto public right-of-way, with no overhang easements from adjacent property owners. The petition states all needed private easements have been obtained.

For segments of the proposed line without distribution UB, the vertical clearance of 69 kV circuits at the greatest conductor sag case condition would be at least 20 feet above ground and roads being crossed, except for that of 31 feet at the railroad crossing. And similarly, for segments of the proposed line with the underbuild distribution circuits, the 7.2 kV or 12.47 kV underbuild conductors and neutral clearances would be 20 feet and 19 feet respectively above ground and roads being crossed.

Staff review has concluded that the design of the proposed facilities as described in Exhibit C is consistent with the National Electrical Safety Code (NESC) and other safety 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.*”

a. Necessary to serve a public use

In the petition Exhibit D, MidAmerican has indicated that its existing electric system could not adequately support a new load, VeraSun Energy Corporation, a new ethanol plant. Therefore, the proposed 69 kV line (as part of the upgraded transmission system) is needed to serve the new customer.

MidAmerican should expand on the brief Exhibit D summary statements in its prefiled hearing testimony or at hearing. The additional information should include:

- *Why a voltage of 69 kV was selected.*
- *An explanation of how this line would relieve any constraints, enhances reliability, and provides voltage support.*

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

Petition Exhibit D, items A through H, contains 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 present and future economic development, electrical system, public, and land use considerations of the area. In the petition, Exhibits A and B, MidAmerican has indicated the south terminus to be a tap point from an existing MidAmerican 69 kV line, located near the east line of the SE ¼ of Section 2 and adjacent to the north right-of-way of Gilbert Street.

MidAmerican should provide further in its prefiled testimony or at hearing information on:

- *Why the tap location of south terminus is a more preferable and/or more effective point of beginning of the proposed line than any other tap point locations to the existing line (in term of overall electric system).*
- *What other related upgrades or projects will be undertaken and how they would enhance network reliability.*

V. The Route

The location of the proposed route is described in Petition Exhibits A, B, and D. The line would begin at a connection to an existing MidAmerican 69 kV line located near the Charles City corporate limits. It would run northwest for 0.26 mile, then turn west and run for approximately 0.25 mile within the corporate limits of Charles City (the segment within the city is not part of the franchise request). Exiting the city limits, the line route is primarily located along and adjacent to the south right-of-way of 195th Street and to the east right-of-way of Ocean Avenue.

Current land use on the route is predominantly agricultural. However, along 195th St. near Charles City there are several houses in two residential developments across the road from the line route.

At the informational meeting, MidAmerican showed a number of alternate line routes. MidAmerican briefly described certain factors in its route selection process at the meeting, including Iowa Code § 478.18(2), minimizing impact on land use, and the need of the proposed line to remain near the new load, VeraSun. Petition Exhibit D lists safety concerns, access issues, the presence of large trees and the proximity of an airport as considerations. Staff understands MidAmerican has not prepared a formal routing study for this project. *However, MidAmerican should explain its routing criteria and decision process in prefiled testimony or at hearing.*

“Plan and profile” drawings of the proposed line route are commonly prepared for a project of this type. In past projects the route details provided by these drawings have been useful to staff. However, staff understands that at this time no plan and profile drawings are available for this project.

MidAmerican has provided staff with a set of two maps (displayed at the informational meeting) based on aerial photographs which show considerable route detail, as well as property lines and ownership. These maps were very useful for route review but were not filed as part of the docket. *MidAmerican should be instructed to file in this docket the two aerial maps prepared for this project.*

Iowa Code § 478.18(2) contains these provisions for the routing of electric lines:

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.

The majority of the proposed route follows division lines of land, and is along and adjacent to roads. Near the intersection of 195th Street and Ocean Avenue (in the SW corner of the NW $\frac{1}{4}$ of Section 4, T95N, R16W), the route does not follow division lines of land, but follows an existing established utility corridor of natural gas and communication fiber optic lines around a residence. The Board can find that a route of this nature is reasonable. Route planning that begins with examining routes meeting Iowa Code 478.18(2) criteria is consistent with 199 IAC 11.1(7) and court precedent. See Anstey v. Iowa State Commerce Commission, 292 N.W. 2d 380 (Iowa 1980). Following an existing route for utilities can have certain benefits in that the additional impact on lands and land use, if any, may be less than if the line were installed on a new route. The Board has in the past found it reasonable to utilize an existing route that did not follow division lines of land based primarily on findings that interference with land use would be minimized.¹

¹ “Decision and Order Granting Franchise” in Dockets No. E-21043, E-21044, E-21045, issued to MidWest Power on March 9, 1993. See also Gorsche v. Midwest Power, 529 N.W.2d 291 (Iowa 1995).

The existing established utility corridor is parallel to and approximately 300 feet from Ocean Avenue's east right-of-way and 600 feet from 195th Street's north right-of-way. Staff is aware of no standard or precedent for how far from a division lines of land a route can be and still be considered "near and parallel." In this instance the offsets were made to accommodate the landowner, and a voluntary easement has been obtained at this location. Staff believes this routing is reasonable and justified even if, arguendo, it was not considered "near" division lines of land.

Several of the objections filed concerned a private airplane landing strip in the NE corner of the SE ¼ of Section 33, T96N, R16W. Some of the routes proposed at the time of the informational meeting would have been across the ends of or immediately parallel to this landing strip. The route as currently proposed would be over a quarter mile from the west end of the runway. There have been no further communications from the airport interests on whether this routing alleviates their concerns. Nor is it known if this routing would comply with any applicable Federal Aviation Administration (FAA) requirements regarding the proximity of overhead electric lines to a landing strip. *The order scheduling hearing should encourage those who objected on behalf of the airport to file additional information on whether the currently proposed line location addresses their concerns. In prefiled testimony or at hearing, MidAmerican should address any relevant FAA standards and whether the current routing would be acceptable under those standards.*

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 for public use". As of the date of this report, MidAmerican is not requesting the right of eminent domain for this project. MidAmerican's petition states it has acquired all 13 of the private property easements required.

VII. Objections

Altogether, nineteen (19) individual objections (by 13 objectors) and one petition have been filed with the Board concerning this project. Board staff re-examined the proposed route on September 13 as well as the properties of objectors located on and off the current proposed route.

It does not appear that the line would be on the property of any of these objectors. MidAmerican states it has acquired all of the necessary private easements voluntarily. However, if an objector does own affected property the signing of an easement does not negate or diminish an objection.²

² "Decision and Order Granting Franchise" in Dockets No. E-21043, E-21044, E-21045, issued to MidWest Power on March 9, 1993.

a. Summary of Objections

On May 5 and 31, July 12 and August 14, 2006, Larry J. Frahm filed different objections, a copy of a letter to the editor of the Charles City Press, and a request for information on the cost of alternative routes (which staff advised needed to be directed to MidAmerican). Mr. Frahm's house is located at 1948 Jerry Ave., Charles City, IA, (a house in Maple Heights Subdivision) near the SW corner of the NE $\frac{1}{4}$ of Section 2, T95N, R16W, Floyd County. He was concerned that the proposed line would be about 100 feet away from (or south of) his front door and wanted the line to be moved to a different route, perhaps along Gilbert Street and business US Highway 218 or along Iowa Highway 14. Mr. Frahm's wife has a pacemaker and the manufacturer's literature provided recommends avoiding transmission lines and high intensity electromagnetic fields. The staff inspection estimated that Mr. Frahm's residence would be about ± 75 feet north of the location of the proposed transmission line conductors, i.e., north across 195th Street.

On July 28, 2006, Mr. Frahm also filed a petition he had circulated among area residents. The petition was signed by 84 signatures (3 households declined to sign) in Maple Heights Subdivision and 24 signatures (2 households declined to sign) in Wandering Acres Subdivision and "represent a solid consensus of opinion that the routing of the high voltage power line through these residential areas is undesirable and should be avoided." The petition expresses concern over the danger of high voltage, unsightly poles and lines, that the EMF may cause interference with electronic devices including pacemakers and have potential adverse health/physiological effects, and potential effect on property values.

On May 9, 2006, Roger Mulcahy and on June 9 his attorney Frank Murray Smith filed objections to the location of MidAmerican's proposed line as too close to his private airstrip. Mr. Mulcahy's airstrip is located at 2484 185th Street, Charles City, IA in the north half of the SE $\frac{1}{4}$ of Section 33, T96N, R16W, Floyd County. The objector stated that he owns "a private airstrip which will be adversely affected by said transmission lines. For 30+ years, The air strip is vital to the operation of this venture." As discussed under Routing, MidAmerican had initially proposed route options that paralleled or crossed the ends of this strip, but the final location placed the proposed route over a quarter mile away from the west end of Mr. Mulcahy's airstrip.

On June 7, 2006, Dennis Sanvig filed an objection concerning the removal of his trees and the effect of EMF. Mr. Sanvig's house is located at 1895 Gilbert Street, Charles City, IA along business US Highway 218, which appears to be in the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 2, T95N, R16W and the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 35, T96N, R16W, Floyd County. Mr. Sanvig was concerned with the effect on his current landscape of removing all trees (1 foot onto his property) destroying his privacy. He indicated "the electromagnetic field will directly effect my cattle, which will continue to be within the 100 feet of distance from the power lines." Staff notes that the proposed transmission line is over a half mile away from this property so it appears the granting of the franchise would not affect the party's filed objection statements.

On June 15, 2005, Leo B. Staudt, Chairman of the Floyd County Board of Supervisors filed a letter showing the Supervisors' June 13, 2006 vote "to oppose the transmission lines being placed in such a way to prevent usage of the private (commercial endeavor) airstrip along 185th Street and Quarry Road." (Staff believes this to be Mr. Mulcahy's airstrip.) The Board of Supervisors suggests that the power lines follow a half mile north of county road 185th Street where the City of Charles City is proposing to place their water line and has already started easement agreements with the property owners. MidAmerican has proposed a final location that would move its transmission line route over a quarter mile northwest from the existing airstrip.

On June 22, 2006, Ms. Martha Cavanaugh filed an objection concerning the removal of her trees. Ms. Cavanaugh's house is located at 1894 Riverview Dr., Charles City, IA along business US Highway 218, which appears to be in the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 2, T95N, R16W, Floyd County. Ms. Cavanaugh indicates that she does not wish to have poles on her property since she would lose oak and pine trees. She suggests that the proposed line should follow the railroad without disturbing homeowners' property. Staff notes that the proposed transmission line is over a half mile away from this property so the granting of the franchise would not affect the party's filed objection statements.

On July 11, 2006, Ms. Neoma J. Thompson filed an objection concerning the adverse effects EMF might have on health. Ms. Thompson's house is located at 702 Kellogg Avenue, within the town of Charles City, IA. Although her residence is over a half mile east of MidAmerican's proposed line, she is speaking from her own "deteriorating" health, since she is presently near an existing 69 kV MidAmerican transmission line serving Charles City.

On July 12 and 18, 2006, Daniel J. Squier filed an e-mail objection about MidAmerican's proposed line to "run through a heavily populated Maple Heights Sub-division and affect approximately 12 homes on the north side of 195th St. of which I am one." Mr. Squier's house is located at 2605 195th Street, Charles City, IA, (a house in Wandering Acres Subdivision) in the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 2, T95N, R16W, Floyd County. He and others "currently have a pristine view to the south. No telephone poles, no power poles, nothing but a field currently planted with soy beans. We do not want that view spoiled by 70 ft poles carrying 69 kV of power. This would not only spoil our view but reduce our property values because of it." He suggests that the line follow a northerly route along a proposed waterline or to "tap an existing 69 kV line West of Charles City by Fort Dodge Animal Health. This line could then follow Highway 14 West to Ocean Avenue" and "cross a field owned by VeraSun Energy to the plant." He indicated, "I am also concerned about TV and radio reception due to interference from the above ground power line (we have no cable service)." Staff inspection noted that Mr. Squier's residence would be about ± 200 feet north of the location of the proposed transmission line conductors, i.e., north across 195th Street.

On July 12 and September 8, 2006, Mr. L. Thomas Keiser filed an objection to MidAmerican's proposed 195th Street line route. Mr. Keiser's house is located at 2652 195th St., within the town of Charles City, IA, which appears to be near the NW corner of the SE $\frac{1}{4}$ of Section 2, T95N, R16W, Floyd County. He is concerned with a large

transformer to be “right out of our bedroom windows” and he believes that MidAmerican has “not looked at an alternative route with less people to be concerned with.” He suggests MidAmerican start at a “sub-station on Hwy 14 at Fort Dodge Labs . . . a straight line to Ocean Avenue and then North to Vera-Suns property. There are less people to be concerned with.” His later objection referred to alternate routes where houses are farther back from the road and there would be far less trees. Staff inspection noted that Mr. Keiser’s residence would be about ± 40 feet south of the location of the proposed transmission line conductors, i.e., on the same side of 195th Street.

On July 17, 2006, Jeffrey J. Weigel filed an objection to MidAmerican’s proposed transmission line. Mr. Weigel’s house is located at 1945 David Ave., Charles City, IA, (a house in Maple Heights Subdivision) in the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 2, T95N, R16W, Floyd County. He does “not want a high voltage line this close to my property.” He would rather “move the line somewhere it doesn’t affect so many houses.” Staff inspection noted that Mr. Weigel’s residence would be about ± 75 feet north of the location of the proposed transmission line conductors, i.e., north across 195th Street.

On July 17, 2006, Mary Kathryn McElroy filed an objection to MidAmerican’s proposed transmission line and would appreciate another way to bypass Maple Heights Subdivision. Ms. McElroy’s house is located at 1949 Gil Ave, Charles City, IA, (a house in Maple Heights Subdivision) in the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 2, T95N, R16W, Floyd County. She has indicated, “poles will be in a residential neighborhood and very near our homes. We will not be able to enjoy the view from our homes and it may have a very adverse affect on the value of our properties, also some of us who are older fear health consequences.” Staff inspection noted that Ms. McElroy’s residence would be about ± 75 feet north of the location of the proposed transmission line conductors, i.e., north across 195th Street.

On July 18, 2006, Dennis Hutchinson filed an objection to MidAmerican’s proposed power lines on 195th St. Mr. Hutchinson’s house is located at 2613 195th Street, Charles City, IA, (a house in Wandering Acres Subdivision) in the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 2, T95N, R16W, Floyd County. He indicated “High voltage 70-80 ft. power lines – unsightly power field effect. Possible affect on my microwave internet for my business.” He suggests “use connection on Hwy 14.” Staff inspection noted that Mr. Hutchinson’s residence would be about ± 200 feet north of the location of the proposed transmission line conductors, i.e., north across 195th Street.

On July 31, 2006, Kenneth R. Lovrien filed an objection to MidAmerican’s power line that would be too close to the housing development in Maple Heights Subdivision. Mr. Lovrien’s house is located at 1948 Gil Ave, Charles City, IA, (a house in Maple Heights Subdivision) in the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 2, T95N, R16W, Floyd County. He would “prefer alternate route”, although none was provided. Staff inspection noted that Mr. Lovrien’s residence would be about ± 150 feet north of the location of the proposed transmission line conductors, i.e., north across 195th Street.

On August 1, 2006, Robert & Tamara Den Hartog filed an objection “opposed to having the installation of high voltage transmission lines passing through a residential neighborhood as is along 195th Street.” Their house is located at 2617 195th Street,

Charles City, IA, (a house in Wandering Acres Subdivision) in the SW ¼ of the NW ¼ of Section 2, T95N, R16W, Floyd County. Their oppositions are due to: 1. potential adverse health effects, 2. decreased property value, 3. esthetics, and 4. satellite interference. They suggest an “alternate route: west of Charles City along Hwy 14 (much less residential route) then north on Ocean Ave.” Staff inspection noted that the Den Hartog’s residence would be about ±150 feet north of the location of the proposed transmission line conductors, i.e., north across 195th Street.

b. Staff review of objections.

Three of the objections (Mulcahy, Smith, Board of Supervisors) concern a private airplane landing strip. As discussed under Routing, the location of the line as proposed in the petition is over a quarter mile from the west end of the runway. Staff does not know if that location has satisfied this concern.

Three of the objections ((Sanvig, Cavanaugh, Thompson) are by persons whose property is around a half mile from the route proposed in the petition before the Board. These objections appear to address other alternate routes presented at the informational meeting but not selected. The route now proposed appears to satisfy two of the objections. However, the objection filed by Ms. Thompson alleging adverse health impacts from EMF appears intended to apply regardless of the route.

Four objectors (Frahm, Weigel, McElroy, and Lovrien) are in the Maple Heights Subdivision on the north side of 195th Street. The line would be across the road from them. At this location the objector’s property is outside the city limits, but the electric line location is inside the city limits. Another objector (Keiser) is across the road from the Maple Heights Subdivision and is on the south side of 195th Street. This property is inside the city limits and the electric line that would be in front of this property is also inside the city limits. The Iowa Utilities Board does not control electric line routing inside of cities.

The Keiser objection refers to a “large transformer.” It is unclear what this means, as nothing in the filing indicates MidAmerican would be installing a transmission transformer in this area. Staff suspects it is regarding an existing distribution pole-mounted transformer.

Three objectors (Squier, Hutchinson, Den Hartog) are in the Wandering Acres Subdivision on the north side of 195th Street. The line would be on the south side of the road across the road from them. This area is further west of the Maple Heights Subdivision and the proposed route in this area is outside the city limits.

As previously noted, the order scheduling hearing should encourage those who objected on behalf of the airport to file additional information on whether the currently proposed line location addresses their concerns. In prefiled testimony or at hearing, MidAmerican should address any relevant FAA standards and whether the currently proposed routing would be acceptable under those standards.

MidAmerican should address all of the above listed objections in its prefiled testimony or at hearing. It should include evaluation of alternative routes suggested by the objectors.

This report previously stated that MidAmerican should explain its routing criteria and decision process in prefiled testimony or at hearing. The location of the south terminus of the proposed line makes route proximity to residences on 195th or Gilbert Street virtually inevitable. MidAmerican should include in this discussion why this terminus was selected.

MidAmerican should expand and provide information in prefiled testimony or at hearing regarding the effects of EMF from the proposed transmission line, including to a pacemaker, other electronic devices, health/physiological issues, and satellite/microwave internet interference.

Mr. Keiser should be asked to clarify what transformer his objection refers to and how it is relevant to this proceeding.

VIII. Conclusion

Board staff finds the petition in this docket sufficiently in order to be set for hearing.

Staff concludes that the route as proposed complies with the requirements of law in that it either follows division lines of land and roads, or that where it deviates from such routing the deviation is reasonable. However, the route selected is adjacent to residential areas near Charles City, and a number of objections to this routing have been filed.

IOWA CODE section 478.6 states that a public hearing must be held if an objection is filed or eminent domain is requested. As objections are on file, a public hearing is required.

IOWA CODE § 478.6 states that when a hearing is required, if the 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 line exceeds a mile in length, and the midpoint of the project is in Floyd County, therefore the hearing must be held in Charles City.

In this docket, particular consideration will be needed of whether the tap location of south terminus is more preferable and acceptable under the “reasonable relationship to an overall system” test of Iowa Code § 478.4.

This report identifies, in *italic print*, a number of areas that Board staff recommends MidAmerican or other parties be instructed to address in prefiled testimony or at hearing to improve the record on which a decision will be based.