

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

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| IN RE: AMES MUNICIPAL ELECTRIC SYSTEM | DOCKET NOS. E-21743 E-21744 |
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**ORDER ESTABLISHING PROCEDURAL SCHEDULE, PROPOSING TO TAKE
OFFICIAL NOTICE, AND NOTICE OF HEARING**

(Issued February 26, 2007)

On January 23, 2006, Ames Municipal Electric System (Ames) filed petitions with the Utilities Board (Board) requesting franchises to construct, maintain, and operate a total of 19.75 miles of 161,000 volt (161 kV) nominal, 169 kV maximum, electric transmission line proposed to be constructed in Polk and Story Counties, Iowa. The petitions were identified as Docket No. E-21743 (Polk County) and E-21744 (Story County). The proposed transmission line would begin at MidAmerican Energy Company's existing Northeast Ankeny Substation outside the Ankeny city limits in Polk County and run north to the existing Ames substation located within the city limits of Ames in Story County, Iowa. The part of the proposed line within the corporate limits of the city of Ames is not part of the franchise request because the Board does not have jurisdiction of transmission lines within city limits. Iowa Code § 478.1 (2007). The proposed route of the line is primarily on private right-of-way and runs generally parallel to the east side of Interstate 35 (I-35). Approximately 8 miles of the proposed line would be in Polk County, and

approximately 11.75 miles of the proposed line would be in Story County. Ames filed revisions to the petitions and additional information on February 17, March 1, August 8, October 9, November 27, and December 20, 2006.

Ames requests that it be vested with the power of eminent domain pursuant to Iowa Code § 478.6. As of the date of this order, Ames requests eminent domain authority for three parcels in Polk County, designated as parcels P-2, P-3, and P-16, and for five parcels in Story County, designated as parcels S-2, S-3, S-6, S-7, and S-8.

Several written objections were filed in the two dockets, although two have been withdrawn. As of the date of this order, one objection in Polk County and 12 objections in Story County remain. The following individuals filed written objections with the Board and have not withdrawn them: Mr. Jim and Mrs. Arlene Bates, Mr. Leonard and Mrs. Sue Larson, and Mr. Noel and Mrs. Leona Larson (jointly); Mr. William J. Burke; Mr. Ray and Mrs. June Campbell (Polk County); Ms. Cassandra L. Cole; Senior Pastor Will Hatfield (apparently on behalf of the Campus Baptist Church); Ms. Mildred Johannes; Dr. John P. Kluge; Mr. Kenneth L. Larson; Mr. Noel R. and Mrs. Leona O. Larson; Mr. Jason and Mrs. Tisha Murphy; Mr. John and Mrs. Gloria Mutchmor; and Mr. William F. and Mrs. Toni G. Woodman. The property owned by some of the objectors appears to be some distance away from the proposed route, so it is unclear how many of the objectors are still opposed to the

proposed line. Some of the objectors own parcels over which Ames seeks eminent domain authority.

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 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. The midpoint of the proposed line is in Story County. Therefore, the hearing in this case must be held in Nevada, Iowa.

On February 8, 2007, the Board issued an order assigning this case to the undersigned administrative law judge to, among other things, 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, Ames discusses the purposes of the proposed line. Among other things, Ames states that its electric system has two coal-fired generation units, two combustion turbines, and limited import capabilities from two 69 kV transmission lines. Ames states it recently completed an integrated resource planning study that shows it will need to increase its import capacity on the transmission system to meet required demand. It states that a system contingency plan was recently completed that showed if there were a single contingency loss of its 70 MW coal-fired unit, Ames would need to increase its import capacity to offset the loss of generation and prevent a blackout. Ames further states a comprehensive load flow study for the proposed line was presented to the Mid-Continent Area Power Pool (MAPP) design review subcommittee (DRS) for approval, and the DRS approved it. Ames states the DRS concluded the project would increase reliability of the Ames electric system and the regional transmission system. Ames also states the load flow study showed a very negative impact on reliability if the construction were joint with Central Iowa Power Cooperative's existing transmission line south of Ames.

Ames 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. Ames 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 it must 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). Ames 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.

Before Ames can be vested with the power of eminent domain, it must demonstrate that the taking of private property described in its petitions is necessary for public use. Iowa Code §§ 478.6, 478.15. If the requested franchises are granted, Ames is entitled to be vested with the power of eminent domain only if and to the extent as the Board may approve, prescribe, and find necessary for public use.

Iowa Code §§ 478.6, 478.15.

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 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 petitions and proposed transmission line dated February 2, 2007. 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.

Ames must file prepared direct testimony and exhibits prior to the hearing in conformance with the procedural schedule set forth below. At a minimum, Ames' prepared testimony must address the issues listed above, including each of the issues and questions raised in the February 2, 2007, report filed by Mr. Nguyen and Mr. Hockmuth and each of the issues raised by each of the objectors. Ames must file testimony and exhibits sufficient to show that the design and construction of all line crossings would be in conformance with applicable requirements as discussed on page four of the Nguyen/Hockmuth report. In addition, Ames must file relevant portions of the integrated resource planning study, system contingency plan, load flow study, and MAPP DRS documents to support the statements made in its petition Exhibit D. The Nguyen/Hockmuth report at page six recommends that certain documents informally provided to staff be filed in the docket, including a December 2005 routing study, plan and profile drawings, and maps based on aerial photographs. Ames must file these documents with its prepared direct testimony.

In addition to filing the routing study, Ames must discuss the various routes it considered, the criteria it used to evaluate the routes, and explain why it chose the proposed route. This discussion must include, but not be limited to, information regarding the cost of the various alternatives considered. In addition to the information requested in the Nguyen/Hockmuth report at page six regarding

reliability, Ames must file testimony and exhibits regarding alternatives considered, why they were rejected, and whether the proposed route and design provides superior reliability compared to each of the alternatives considered. As proposed, the Ames line would run adjacent and parallel to an existing Central Iowa Power Cooperative (CIPCO) 161 kV transmission line for approximately 4.5 miles. Ames must explain why routing the proposed line within 50 or 75 feet of the existing CIPCO transmission line would be significantly more reliable than using common poles. Ames must explain whether it would be feasible to construct the proposed line on common poles with the CIPCO line at this location, whether such construction would meet applicable requirements, and must discuss the advantages and disadvantages of such an approach.

Ames must also explain how the proposed line would meet the requirement of Iowa Code § 478.18(2), which requires construction of the line so as not to unnecessarily interfere with the use of any lands by the occupant, when some parcels would have two transmission lines constructed in close proximity across the parcels. For each such parcel with two transmission lines over which Ames requests the right of eminent domain or where the owner has objected, Ames must discuss options for placement of the line and poles so as to minimize interference with use of the parcel, including which options are feasible and the costs and benefits of each option.

Ames must evaluate each of the alternate routes suggested in the objections, address each route in its prepared testimony, and explain the advantages and disadvantages of each alternative route in comparison to the route proposed by Ames. This evaluation and comparison must include, but not be limited to, a comparison of the cost of each alternative route with the proposed route. In its prepared testimony, Ames must state what could be done to address the objectors' concerns, discuss the feasibility and 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.

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

Ames has the burden to prove that its proposed transmission line meets all applicable statutory and regulatory requirements. 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) 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. Ray and Mrs. June Campbell are asked to provide additional information regarding the location of their development property as discussed on page 15 of the Nguyen/Hockmuth report and whether they continue to object to the proposed line.

Parties other than Ames 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 Ames 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

Ames 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 thirteen objections to the petition filed with the Board remain.

Each objector, 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 17A.2(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 proposed 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, Ames 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. Ames does not need to serve a copy of its petition on the objectors who filed a withdrawal of their objection with the Board prior to the date of this order. Ames should review its service list to make sure all remaining objectors are included.

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 February 2, 2007, concerning Ames' petitions 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.

EMINENT DOMAIN

As of the date of this order, Ames has requested the right of eminent domain for three parcels of property in Polk County (Docket No. E-21743). These three parcels are designated as parcels P-2, P-3, and P-16 (petition Exhibits E-1, E-2, and E-3, respectively). As of the date of this order, Ames has requested the right of eminent domain for five parcels in Story County (Docket No. E-21744). These five

parcels are designated as parcels S-2, S-3, S-6, S-7, and S-8 (petition Exhibits E-1, E-2, E-3, E-4, and E-5, respectively). Ames must notify the Board of any changes regarding these requests and keep Exhibit E of the petitions current. Ames must also serve written notice on the owners and persons in possession of those parcels as required by Iowa Code § 478.6 and 199 IAC 11.5(3). Ames has not yet filed the eminent domain notice for each docket with the Board for approval as required and it must do so within seven days of the issuance of this order.

IT IS THEREFORE ORDERED:

1. If it has not already done so, Ames 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, excluding those objectors who have filed withdrawals of their objections with the Board.
2. Each person who files a written objection to one of Ames' petitions in this proceeding 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 franchises.
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 March 16, 2007, Ames must file prepared direct testimony and exhibits and the additional documents as discussed in this order. In its prepared testimony, Ames must address the issues discussed in the body of this order. When it files exhibits, Ames should use exhibit numbers one and following. If it chooses to file a prehearing brief, Ames must file it on or before March 16, 2007.

b. On or before April 4, 2007, the Consumer Advocate, any objector, and any person with an interest in one of the eminent domain parcels may file prepared responsive testimony. If the Consumer Advocate takes the position that Ames should not be granted the requested franchises, 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 April 4, 2007. If it files exhibits, the Consumer Advocate should use exhibit numbers 100 and following. If any objector files exhibits, the objector should use exhibit numbers starting with the person's initials and numbers 200 and following, such as "Exhibit LJ-200" etc. If any person with an interest in one of the eminent domain parcels files

exhibits, the person should use exhibit numbers starting with the person's initials and numbers 300 and following, such as "Exhibit JS-300" etc.

c. On or before April 16, 2007, Ames 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 9:30 a.m. on Thursday, April 26, 2007, in Courtroom 2A, Story County Justice Center, 1315 South B Avenue, Nevada, Iowa 50201. 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 February 2, 2007, 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 Ames, the remaining objectors who filed written objections prior to the date of this order, and the persons listed in Exhibit E of the petitions in Docket Nos. E-21743 and E-21744 (the owners of record and the parties in possession of the parcels over which Ames requests the right of eminent domain). This order will be delivered to the Consumer Advocate.

8. Ames must notify the Board of any changes regarding the requests for eminent domain and keep Exhibit E for the petitions in Docket Nos. E-21743 and E-21744 current.

9. Board staff will provide Ames with a notice to be published and Ames must publish the notice in Polk and Story Counties as required by Iowa Code § 478.5 and 199 IAC 11.5(2)"a." Ames must file proof of publication of notice with the Board at least five business days prior to the hearing. Ames must also serve notice as required by 199 IAC 11.5(2)"b" and file copies with the Board in conformance with the rule. (The ordinary mail notice required by 199 IAC 11.5(2)"b" is not required for parties whom Ames serves by certified mail pursuant to ordering clause 10 and 199 IAC 11.5(3).)

10. Ames must file a proposed eminent domain notice for each docket with the Board for approval within seven days of the issuance of this order. Iowa Code § 478.6; 199 IAC 11.5(3). Once approved, Ames must serve the notice for the appropriate docket on each of the owners of record and parties in possession of the

parcels over which Ames requests the right of eminent domain by certified mail, return receipt requested, in accordance with the requirements of Iowa Code § 478.6 and 199 IAC 11.5(3). Ames must file return receipts with the Board not less than five days prior to the hearing date.

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 26th day of February, 2007.

IOWA UTILITIES BOARD
Safety & Engineering Section

Docket No.: E-21743, E-21744
Utility: Ames Municipal Electric System
Date: February 2, 2007

TO: The Docket Files

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

SUBJECT: Proposed Ames Municipal Electric System's 161 kV Transmission Line (Ames to NE Ankeny) in Polk and Story Counties.

I. Background and History

On April 6, 2005, in compliance with Iowa Code § 478.2, Ames Municipal Electric System (AMES) held informational meetings in Polk and Story Counties for a proposed 161,000 volt (161 kV) electric transmission line to run from MidAmerican Energy Company's Northeast Ankeny Substation, located outside the Corporate Limits of Ankeny in Polk County, north to the Corporate Limits of the city of Ames in Story County. The line would ultimately terminate at an AMES substation located within the City of Ames. For Iowa Utilities Board (Board) administrative purposes the following docket numbers were assigned for the project segments in the affected counties¹:

Docket No. E-21743 – Polk County
Docket No. E-21744 – Story County

At the time of the informational meeting a specific route was not proposed. The notices showed a transmission line corridor along the east side of Interstate 35. The corridor was approximately one mile wide in Polk County and one half mile wide in Story County.

There was landowner opposition to this proposal. Following the informational meeting sixteen (16) individual objections (by 15 objectors) were filed with the Board; two (2) objections were subsequently withdrawn. Frequently stated reasons for objecting were interference with land use, impact on property values, visual impact, concern over the possible health risk, and opposition to tree removal.

II. The Petitions

On January 23, 2006, AMES filed petitions for electric franchise for a 161 kV electric transmission line to be located in Polk and Story Counties. The docket numbers assigned to the petitions and the length of electric line for which franchise is sought in each petition are:

¹ A separate franchise is required in each county traversed by the project, therefore a separate docket number is assigned to the line segment in each affected county. 199 IAC 11.3(4).

Docket No. E-21743 – Polk County – 8.0 miles.
Docket No. E-21744 – Story County – 11.75 miles.

The total project line length is 19.75 miles. The route selected is primarily on private right-of-way, generally along and adjacent to the east side of Interstate 35 (I-35).

There followed several exchanges of letters between the Board staff (deficiency letters, e-mails, or direct contact on January 31, February 3 & 23, September 21, November 14, and December 19, 2006) and AMES (responses on February 17, March 1, August 8, October 9, November 27, and December 20, 2006), which provided answers and petition amendments responding to staff's review of the filing by correcting errors and clarifying or updating content.

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 the route of the proposed line plus nearby areas on January 11 & 12, and November 30, 2006. Docket Nos. E-21743 and E-21744 were considered by staff to be in sufficient order to be set for hearing following amendments filed on December 20, 2006, the date of latest amendment filing.

Each 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. Both petitions request the right of eminent domain; for 3 (out of 23 total) property parcels in Polk County and 5 (out of 41 total) parcels in Story County.

Exhibit A

Contains a legal description of the route based on the government land survey system (section, township, range). This information 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

Contains property-specific information on the rights and extent of taking being sought through eminent domain. 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 meetings were held and providing copies of the forms of notice used. 199 IAC 11.2(1)"g".

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 and the right of eminent domain is requested in both dockets, hearing on both is required.

Staff recommends the dockets be consolidated for hearing. The two dockets are interrelated as part of a larger project, and the "public use" and "reasonable relationship" tests of Iowa Code § 478.4, as well as the routing of any one segment, might be influenced by other segments.²

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 midpoint of the total project in these dockets falls in Story County, so the hearing must be in Nevada.

III. Description of Project

The project as proposed consists of 19.75 miles of 161 kV nominal voltage (169 kV maximum) electric transmission line. The line would run from MidAmerican Energy Company's Northeast Ankeny Substation located outside the corporate limits of Ankeny in Section 7, Township 80 North, Range 23 West, in Polk County north to the corporate limits of the city of Ames near the southeast corner of Section 6, Township 83 North, Range 23 West, in Story County. The proposed line ultimately terminates at an AMES substation located within the City of Ames. The proposed transmission line is a single circuit line without underbuild (UB), except for two (2) segments with single phase distribution underbuild of 7.2 kV (0.14 mile in Polk County and 0.16 mile in Story County). The line route is primarily a new route on private right-of-way, generally parallel to the northbound (east) lane of the I-35.

A combination of single wood and steel poles, 52 to 106 feet tall after installation, with "Braced Line Post" insulator assemblies, and with an average span of 365 feet and a maximum span of 450 feet, will constitute the typical construction of the proposed line

² Gannon vs. Iowa State Commerce Commission, Polk County District Court, Case No. 92922 (1970).

(See filed Exhibit C, figures 1, 2, and 5). At slight angle structures, a combination of a single wood pole with down guying and anchoring systems, and/or a direct embedded single steel pole will be used (See filed Exhibit C, figure 3). At 90° angles, large dead-end angles, and double dead-end structures, a single steel pole bolted to a concrete foundation/base, a wood/steel three-pole structure, and a steel H-frame structure will be used respectively (See filed Exhibit C, figures 4, 6, and 7). The latter structure (steel H-frame double dead-end) will have an installed height of 34 feet, with an average span of 140 feet and a maximum span of 150 feet. The transmission line conductors will be T-2 lbs (2 – 397.5 kcmil). The design includes a shield wire of optical ground wire (OPGW) at the top of the structure, at least 10 feet above the top conductor, for lightning protection and communications between AMES' electrical facilities for its monitoring and operations.

The width of the proposed right-of-way easement is up to 75 feet. Under worst case conditions the above-ground clearance of the 161 kV circuit conductors would be at least 21.5 feet, while the clearance of the 7.2 kV underbuild line conductors (where present) and its neutral would be at least 18.5 feet and 16.5 feet, respectively, above the ground or roads being crossed. Exhibit B indicates that the proposed line will either cross over or under the existing CIPCO 161 kV line (Section 7, Township 81 North, Range 23 West), and the existing Interstate Power and Light 161 kV line (Section 5, Township 80 North, Range 23 West), all in Polk County. However, there were no Exhibit Cs structure drawings indicating of how the proposed line would cross the two existing 161 kV lines (joined crossing structure or not), and the vertical separations between the proposed line and each of those two lines. In addition, Exhibit B has also indicated two (2) other existing 69 kV transmission lines that the proposed line will cross over in Story County, i. e., a CIPCO line in Section 30, Township 82 North, Range 23 West and an Interstate Power and Light line in Section 8, Township 83 North, Range 23 West. This leaves unclear issues of safety code compliance and reliability. *AMES should address this issue (all crossings) in prefiled testimony or at hearing.*

Subject to clarification of how AMES will accomplish the crossings of other electric transmission lines, Staff review has concluded that the design of the proposed facilities as described in the “typical” Exhibit C is consistent with the National Electrical Safety Code 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 Exhibits D, AMES includes the following statements:

“A system contingency plan was recently completed by AMES. This study indicates that in the event of a single contingency loss of the 70 MW coal fired unit, AMES would need to increase the import capacity now to offset the loss of generation and to prevent a blackout.” (page 1, last paragraph)

“A comprehensive load flow study by Excel Engineering for the proposed transmission line was presented to the Mid America Power Pool (MAPP) Design Review Subcommittee for approval. The Subcommittee has approved the proposed project. They have concluded that this project will increase the reliability of the regional transmission system in addition to the increased reliability to AMES electric system. The load flow study showed a very negative impact on reliability of the transmission grid if the construction were joint with Central Iowa Power Cooperative’s (CIPCO) existing transmission line south of Ames.” (page 2, paragraph 1)

“. . . that existing customers in the area will benefit from continued reliability provided by the new facilities.” (page 2, paragraph 2, lines 3 and 4)

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

- *Why a new 161 kV volt line was selected.*
- *An explanation of how this line would relieve constraints, enhance reliability, and provide voltage support.*

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

Petition Exhibits D, Items A through H, contain 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 economic, electrical system, public, and land use considerations, present and future. The allegations by AMES in these items contain statements relevant to the “reasonable relationship” issue.

The proposed route and design would create approximately 4.5 miles of 161 kV electric transmission line adjacent and parallel to the east side of an existing Central Iowa Power Cooperative (CIPCO) 161 kV line located on private property along the east side of Interstate Highway 35 in Sections 7 & 6, T81N, R23W (Polk County) and Sections 31, 30, & 19, T82N, R23W (Story County). The CIPCO line is next to I-35, and the AMES line would be east of the CIPCO line. It appears these lines may be as close as 50 feet apart. Placing these circuits near and parallel to one another increases the risk of losing both circuits in a single incident.³ In Exhibit D, paragraph D, sub-paragraph 2, AMES states, “Comprehensive electric utility planning indicates that the proposed line should not be constructed on the same structures as the existing CIPCO line for these 4.5 miles. If the two lines were constructed on common structure system reliability and

³ An incident could be an event such as a tornado, ice storm, structural failure, or sabotage/terrorism.

integrity of the regional transmission grid would be greatly impacted as shown in the load flow study.” While this statement concludes common use construction would be undesirable, it does not address the risk created by having these circuits in close proximity. It appears a single event such as a tornado or ice storm could take out both circuits. AMES’ decision in favor of a paralleling route was not well explained or supported in its exhibit filings.

To aid in verifying that paralleling a portion of this project will not adversely impact the reliability of the transmission network, AMES should provide in its prefiled testimony or at hearing information on:

- *How and why the decision was made to locate the proposed line near and parallel to another 161 kV line.*
- *Has MAPP or any other planning agency concluded that this route and design would meet their reliability standards.*

V. The Route

The location of the proposed route is described in Petition Exhibits A, B, and D. Current land use on the route is predominantly agricultural, although a number of objectors are located in a residential area just southeast of the Ames city limits.

AMES briefly describes certain factors in its route selection process in Exhibit D including Iowa Code § 478.18(2), minimizing impact on land use. Staff asked for a copy of any route study done, and was provided with over 30 pages of tables that appear to apply a series of weighting factors to various routes and segments. The study has not been formally filed with the Board. It included an explanation of what factors were used or how they were applied, showed the alternatives examined, and contained conclusions explaining why the proposed route was selected. *AMES should be instructed to file in these dockets a copy of the December, 2005 “Study to Select a Route for the Proposed 161-kV Transmission Line between the Ames Power Plant Substation and the MidAmerican Energy NE Ankeny Substation”.*

“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. Although not formally filed with the Board, a “preliminary” plan and profile for this route was provided to the Staff. *AMES should be instructed to file in these dockets a copy of the preliminary or final “plan and profile” drawings prepared for this project.*

AMES has provided staff with a set of maps 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 formally filed in any of the dockets. These maps should be part of the public record. *AMES should be directed to file copies of these maps in these dockets.*

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 proposed route generally follows division lines of land or parallels roads. Except for approximately the south three miles in Polk County and the north two miles in Story County, the proposed line would be along the east side of I-35, a road. I-35 is a north-south road that also approximately follows division lines of land. The remaining five miles generally follow division lines of land (in Story County) or county roads on a division line (in Polk County).

As previously noted, the route would parallel an existing CIPCO 161 kV line for approximately 4.5 miles. The CIPCO line parallels the I-35 right-of-way line, and the AMES line would run parallel to and typically approximately 75 feet from the CIPCO line. This would place the AMES line from approximately 110 to 150 feet from the I-35 right-of-way line at most locations.

However, near the center of Section 7, T81N, R23W, Polk County, at the south end of the segment where these lines parallel for roughly one-third mile, the proposed route is further from CIPCO's 161 kV line, and is almost 250 feet east of the road and over 150 feet east of the CIPCO line. There is no information in the record explaining why the parallel segment at the south end is so far east of the CIPCO line. AMES has acquired a voluntary easement in this area.

In Section 19, T82N, R23W, Story County, at the north end of the paralleling segment, for almost one mile the separation between the AMES and CIPCO lines is reduced to approximately 50 feet, and the line would be approximately 100 feet from the I-35 right-of-way line. There are three eminent domain parcels on this line segment.

In the NE ¼ of Section 18, T83N, R23W (Story County), the route does not follow a road, and departs somewhat from a division line of land by passing 400 feet further to the south to avoid a building and trees. This offset was reportedly made to accommodate the landowner and a voluntary easement has been obtained at this location. If so, staff considers deviations to accommodate landowners to be reasonable.

At two locations described above, the line is a significant distance from a division line of land and/or road. Staff is aware of no standard or precedent for how far from a division lines of land or road a route can be and still be considered "near and parallel." This departure does not mean the Board cannot find a route of this nature 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). However, AMES needs to show on the record why the routing at these locations should be accepted. *AMES should address these locations and issues in prefiled testimony or at hearing.*

At the other location discussed above in Section 19, the AMES line is closer to the CIPCO line (i.e. 50 feet) and the I-35 right-of-way than it is in other locations throughout the 4.5-mile segment (typically 75 feet). Why it is closer in Section 19, and why the route elsewhere could not be closer to the CIPCO line (50 vs. 75 feet), thus appearing to minimize interference with land use, is not explained on the record. *AMES should address this location and issue in prefiled testimony or at hearing.*

Staff believes the route proposed by AMES for this project is generally reasonable and acceptable, although as described above believes additional information or explanation is needed in certain issues. This conclusion is contingent upon the Board concluding that reliability will not be adversely affected by the paralleling routes of the existing CIPCO transmission line and the AMES line.

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” to serve a public use.

As of the date of this report, eminent domain is requested for three parcels in Polk County (Docket No. E-21743) which are designated as P-2, P-3, and P-16 (Exhibits E-1, E-2, and E-3, respectively); and five parcels in Story County (Docket No. E-21744) designated as S-2, S-3, S-6, S-7, and S-8 (Exhibits E-1, E-2, E-3, E-4, and E-5, respectively). None of the persons in Polk County with ownership interest in these three parcels has filed an objection. Five persons in Story County with ownership interest in four of these parcels have filed objections.

a. Summary of Eminent Domain

Docket No. E-21743 – Polk County

Parcels P-2 and P-3

These two proposed eminent domain easements are for adjoining properties located along the east side of a county road (NE 29th Street). The easement would be for single poles (except for one two-pole structure at the north end of parcel P-3) on a 30-foot wide strip of land. The centerline of the transmission line would be adjacent to road right-of-way line, but the poles in parcel P-3 would be located 2± to 10± feet east of the west line of the AMES easement onto private property. Some of the conductors could overhang the public road right-of-way. *In parcel P-3, the record does not explain why the distance of the poles is up to 10 feet from the right-of-way line. The “preliminary”*

plan and profile drawing discusses the two pole structures at the north end of parcel P-3. AMES should explain in prefiled testimony or at hearing why all poles are not at 2± feet thus perhaps minimizing interference with land use.

The length of the north-south easement in parcel P-2 would be approximately one-quarter mile, with its land use agricultural. There are no buildings on this parcel. There would be three (3) structures on this parcel. The titleholders of parcel P-2 are Michael O. Albaugh, et al.

The length of the north-south easement in parcel P-3 would be approximately one-half mile, with its land use agricultural. A farmhouse is set back about 80 feet east of the centerline of the proposed transmission line. Further back from the line, there are three utility buildings (about 175 feet) and five grain bins (about 300 feet) on the same farmstead. There are trees near the road in the front yard of the farmhouse. There would be 8 structures on parcel P-3. The titleholders of parcel P-3 are Norman Albaugh and Deva Albaugh (deceased). One of the partial owners (Michael O. Albaugh) in parcel P-2 is also the common tenant in parcels P-2 and P-3. None of the owners of these parcels or the tenant have filed objections with the Board.

It appears that trees may need to be trimmed on parcel P-3. AMES should explain in prefiled testimony or at hearing the extent of tree removal or trimming it proposes on this property.

Parcel P-16

In the third parcel the line would be located along the east side of the existing east right-of-way of Interstate Highway 35 (I-35). The 7 single poles would be placed upon an AMES transmission line easement 75 feet wide. That north-south right-of-way is slightly irregular due to highway right-of-way line variations resulting from ground elevation changes in the I-35 east margin.

The poles would adjacent to the I-35 right-of-way, apparently at 2± feet, but due to the irregularities the conductors could be as much as 65 feet from the right-of-way line. Some of the conductors could overhang the public I-35 road right-of-way next to this easement. The length of the north-south easement in parcel P-16 would be approximately one-half mile, with its land use as agricultural. A farmstead is set back about a quarter mile east of I-35 along a county road. The titleholders of parcel P-16 are Shirley Ploegstra Trust, Shirley L. and Adrian Ploegstra. None of the owners or tenant has filed objections with the Board.

The width of the easement proposed on Parcels P-2 and P-3, which are along a county road, is 30 feet. On Parcel P-16, which is along I-35, the proposed width is 75 feet. On all three parcels the poles would be near the edge of the road right-of-way, and it appears the road side conductors would overhang the road right-of-way. At angles or corners resulting from irregularities in the I-35 right-of-way line, it appears more than 30 feet would be needed in some areas of Parcel P-16. But it is unclear why 75 feet is proposed for the entire length of this easement when it appears uncertain if this much

width is needed on the straight north/south portions of the route. AMES should explain in prefiled testing or at hearing why it seeks a width of 75 feet for the entire easement on Parcel P-16.

Docket No. E-21744 – Story County

All the Story County parcels request an easement width of 75 feet. As discussed above, on some Polk County parcels an easement width of 30 feet is being sought. However, at those locations the AMES line would be at the edge of road right-of-way. On all the Story County parcels there is a CIPCO electric line and easement along I-35, between the highway and the proposed AMES route. Where the CIPCO line is along I-35, the AMES line cannot take advantage of its conductors being adjacent to or overhanging the highway right-of-way open space, and a wider easement appears justified.

Parcels S-2 and S-3

These two parcels (S-2 & S-3) are adjacent properties separated by east-west Iowa Highway 210 and the I-35 interchange right-of-way. The proposed easements are for single poles on a 75-foot wide strip of land.

CIPCO has an existing easement for a 161 kV transmission line along and parallel to the east side of the I-35 right-of-way, continuing through the IA Hwy 210 interchange. AMES proposed electric transmission line easements would generally be adjacent to the east side of CIPCO's existing easement, except that the AMES easements parallel the easterly side of the IA Hwy 210 interchange right-of-way. The poles would be located 2 to 42 feet east of the west line of the AMES easement. The 42 feet would be where the Ames line would be adjacent to the CIPCO line; the 2 feet would be where the AMES line swings away from the CIPCO line and follows the road right-of-way line around the highway interchange.

The length of the north-south easement in parcel S-2 would be slightly over one-half mile, with its land use as agricultural. A farmstead is set back over a quarter mile east of the interchange on IA Hwy 210. There would be 9 poles on parcel S-2. The titleholders of parcel S-2 are Noel R. Larson, et al.

The length of the north-south easement in parcel S-3 would be slightly over one-quarter mile, with its land use as agricultural. There are no buildings on this parcel. There would be 4 poles on parcel S-3. The titleholders are Leonard Larson, et al.

Two of the three titleholders of parcel S-2 are the common titleholders of parcel S-3, with one of them as their common tenant. All three of these couples have filed objections with the Board.

Parcel S-6

In Parcel S-6 the line would be located along the east side of the existing east I-35 right-of-way and an existing CIPCO 161 kV line and easement. The 4 single poles would be

placed on this parcel. The poles would be located \pm 38 to 42 feet east of the west line of the AMES easement. The length of the north-south easement in parcel S-6 would be slightly less than one-quarter mile, with its land use as agricultural. There are no buildings on this parcel. The titleholder of parcel S-6 is Cassandra L. Cole. This titleholder has filed an objection with the Board.

Parcel S-7

In Parcel S-7 the line and two single poles would be located along the east side of the existing east I-35 right-of-way and the CIPCO 161 kV transmission line and easement. The poles would be located \pm 34 to 42 feet east of the west line of the AMES easement. The length of the north-south easement in parcel S-7 would be slightly less than one-sixth mile, with its land use as residential, and with about a third of the land in timber. There is a residence located about 350 feet east of the proposed line on this parcel. The titleholders of parcel S-7 are Jason P. and Tisha Murphy. These titleholders have filed an objection with the Board.

It appears AMES will need to cut timber within the easement parcel to accommodate the transmission line. *AMES should explain in prefiled testimony or at hearing the extent of tree removal or trimming it proposes on this property.*

Parcel S-8

In Parcel S-8 the line and four poles would again be located along the east side of the existing east I-35 right-of-way and the existing CIPCO 161 kV line and easement. The poles would be located \pm 37.5 feet east of the west line of the AMES easement. The length of the north-south easement in parcel S-8 would be slightly over one-quarter mile, with its land use as agricultural. There is an antenna tower with a small control building that is located over 500 feet east of the proposed line on this parcel. The titleholder of parcel S-8 is the City of Huxley. This land is owned by the city but is not within the city limits. That titleholder has not filed an objection with the Board.

It appears tree trimming may be needed on this parcel also. *AMES should explain in prefiled testimony or at hearing the extent of tree removal or trimming it proposes on this property.*

b. Staff overview of Eminent Domain

Staff concludes that the rights and extent of taking proposed by AMES do not appear unreasonable or unnecessary for its purposes, although the above discussion includes some questions or requests for clarifications. Nor does available information show any of the Iowa Code §§ 478.15 and .20 limitations on the use of eminent domain apply to these parcels.

It appears from the pole locations as described in Exhibit E and the insulator length as described in Exhibit C that where the AMES line would be adjacent to road right-of-way, the road side conductors would overhang road right-of-way. This would require approval on the road authority. *AMES should explain in prefiled testimony or at hearing*

the extent of public right-of-way overhang, and whether the necessary approvals have been obtained from road authorities.

None of the proposed eminent domain easements show any extra space or special provisions for down guys or other appurtenances to the line or poles. *AMES should confirm in prefiled testimony or at hearing that no additional easement space or provision is needed for such reasons.*

It appears at least arguable that, under Iowa Code §§ 478.15 and 6B.2B, for eminent domain to be “necessary” a party seeking eminent domain must have made a good faith effort to obtain voluntary easements. *AMES should address this consideration in prefiled testimony or at hearing.*

Under Iowa Code 478.6 and 199 IAC 11.5(3), owners of record and parties in possession of property over which the right of eminent domain is sought shall be served a certified mail written notice of the hearing, using a form of notice prescribed by the Board. Customarily, the petitioner submits a proposed form of notice for Board approval. Staff understands that AMES intends to submit a proposed form similar to a form of notice letter used by other utilities in previous eminent domain hearing projects. That form of notice and attachments will need to be reviewed and approved by the Board or hearing officer.

VII. Objections

Altogether, sixteen (16) individual objections (by 15 objectors) have been filed with the Board concerning this project. Only one objection was filed in E-21743 (Polk County), 14 objections (15 individual mailings) were filed in E-21744 (Story County). Since the original filings, two objectors in Story County have withdrawn their objections. At this time, there remain one objector in Polk County and twelve objectors in Story County. AMES has requested eminent domain on three parcels in Polk County, but none of those parcel owners have filed objections. AMES has also requested eminent domain on five parcels (with multiple owners) in Story County, and five objections have been filed on four of the latter eminent domain parcels.

Board staff re-examined the proposed route on November 30, 2006, as well as the properties of objectors located on and off the current proposed route.

a. Summary of Objections

Docket No. E-21743 – Polk County – 1 objection.

On April 6, 2005, Attorney Craig E. Block filed an objection on behalf of Ray and June Campbell, who reside at 2538 N.E. 102nd Avenue, Ankeny, IA, vehemently opposing any proposed transmission line that would affect their property, and alleging the transmission line could adversely affect these owners and the value of their property.

Docket No. E-21744 – Story County – 14 objections.

On March 16, 2005, Mildred Johannes, who resides at 56885 245th, Ames, IA, filed an objection to AMES high-voltage line between Ankeny and Ames. She suggests the line should pass through non-residential land, along the west side of I-35, rather than residential land.

On March 16, 2005, John and Gloria Mutchmor, who reside at 57101 Sand Hill Lane, Ames, IA, filed an objection strongly opposed to any transmission line route through their neighborhood. The value of their property depends upon unspoiled natural beauty. They suggest that the line should cross to the west of I-35 north through open farmland into Ames in property zoned commercial/light industrial, where the line would not cause physical, psychological, or economic harm to people living in residential areas. Further, the “westerly” route would reduce the likelihood of protracted legal struggles.

On March 21, 2005, Senior Pastor Will Hatfield, Campus Baptist Church located at 57011 US Highway 30, Ames, IA, filed an objection opposed to the location of the high-voltage power line through an existing residential area. He suggests that the proposed line should cross to the west of I-35, near the Ames sewage treatment plant, then north across unoccupied farmland into Ames on property zoned commercial/light industrial.

On March 29, 2005, John P. Kluge, who resides at 57106 Sand Hill Lane, Ames, IA, filed an objection strongly opposed to the location of an electric power line across his property. He contends the intrusion would greatly depreciate the value of his property. He suggests that the electrical line would be hazardous to the health of his family and livestock. The energy fields would be carcinogenic to laboratory animals and interfere with reproduction. He suggests that the proposed line should cross to the west of I-35, near the Ames waste treatment plant site, then north into Ames in an area that would be safer, cheaper and traverse industrial non-residential land.

On March 31, 2005, Sabrina Swenson, who resides at 25479 Sand Hill Trail, Ames, IA, filed an objection to the placing of a high voltage power line along her road. The line would only be an eye sore and an attractive nuisance for children. She strongly encourages siting the power line on the west of I-35 through commercial/industrial areas rather than through residential areas. This objection was later withdrawn.

On April 4, 2005, Attorney Steven D. Jordening for Gary and Anita Bates, who reside at 25932 Sand Hill Trail, Ames, IA, filed an objection adamantly opposed to the location of the power transmission line adjacent to their property. They are concerned with health issues and the effect of electric currents on human environments on physical and mental conditions. Due to the unsightliness of the overhead power transmission lines, the facilities should pass to the west side of I-35 in non-residential areas and be located near commercial and industrial areas with limited human exposure. They are also concerned with reduction in property values if the line were to be located in residential areas. This objection was later withdrawn.

On April 5, 2005, William F. and Toni G. Woodman, who reside at 57105 Sand Hill Lane, Ames, IA, filed an objection to the placing of a power line near their property. The construction of the unsightly power line would harm their property values and would aesthetically pollute the pristine quality of the rural natural beauty. They are also concerned with the communications about the AMES informational meeting, as well as its location and timing.

On April 7, 2005, William J. Burke, who appears to reside at 57113 250th Street, Ames, IA, filed an objection to the placing of a power line too close to his property. He does not want his property value to decrease, nor to experience adverse health effects.

Family members Jim and Arlene Bates, who resides at 818 SE Innsbruck, Ankeny, IA, with property at 56892 Highway 210, Cambridge, IA; Leonard and Sue Larson, who reside at 56892 Highway 210, Cambridge, IA; and Noel R. and Leona O. Larson, who resides at 56800 Highway 210, Cambridge, IA filed separate objections. Later, these three families filed joint objections.

On April 25, 2005, Bates and L. Larson objected to the effect on aesthetic view and picket fence look of placing the power line adjacent to I-35 between Ankeny and Ames. Although a portion of that line would be on their property, it should be placed ½ mile off of the interstate along a gravel road, for the sake of Iowa's beauty.

On May 5, 2005, N. Larson objected to placing another set of poles on their property. A CIPCO 161 kV line already sits 60 feet inside their I-35 east fence line. The AMES line would be 50-70 feet farther east onto their land devaluating their property. They suggest placing the poles on the east side of their property or use county road R-70 from Cambridge, affecting fewer residences.

On February 8 and 20, 2006, Bates, L. Larson, and N. Larson filed subsequent objections. Their joint letters indicate that the AMES line would be 80-130 feet into their property, on a 75-foot wide easement lying east of the existing CIPCO 161 kV easement. Wider farmer owned sprayers (80-130 foot booms) and planters and markers (60 foot) would make it difficult to operate due to the close distances between the AMES and CIPCO poles. They question why these sets of lines are not joint use on a single structure versus two individual pole lines. Since CIPCO pole spans are 750 feet vs. AMES average spans of 365 feet with a maximum span of 450 feet, why does AMES have a different span length approach using shorter spans without appropriate concern for the impact on private land use? Since a portion of the AMES line in Polk County will be placed along county road 29th Street that is ½ mile east of I-35, why shouldn't that line continue north in Polk County and 4 more miles into Story County before moving back west to I-35? This would avoid poles in the middle of their owners' fields. They did not receive copies of the AMES Petition as filed with the Board on January 23, 2006. That Petition alleges the proposed line will provide continuity of service and improves reliability with adequate power for present and future economic development of the area. Other news articles imply this is contrary and the proposed

additional transmission line will negatively impact the economic development in that area. They request the Board deny the Petition or modify the proposed route.

On April 28, 2005, Cassandra L. Cole, who resides at Box 335, Johnston, IA, with her property just south of 315th Street on the west side of 570th Avenue in the SE ¼ of Section 19, T82N, R23W, a mile east of Huxley, IA, filed an objection to the location of an electric transmission line across her property. She currently has an existing (CIPCO) transmission line 30 feet onto her property paralleling I-35. The AMES line would be ± 75 feet farther east onto her land placing an extraordinary undue burden for current use and loss of future revenue opportunities. She would like the AMES line to be placed on the west side of I-35.

On May 11, 2005, Kenneth L. Larson, who resides at 503 N. 2nd Ave., Huxley, IA, with property at 56685 340th Street, in the SE ¼ of Section 31, T82N, R23W, about 2 miles southeast of Huxley, IA, filed an objection to placing another set of poles on his property. He suggests that the AMES poles should be placed between the existing (CIPCO) poles and the I-35 fence line, minimizing the inconvenience to him. He also suggested that the compensation was very minimal.

On July 27, 2006, Jason and Tisha Murphy, who reside at 56588 315th Street, Cambridge, IA, filed an objection to placing a second major power line on their property. They purchased their property with a large number of trees in a wooded area and are opposed to their removal. They suggest AMES follows an alternate route along a gravel road with easier access for repairs.

b. Staff review of objections

Regarding the Campbells' objection in Polk County, their development property was not precisely located but preliminary plats (some sold and a development pending) indicate it is in the S½ of the S½ of Section 7, T80N, R23W, Polk County. Staff inspection estimated that the Campbells' property would be almost a half-mile southwest of the south terminus (substation) and the proposed transmission line conductors. It does not appear this property would be affected by the AMES project.

The Story County objections cluster in two areas. The first eight are at the north end of the line and close to and southeast of the City of Ames in an area where some residential development has occurred. The remaining objections are regarding land along I-35 west and southwest of Cambridge.

At the time of the informational meeting, in the area southeast of Ames AMES showed a route corridor from half a mile to a mile wide. Were the line placed towards the east side of this corridor, it could have been on or in close proximity to the properties of the objectors in this area. However, much of route as now proposed in this area is along the east edge of I-35 and is half a mile or more away from the properties of six of the eight objectors. The two objections that were withdrawn (Swenson, G. & A. Bates) were for the two properties the furthest away. So while AMES did not locate the line west of

I-35 as these objectors would have preferred, it did select a route that provided separation from many of these properties.

The Mutchmor, Kluge, Woodman, and Burke properties are about a half mile east of the route proposed in the petition before the Board. Eminent domain is not requested for an easement on property owned by these individuals. These objections appear to address other alternate routes presented at the informational meetings but not selected. Staff does not know if the currently proposed route has answered or allayed their concerns.

Staff understands the route is on the Johannes and church (Hatfield) properties. Eminent domain is not requested in this area; staff understands that AMES has signed voluntary easements from these parties. However, the signing of an easement does not negate or diminish an objection, so these objections must still be considered.⁴ Staff notes that it is unclear if the Hatfield objection was on behalf of the church (which is not mentioned) or of the area generally.

The remaining six objectors in Story County, four (J. & A. Bates, L. Larson, N. Larson, Cole) own rural farm agricultural land with an aesthetic view of their property from I-35. The existing CIPCO 161 kV line parallels I-35 on their land and the AMES project would add another electric transmission line next to it. Since the CIPCO line requires the AMES poles be set out a ways into the fields, they could make farming the land more difficult. Eminent domain has been requested to obtain easements on these properties.

The Murphy property is a rural acreage (10 acres) with about a third of the land in timber. An existing CIPCO 161 kV line is already located on their property. An adjacent 75 foot wide easement for the AMES line would require removal of trees from the west edge of the wooded area. AMES has requested the right of eminent domain for this easement.

AMES is not requesting eminent domain on the K. Larson property. Staff understands that AMES has a signed voluntary easement from this party. However, as previously noted the signing of an easement does not negate or diminish an objection.

AMES 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 AMES should explain its routing criteria and decision process in prefiled testimony or at hearing. AMES should include in this discussion why the final route was selected.

AMES should expand and provide information in prefiled testimony or at hearing regarding the interference with land use, impact on property values, visual impact, concern over the possible health risk, and opposition to tree removal.

⁴ "Decision and Order Granting Franchise" in Dockets No. E-21043, E-21044, E-21045, issued to MidWest Power on March 9, 1993.

Several objectors ask why the CIPCO and AMES lines would have different span lengths between poles. These landowners appear to believe that if the poles of both lines were on the same spacing it would minimize interference with their land use. *This is a question AMES should specifically address in prefiled testimony or at hearing.*

VIII. Conclusion

Board staff finds the petitions in these dockets to be sufficiently in order to be set for hearing.

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, and eminent domain is requested, a public hearing is required.

The two dockets are interrelated parts of a larger project. It is recommended these dockets be consolidated for hearing.

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 Story County, therefore the hearing must be held in Nevada.

IOWA CODE section 478.6 and 199 IAC 11.5(3) require the Board to prescribe the form of written notice to be served upon the owners or occupants of eminent domain parcels. Staff understands AMES will submit a draft letter similar to a form of notice letter used in a previous docket. A decision on acceptance will be required from the Board, or from the Presiding Officer if the dockets are so assigned.

In these dockets, particular consideration will be needed of whether the reliability aspect of paralleling the AMES and CIPCO electric transmission lines with each other is acceptable under the “reasonable relationship” test of Iowa Code § 478.4.

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