

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 REQUIRING BRIEFS AND ADDITIONAL TESTIMONY

(Issued April 26, 2007)

On January 23, 2006, Ames Municipal Electric System (Ames) filed petitions and exhibits with the Utilities Board (Board) requesting franchises to construct, operate and maintain a 161 kV electric transmission line in Story and Polk Counties. Ames filed several amendments to its petitions. On February 2, 2007, Mr. Bao Nguyen and Mr. Dennis Hockmuth filed a staff report regarding Ames' petitions. On March 16, 2007, Ames filed the direct testimony of several witnesses and exhibits. On April 4, 2007, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed a prehearing brief. On April 4, 2007, the following objectors and owners of eminent domain parcels filed responsive testimony: Mr. Jason and Mrs. Tisha Murphy; Mr. Leonard and Mrs. Sue Larson, Mr. Noel and Mrs. Leona Larson, and Mr. James and Mrs. Arlene Bates (jointly); and the City of Huxley. On April 16, 2007, Ames filed the rebuttal testimony of several witnesses.

Several issues that should be addressed in prehearing briefs, additional exhibits, or additional testimony have been raised in these filings.

1. Mr. John Haldeman, witness for the City of Huxley, testified there is a question as to whether the City of Ames has the ability to condemn the property of another city for purposes of an easement or otherwise, and argues that Iowa Code Chapters 6A and 6B refer only to the taking of "private property," not property owned by another city. Mr. Lyndon Cook, witness for Ames, testified that Mr. Haldeman is not a lawyer and argued the question needed to be answered by legal counsel. The undersigned administrative law judge agrees this is a legal issue to be decided in the case. Therefore, the City of Huxley and Ames must address the issue of whether one city (Ames) can obtain eminent domain authority over property owned by another city (Huxley) in an Iowa Code Chapter 478 electric transmission line case in prehearing briefs according to the schedule set forth below. The Consumer Advocate is encouraged to address this issue in a prehearing brief. The other parties and presumed parties are not required to brief this question, although they may do so according to the schedule set forth below.

2. Did Ames start its route planning in conformance with the requirements of Iowa Code § 478.18(2) and the following cases: Gorsche Family Partnership v. Midwest Power, et al, 529 N.W.2d 291 (Iowa 1995); Anstey v. Iowa State Commerce Comm'n, 292 N.W.2d 380 (Iowa 1980); Hanson v. Iowa State Commerce Comm'n, 227 N.W.2d 157 (Iowa 1975); In re: MidAmerican Energy Company, Docket No. E-21822, "Proposed Decision and Order Granting Franchise" (December 28, 2006) and "Order Affirming Proposed Decision and Order Granting Franchise and Denying

Request for Stay" (January 26, 2007); In re: MidAmerican Energy Company, Docket Nos. E-21752, E-21753, & E-21754, "Proposed Decision and Order Granting Franchises" (July 26, 2006) and "Order Affirming Proposed Decision and Order Granting Franchises" (September 12, 2006); and In re MidAmerican Energy Company, Docket Nos. E-21621, E-21622, E-21625, E-21645, & E-21646, "Proposed Decision and Order Granting Franchises" (December 8, 2004)? Does the proposed route follow the Iowa Code § 478.18(2) requirements as interpreted by the above cases at all locations? Please explain in detail. Ames must address this issue in its prehearing brief, and if appropriate, in additional testimony or exhibits. The Consumer Advocate is encouraged to address this issue in a prehearing brief. The other parties and presumed parties are not required to brief this question, although they may do so.

3. It appears from the direct testimony of Mr. Jerry Borland and Mr. Dennis Haselhoff that Ames views the Central Iowa Power Cooperative (CIPCO) route as an existing route with respect to the proposed transmission line. In its prehearing brief, and if appropriate, in additional testimony, Ames must address the question of whether the CIPCO route should be considered an existing route with respect to the proposed transmission line when the proposed line would apparently not be constructed on the CIPCO easement. The Consumer Advocate is encouraged to address this issue in a prehearing brief. The other parties and presumed parties are not required to brief this question, although they may do so. Ames must also file

testimony answering the following questions: a) did considering the CIPCO route as an existing route affect the scoring of the proposed route in the routing study, and if so, how; and b) if the CIPCO route is not considered to be an existing route where the proposed route is not within the CIPCO easement, what would be the score of the proposed route? If the proposed line will be constructed within the CIPCO easement at any point, Ames must file testimony and exhibits to provide detailed clarification of where the proposed line would be constructed within the CIPCO easement.

4. In his direct testimony on page 4, Ames witness Mr. Cook testified that the proposed route parallels an existing CIPCO 161 kV transmission line for about 4.5 miles. The report by Mr. Nguyen and Mr. Hockmuth on page 5 states essentially the same thing. However, in her rebuttal testimony on page 4, Ames witness Ms. Meghan Wagner testified that the proposed line is adjacent to an existing 161 kV line operated by CIPCO for 1.4 miles and is adjacent to an existing double circuit 161 kV line operated by MidAmerican for 5.2 miles. In additional prefiled testimony, Ames must clarify this discrepancy, provide corrected information, and state whether this affects the evaluation of the electric and magnetic fields of the proposed line as testified to by Ms. Wagner.

5. In prefiled testimony on page 3 and Exhibit LL-302, Mr. Leonard Larson suggested two alternative routes. Ames must file additional testimony that addresses in detail why the proposed route is preferable to either of Mr. Larson's two

alternatives. In this testimony, Ames must specifically address any significant problems with Mr. Larson's two alternative routes.

6. In their direct testimony, Ames witnesses Mr. Donald Kom and Mr. Cook referred to the approval by the Mid-Continent Area Power Pool Design Review Subcommittee (DRS) of the Excel study report (Ames Exhibit 4) and the proposed system additions. Ames must file minutes of the applicable DRS meeting or other documentation that shows the approval.

7. In its prehearing brief, the Consumer Advocate listed several issues. Ames and the Consumer Advocate must address these issues in prehearing briefs and, if appropriate, in additional testimony or exhibits. The other parties and presumed parties are not required to brief these issues, although they may do so.

8. Mr. Nguyen and Mr. Hockmuth filed their staff report on February 2, 2007, prior to the parties filing their prepared testimony and exhibits. Mr. Nguyen and Mr. Hockmuth should file an updated staff report in accordance with the schedule set forth below. In their updated staff report, Mr. Nguyen and Mr. Hockmuth should clarify which two locations they are referring to at the bottom of page 7 of their staff report. In addition, Mr. Nguyen and Mr. Hockmuth should clarify whether Ames has adequately addressed the questions asked in the staff report. If Mr. Nguyen and Mr. Hockmuth have additional questions that should be addressed by Ames at the hearing, they should include the questions in their updated staff report. In their updated staff report, Mr. Nguyen and Mr. Hockmuth should address the following

question asked by the Consumer Advocate in its prehearing brief: Would placing the proposed transmission line on double circuit structures with the existing CIPCO 161 kV line where they follow the same route result in a violation of any applicable reliability or other safety standard? Although this order directs staff to address certain questions, this does not preclude staff from updating their report to address any other issues.

IT IS THEREFORE ORDERED:

1. On or before May 18, 2007, the parties and presumed parties must file initial briefs, testimony, and exhibits, and Mr. Nguyen and Mr. Hockmuth must file an updated staff report, as discussed in the body of this order.
2. If the parties and presumed parties wish to file responsive briefs, testimony, or exhibits, they must do so on or before June 1, 2007.
3. Attorney Amy Beattie should file an appearance that specifies whether she or the City of Huxley should be on the Board's service list for this proceeding.

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 April, 2007.