

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  AMES MUNICIPAL ELECTRIC SYSTEM	DOCKET NOS. E-21743 E-21744
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**ORDER ACCEPTING FILING AND ALLOWING RESPONSE**

(Issued July 24, 2007)

On July 9, 2007, the undersigned administrative law judge issued an order granting a motion for extension of time to file post-hearing briefs requested by Ames Municipal Electric System (Ames) and setting the deadline as July 13, 2007. Several parties and objectors filed briefs or responses on or before the July 13, 2007, deadline.

On July 18, 2007, Ms. Shirley L. and Mr. Adrian Ploegstra, on behalf of the Ploegstra Trust, filed a letter with the Utilities Board (Board). The Ploegstras and the Ploegstra Trust are the owners of eminent domain parcel number P-16 (Polk County Docket No. E-21743). Essentially, the Ploegstras dispute Ames' assertion in its post-hearing brief that the Ploegstra's concerns relate to compensation. The Ploegstras did not previously file an objection and did not participate in the hearing. They filed their letter five days after the deadline for filing post-hearing briefs and did not request an extension of the time to file their letter. For these reasons, it would be entirely reasonable to exclude consideration of their letter in the decision making in this case.

However, the Ploegstras and the Ploegstra Trust are the owners of an eminent domain parcel, so they clearly have a significant interest in the case, of which Ames

was aware. Their letter was filed only five days late and Ames had previously requested and been granted an extension of the time to file briefs. They are unrepresented by legal counsel. Therefore, the undersigned will consider the arguments made in the letter when making the decision in this case.

Since Ames has the burden of proof in this case, it would be unfair not to allow Ames an opportunity to respond to the statements made in the letter if it wishes to do so. Therefore, this opportunity will be provided.

It does not appear that the Ploegstras served their letter on any party or objector other than Ames and the City of Huxley. Therefore, a copy of the letter is attached to this order, which will be served on all parties and objectors. However, only Ames will be given the opportunity to respond to the letter, since it is the only party with the burden of proof in this case. Any additional filings by any other party or objector will not be considered.

**IT IS THEREFORE ORDERED:**

1. If Ames wishes to respond to the letter filed by the Ploegstras on July 18, 2007, it must file its response on or before August 1, 2007.
2. No other additional filings will be allowed or considered in reaching the decision in this case.

**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 24<sup>th</sup> day of July, 2007.

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July 16, 2007

Ms. Judi Cooper  
Executive Secretary  
Iowa Utilities Board  
350 Maple Street  
Des Moines, Iowa 50319-0069

FILED WITH  
Executive Secretary

JUL 18 2007

RE: Docket No. E-21743  
Ames Municipal Electric System

IOWA UTILITIES BOARD

Dear Ms. Cooper:

The undersigned who are referred to as Ploegstra Trust (P-16 in the above referenced matter) write this letter in rebuttal to what Ames in its July 13, 2007 letter to your office offers as a summation of our concerns in the matter. To suggest that our concerns have to do with compensation is a completely inaccurate statement.

Let us try to enlighten you as to our concerns. We have a 74 acre parcel of land which parallels I-35 for 1/2 mile which Ames seeks right-of-way for their 161 kV electric transmission line. The first contact we had with Meyers & Associates was when a representative came to our house on June 16, 2005 and presented us with a preprinted filled in form showing the amount of money which was being offered, both by way of the amount per pole and the amount of money being offered for the right-of-way. There were no specifications as to the position of the poles, only that that it would require 7 poles which would be either steel or wood. At the public informational meeting which was held on April 6, 2005, it was indicated that the poles would be set 15' into the landowner's property. The representative said that this had been relaxed, and some concessions would be made with regard to this issue.

Our situation is unique with regard to the I-35 right-of-way in that when the DOT acquired about 4 acres from the previous owner, the acquisition was not on a north/south axis following the highway, but is a dog leg taking out about 60% of the 1/2 mile border with I-35 in the middle of the 1/2 mile border. This resulted in a fence line that invades the center section of the property and puts the fence back into the field by a couple hundred feet. This land was acquired for fill dirt and to build the overpass on the county road crossing over I-35. Our proposal to the Meyer & Associates representative was that the power line should be built across the DOT dog leg with the north and south ends being on our property, thus keeping the power line on a north/south axis consistent with the highway. The issue as to accessing the DOT parcel was discussed as to the construction and servicing of the line. The representative said that the power line could not be constructed and serviced while accessing it from I-35. We advised him that we would grant an easement to them for that purpose. The Meyers representative then took the position that DOT regulations would not permit this as a possible resolution out of hand. That was the end of our discussion with the Meyers & Associates representative who indicated as he left that damage offers tend to go down the longer the matter remains unresolved.

The suggestion that DOT has regulations barring placing the power line on their property has no merit. The power poles would stand no closer to the traveled portion of the highway under our proposal than the power poles that stand along the fence right-of-way on the balance of the 30-some mile route. If in fact DOT does have regulations with regard to these issues, DOT should be petitioned to waive these rules. We know from personal experience that DOT does grant waivers. A prime example is the construction of a cell phone tower. We were approached by a cell phone company who wanted to construct a tower on our farm near I-35, but were told that the DOT had regulations and that they had set back rules which required a set back of a distance to the height of the tower from DOT property. Even though an offer of \$400 a month rental was enticing, we resisted. The cell phone company approached the owner of the adjoining property, and they apparently approached DOT for a waiver because the tower was built almost adjacent to the highway. The height of the tower in question was 200+ feet, and a 2nd 90' tower directly across the road is situated almost adjacent to DOT right-of-way. The DOT regulation had to do with in the event of a storm, the tower could be blown over onto the road and create a public safety issue.

The issue of building on the DOT dog leg is a no brainer. This land is nothing more than junk land. It has been stripped of the black dirt and has no economic value for farming or otherwise. It juts into the field at irregular intervals and could have no economic value because of its close proximity to the highway. In fact, in the next section north of ours, a similar tract of land was acquired for fill dirt, and after it was stripped of soil, it was returned to the land owner and the fence was built straight through leaving the junk land within the boundary of the farm from which it was acquired. Returning again to the dog leg on our farm, the parcel was planted with some trees, but as of this spring, these trees have died leaving only some rotting snags.

The interest of Ames would be well served in proceeding across the DOT dog leg. In order to follow the fence line, the power line would have to break the normal north/south axis and make an abrupt turn toward the east to follow the fence line, and then another abrupt turn to return to the north/south axis. It would then have to turn west to to where it would return to the north/south fence line. We're not engineers, but it seems evident that changing the direction of the line so abruptly would entail putting in guy wires to hold poles vertical, or at least heavy steel poles with heavy concrete bases. This installation would of necessity be constructed away from the fence line on our property.

Our understanding of eminent domain provides for the taking of private property for public use, but at all times, the impact to private property should be held to a minimum. We believe we have a classic case where these principles come into play. The current usage of our land is corn and bean production. We have farmed this land for 36 years. Shirley's Grandparents acquired it in 1918 and her grandmother was forced to sell it to maintain her place in a nursing home. The farm has been completely tilled during our ownership. It is intensely farmed, has a high corn suitability rating, and is our home. We are not against electrical utilities building lines. We enjoy electric

service as well as the rest of the American public, and would be very unhappy without it.

We have been on the mailing list and our mailbox has been full of material with reference to the construction of the line. We are filled with empathy for the Albaugh and Larson families who are trying their best to protect long held family farms from encroachment. We have not attended the meetings because we do not have a dog in that fight.

After our encounter with the Meyers & Associates representative, we did consult with an attorney who has represented clients under similar situations. His recommendation was to forget resisting the Utilities as they always win. His long standing experience has led him to conclude that resisting is throwing good money after bad. However, we would not want this to go by without some record being made of our displeasure with this matter and making a last-ditch effort to minimize the damage to our property. It is daunting to receive a full mailbox of legal documents drafted by one of the largest law firms in Iowa with its letterhead of 80+ lawyers. No question, the power companies do have the resources available to sway opinion in their favor.

Based on the preceding treatise, we petition your office to not grant eminent domain to the Ames Municipal Electric System in regards to P-16.

Thank you for your consideration.

Shirley L. Ploegstra  
Shirley L. Ploegstra Parcel P-16

Adrian Ploegstra  
Adrian Ploegstra Parcel P-16

cc Antonio Colacino  
Amy S. Beattie