

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: MIDAMERICAN ENERGY COMPANY	DOCKET NOS. E-21820 E-21821
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PROPOSED DECISION AND ORDER GRANTING FRANCHISE

(Issued January 29, 2008)

APPEARANCES:

MR. ROBERT P. JARED, attorney at law, MidAmerican Energy Company, 106 East Second Street, P.O. Box 4350, Davenport, Iowa 52808, appearing on behalf of MidAmerican Energy Company.

MR. JOHN F. DWYER, attorney at law, Iowa Department of Justice, Office of Consumer Advocate, 310 Maple Street, Des Moines, Iowa 50319, appearing on behalf of the Iowa Department of Justice, Office of Consumer Advocate.

STATEMENT OF THE CASE

On September 29, 2006, MidAmerican Energy Company (MEC) filed petitions with the Utilities Board (Board) requesting franchises to construct, maintain, and operate a total of 12.07 miles of 161,000-volt (161 kV) nominal, 169 kV maximum, electric transmission line proposed to be constructed in Dallas and Polk Counties, Iowa. The petitions were identified as Docket No. E-21820 (Dallas County) and E-21821 (Polk County). MEC filed revisions to the petitions and additional information on January 16, March 28 and 29, May 11, and June 14, 2007.

As proposed, the transmission line would begin at a connection with an existing electric transmission line northwest of Granger and terminate at a connection with an existing MEC transmission line within the city limits of Grimes, Iowa. (petitions for franchises; Nguyen report; testimony of Mr. Albertson.) Pursuant to Iowa Code § 478.1 (2007), MEC's petition seeks a franchise for only the parts of the proposed transmission line located outside the corporate city limits of Grimes and Granger because the Board does not have jurisdiction of transmission lines within city limits. (petitions for franchises; testimony of Mr. Albertson.) The proposed route of the line is primarily on private property and public right-of-way and runs generally along and adjacent to Iowa Highway 141 and county roads. (petitions for franchises.)

The proposed transmission line has one segment that is a double circuit 161 kV line without distribution underbuild. (Docket No. E-21820 petition for franchise; Nguyen report.) Most of the proposed line is a single circuit 161 kV line, and for much of its length, would carry distribution circuit underbuild lines of 7.2 kV, 12.47 kV, or 13.2 kV. (petitions for franchises; Nguyen report.)

MEC does not request eminent domain authority pursuant to Iowa Code § 478.6. Several written objections were filed in the two dockets, although many objections have been withdrawn. As of the date of the hearing, three objections in Dallas County and one objection in Polk County remain. The following individuals in Dallas County filed written objections with the Board and have not withdrawn them: Mr. Larry R. Harney, Mr. Kent Woodruff, and Mr. Tim Harney. The following

individuals in Polk County filed written objections with the Board and have not withdrawn them: Mr. Bradley D. and Ms. Lori A. Parks. In Polk County, several objectors stated that withdrawal of their objections was contingent on the proposed route finally selected by MEC staying the same and they wished to be kept informed of the progress of the case. The Board has kept those individuals on its service list, and a copy of this proposed decision will be sent to them. However, since MEC did not change the proposed route after the individuals filed their withdrawals of objection, their withdrawals are no longer considered to be contingent and they are no longer considered to be active objectors in the proceeding.

On October 31, 2007, the Board issued an order assigning this case to the undersigned administrative law judge. On November 8, 2007, the undersigned issued a procedural order and notice of hearing and proposed to take official notice of a report dated October 17, 2007, concerning the proposed transmission line written by Mr. Bao Nguyen, Utility Regulatory Engineer for the Board.

MEC filed a prehearing brief and prepared direct testimony and exhibits of Mr. K. Thomas Albertson, Ms. Paige M. Norris, Mr. Brian O. Williams, and Mr. James P. Swanson on December 3, 2007.

MEC caused notice of the hearing to be published in Dallas County in the Dallas County News, a newspaper of general circulation in the county, on December 13 and 20, 2007. (proof of publication.) MEC caused notice of the hearing to be published in Polk County in the Des Moines Register, a newspaper of

general circulation in the county, on December 13 and 20, 2007. (proof of publication.) MEC filed proof of publication on January 7, 2008.

The hearing was held on January 24, 2008, beginning at 9:30 a.m., in the Community Room, Adel Public Library, 303 S. 10th Street, Adel, Iowa. MEC was represented by its attorney, Mr. Robert P. Jared. Mr. Albertson, Ms. Norris, Mr. Williams, Mr. Swanson, and Ms. Meghan E. Wagner testified on behalf of MEC. MEC's Exhibits 1 through 9 were admitted at the hearing. The Consumer Advocate Division of the Department of Justice (Consumer Advocate) was represented by its attorney, Mr. John F. Dwyer. The Consumer Advocate did not present evidence at the hearing. The objectors did not appear at the hearing. Mr. Nguyen testified as the engineer selected by the Board to examine the petition and proposed route pursuant to Iowa Code § 478.4. The parties did not object to the taking of official notice of Mr. Nguyen's report dated October 17, 2007 (Nguyen report), and it was officially noticed. At the hearing, MEC agreed to file a corrected version of Mr. Swanson's prepared testimony and a revised petition Exhibit B or another map that labels the Highway 415 interchange referred to in Mr. Albertson's testimony. MEC filed these documents on January 28, 2008.

NEED FOR THE PROPOSED LINE

In order to obtain a franchise, MEC must prove that the proposed transmission line is necessary to serve a public use. Iowa Code § 478.4. Transmission of electricity to the public is "a public use" within the meaning of the statute. S.E. Iowa

Cooperative Electric Association v. Iowa Utilities Board, 633 N.W.2d 814 (Iowa 2001) (S.E. Iowa Cooperative); Vittetoe v. Iowa Southern Utilities Company, 123 N.W.2d 878 (Iowa 1963). Therefore, one issue in this case is whether the proposed transmission line is "necessary" to serve that public use.

MEC must serve customers within its assigned service territories and must maintain reliable electric service for its customers in the areas it serves. Iowa Code §§ 476.3, 476.25.

The persons who filed written objections do not challenge the need for the proposed line. (written objections.) The Consumer Advocate does not challenge the need for the proposed line.

MEC presented substantial evidence that shows the proposed line is needed to serve the current and increasing population and electrical loads in the Grimes and Granger area. (petitions for franchises; testimony of Mr. Swanson, Mr. Albertson.) It presented substantial evidence that the proposed line will provide a source of power to planned and future substations, relieve constraints, enhance reliability, and provide voltage support in the area. (petitions for franchises; testimony of Mr. Swanson, Mr. Albertson.) MEC presented sufficient evidence that demonstrates the proposed transmission line is needed for the reasons given and is necessary to serve a public use. (petitions for franchises; testimony of Mr. Swanson, Mr. Albertson.)

**RELATIONSHIP TO AN OVERALL PLAN OF TRANSMITTING
ELECTRICITY IN THE PUBLIC INTEREST**

To obtain a franchise, MEC must prove that the proposed transmission line is reasonably related to an overall plan of transmitting electricity in the public interest. Iowa Code §§ 478.3(2), 478.4.

In its petition, a utility company seeking a franchise must include information showing the relationship of the proposed project to economic development, comprehensive electric utility planning, needs of the public both present and future, existing electric utility system and parallel routes, other power systems planned for the future, possible alternative routes and methods of supply, present and future land use and zoning, and inconvenience or undue injury to property owners. Iowa Code § 478.3(2). MEC provided this information in its petitions, in prefiled testimony, and in testimony at the hearing. (petitions Exhibit D; testimony of Mr. Albertson, Mr. Swanson, Mr. Williams, Ms. Norris, Ms. Wagner; MEC Exhibits 1 through 9.) MEC expects to complete negotiations with Central Iowa Power Cooperative (CIPCO) and the Iowa Public Power Association (IPPA) for Joint Investment, Ownership and Operating Agreements by March 2008. (testimony of Mr. Swanson.) MEC will need to build the proposed line whether or not CIPCO and/or IPPA participate in the project. (testimony of Mr. Swanson.) MEC, ITC Midwest LLC (ITC),¹ and the Midwest Independent System Operator (MISO) are discussing an Interconnection Agreement regarding connection of the proposed line with an existing

¹ Interstate Power and Light Company sold its 161 kV transmission assets in Iowa to ITC in December 2007.

ITC 161 kV line at the north end of the proposed line. (testimony of Mr. Albertson, Mr. Swanson.) These discussions are in the final stages and MEC expects them to be completed by March 2008. (testimony of Mr. Swanson, Mr. Albertson.) There is no reason to believe they will not reach an agreement and interconnect the proposed line with the ITC line as planned. (testimony of Mr. Swanson, Mr. Albertson; petitions for franchises.)

The evidence presented in this case shows that the proposed 161 kV transmission line represents a reasonable relationship to an overall plan of transmitting electricity in the public interest. Iowa Code § 478.3(2). (petitions for franchises; testimony of Mr. Albertson, Mr. Swanson, Mr. Williams, Ms. Norris, Ms. Wagner, Mr. Nguyen; MEC Exhibits 1 through 9; Nguyen report.)

CONSTRUCTION AND SAFETY REQUIREMENTS

In order to obtain a franchise, MEC must show that the proposed transmission line will conform to the construction and safety requirements of Iowa Code §§ 478.19 and 478.20 and Board rules at 199 IAC 11 and 25.

The design of the proposed line conforms to the National Electrical Safety Code requirements and Board rules. (petitions for franchises; Nguyen report; testimony of Mr. Albertson.) The proposed line will be constructed, operated, and maintained in accordance with all applicable federal and state construction and safety requirements. (petitions for franchises; Nguyen report; testimony of Mr. Albertson.)

MEC has shown that the proposed line will conform to the construction and safety requirements in Iowa Code §§ 478.19 and 478.20 and 199 IAC 11 and 25. (petitions for franchises; Nguyen report; testimony of Mr. Albertson.) No additional terms, conditions, or restrictions regarding construction and safety requirements need to be imposed pursuant to Iowa Code § 478.4.

ELECTRIC AND MAGNETIC FIELDS

MEC expert witness Ms. Wagner testified that electric and magnetic field levels one-fourth mile or one-half mile away from the proposed transmission line would be not measurable. Based on the record, no additional terms, conditions, or restrictions related to electric and magnetic field levels need to be imposed pursuant to Iowa Code § 478.4. (testimony of Ms. Wagner.)

LINE LOCATION AND ROUTE

The Board has the authority to impose modifications of the location and route of the proposed line that are just and proper. Iowa Code § 478.4. Iowa Code § 478.18 and Board rule 199 IAC 11.1(7) require transmission lines to be constructed near and parallel to roads and railroads and along division lines of land wherever practical and reasonable. The same section and rule require the utility to construct the line so as not to interfere with the use by the public of the highways or streams of the state and so as not to unnecessarily interfere with the use of any lands by the occupant. "When a route near and parallel to these features has points where

electric line construction is not practical and reasonable, deviations may be proposed at those points, when accompanied by proper evidentiary showing, generally of engineering reasons, that the initial route or routes examined did not meet the practical and reasonable standard. Although deviations based on landowner preference or minimizing interference with land use may be permissible, the petitioner must be able to demonstrate that route planning began with a route or routes near and parallel to roads, railroad rights-of-way, or division lines of land." 199 IAC 11.1(7). The Iowa Supreme Court has interpreted "division lines of land" to mean section lines, quarter section lines, and quarter-quarter-section lines. Hanson v. Iowa State Commerce Comm'n, 227 N.W.2d 157 (Iowa 1975).

The requirement in Iowa Code § 478.18 means that MEC must start its planning using roads, railroads, or land division routes. Iowa Code § 478.18; Hanson, at 163. The route must follow a road, railroad, or land division route wherever practical and reasonable. Id. If such routes contain points of impracticality or unreasonableness, MEC may deviate from the route at those points if it makes the required evidentiary showing. Id.; 199 IAC 11.1(7).

In Anstey v. Iowa State Commerce Comm'n, 292 N.W.2d 380 (Iowa 1980), the Iowa Supreme Court approved a route that deviated from division lines of land, when the planning began with such division line locations and the deviations were based on engineering considerations of practicality and reasonableness.

MEC began its route selection in the study area with a consideration of several alternate routes near or parallel to roads, railroads, or division lines of land. (testimony of Mr. Albertson; petitions for franchises.) There were no active railroads in the study area. (testimony of Mr. Albertson.) MEC initially considered four alternate routes for the proposed project. (testimony of Mr. Albertson.) The proposed route is the same as one of the alternatives considered except in two locations. (testimony of Mr. Albertson.)

The proposed route follows roads and division lines of land at all but one location. (testimony of Mr. Albertson; petitions for franchises.) This segment is approximately 0.2 miles in length and is in the Highway 415 interchange area in Polk County. (testimony of Mr. Albertson.) MEC started its route planning at this location following a division line of land, but the area contained very wet ground and many trees that would have had to be removed. (testimony of Mr. Albertson.) In addition, routing along the division line of land would have required two crossings of Beaver Creek and one crossing of a tributary to Beaver Creek. (testimony of Mr. Albertson.) MEC was able to obtain voluntary easements that were somewhat off the division line of land, but that were on ground without the wet conditions and such heavy tree growth, making the ground more suitable for construction and maintenance of the proposed line. (testimony of Mr. Albertson.) In the judgment of MEC's engineers, the route that followed a division line of land for this short segment was not practicable or reasonable. (testimony of Mr. Albertson.)

Mr. Larry R. Harney and Mr. Tim Harney filed written objections to the proposed line and suggested alternate routes. (written objections.) Mr. Larry Harney and Mr. Tim Harney live on Wendover Avenue on the opposite side of the street from the proposed route where it runs along Wendover Avenue in Dallas County. (written objections; testimony of Mr. Albertson; E-21820 petition for franchise.) The suggested alternate routes do not meet the statutory and regulatory requirements that require routes to follow roads, active railroads, or division lines of land. (written objections; testimony of Mr. Albertson.) Iowa Code § 478.18; 199 IAC 11.1(7). One of the suggested alternates would follow an abandoned railroad. (written objections; testimony of Mr. Albertson; Nguyen report.) Abandoned railroads are not railroads within the meaning of Iowa Code § 478.18 and such routes do not comply with that statute. In re: IES Utilities Inc., Docket No. E-21324, "Order Affirming Proposed Decision and Order," (Issued March 1, 2000) (citing Macerich Real Estate Co. v. City of Ames, 433 N.W.2d 726 (Iowa 1988)). The other suggested route does not follow a road or a division line of land for part of the route. (Mr. Larry Harney written objection; testimony of Mr. Albertson.) Other possible routes in the area that would avoid following Wendover Avenue would be significantly more expensive because of the presence of an existing MEC 345 kV transmission line. (testimony of Mr. Albertson.)

The other two remaining written objections were filed by persons who live at least one-half mile from the proposed route. (testimony of Mr. Albertson; Nguyen

report; written objections.) These objectors did not appear at the hearing. It does not appear that these objectors have rights that could be affected by the proposed line.

MEC has obtained all required environmental permits and authorizations for the proposed line. (testimony of Mr. Albertson, Mr. Williams; MEC Exhibits 6 through 9.)

MEC has obtained voluntary easements for the entire length of the proposed route. (testimony of Ms. Norris, Mr. Albertson; petitions for franchises; Nguyen report.)

MEC began its planning in accordance with Iowa Code § 478.18 and 199 IAC 11.1(7). (testimony of Mr. Albertson; petitions for franchises.) The reasons for the one deviation are reasonable, are based on engineering judgment, and comply with the requirement of 199 IAC 11.1(7). (testimony of Mr. Albertson; petitions for franchises; Nguyen report.) The evidence supports a conclusion that following roadways, railroads, or division lines of land at this location is not practical or reasonable under the circumstances. (petitions for franchises; testimony of Mr. Albertson; Nguyen report.) The proposed route at this location meets the requirements of Iowa Code § 478.18 and 199 IAC 11.1(7). (E-21820 petition for franchise; testimony of Mr. Albertson; Nguyen report; MEC Exhibit 5.)

Although each of the objector's alternate routes would mean the proposed line would not be as near to the objector's property, thus providing a benefit to the individual objector, the suggested alternate routes did not meet the requirements of

Iowa Code § 478.18. (testimony of Mr. Albertson; E-21820 petition for franchise; written objections; Nguyen report.) Alternative routes similar to one alternative suggested by Mr. Larry Harney that follow Highway 141 until turning north would be significantly more expensive because of the presence of an existing MEC 345 kV transmission line, and would therefore be less preferable to the public at large. (testimony of Mr. Albertson; E-21820 petition for franchise; written objections; Nguyen report.) When considering the public interest, the term public is not limited to the individual objectors, and is not even limited to consumers located in this state. Iowa Code § 478.3(3). Requiring MEC to follow a route that is significantly more expensive and would require raising the 345 kV transmission line in the area for the benefit of one or more objectors would add unnecessary cost to the project to the detriment of the public, would not be in the public interest, and would not be just or proper.

MEC has proven that the route it selected is in compliance with the requirements of Iowa law. (petitions for franchises; Nguyen report; testimony of Mr. Nguyen, Mr. Albertson, Ms. Norris, Mr. Swanson, Mr. Williams; MEC Exhibits 1 through 9; written objections.) MEC has also proven the proposed route is the most practical and reasonable alternative and it should be approved. (petitions for franchises; Nguyen report; testimony of Mr. Nguyen, Mr. Albertson, Ms. Norris, Mr. Swanson, Mr. Williams; MEC Exhibits 1-9; written objections.)

OBJECTIONS

Iowa Code § 478.5 provides that any person whose rights may be affected has the right to file a written objection to the proposed project or the grant of a requested franchise.

Several written objections to the proposed line were filed in the two dockets, although many objections were withdrawn once MEC changed the proposed route. As of the date of the hearing, there remain three objections in Dallas County and one objection in Polk County. (written objections; testimony of Mr. Albertson; Nguyen report.)

Mr. Kent Woodruff filed a written objection in Docket No. E-21820 (Dallas County) on June 27, 2006, and has not withdrawn his objection. (written objection.) He did not appear at the hearing. Mr. Woodruff's property is over one-half mile from the proposed route and he therefore does not appear to be affected by the grant or denial of the requested franchise. (testimony of Mr. Albertson; Nguyen report; E-21820 petition for franchise.)

Mr. Bradley D. and Ms. Lori A. Parks filed a written objection in Docket No. E-21821 (Polk County) on May 26, 2006, and have not withdrawn their objection. (written objection.) Mr. and Ms. Parks did not appear at the hearing. The Parks' property is approximately one-half mile from the proposed route and they therefore do not appear to be affected by the grant or denial of the requested franchise. (testimony of Mr. Albertson; Nguyen report; E-21821 petition for franchise.)

Mr. Larry R. Harney filed a written objection in Docket No. E-21820 (Dallas County) on June 20, 2006, and has not withdrawn his objection. (written objection.) Mr. Larry Harney did not appear at the hearing. As stated above, Mr. Larry Harney lives on Wendover Avenue across the street from the proposed route. (written objection; testimony of Mr. Albertson; E-21820 petition for franchise; Nguyen report.) Mr. Larry Harney objects to the proposed route because: "the planned route disturbs a number of homes, some on Century Farms." Mr. Larry Harney suggested two alternative routes that would avoid his property that are discussed above. (written objection.)

Mr. Tim Harney filed a written objection in Docket No. E-21820 (Dallas County) on June 29, 2006, and has not withdrawn his objection. (written objection.) Mr. Tim Harney did not appear at the hearing. As stated above, Mr. Tim Harney also lives on Wendover Avenue across the street from the proposed route. (written objection; testimony of Mr. Albertson; E-21820 petition for franchise; Nguyen report.) Mr. Tim Harney stated that his property is already involved in a motion to be annexed into the city limits. (written objection.) He further stated that he has a preliminary plat of his 145-acre farm that he plans to develop and he does not want the proposed line to damage his property values. (written objection.) Mr. Tim Harney suggested the same alternative route along an abandoned railroad line as suggested by Mr. Larry Harney, which is discussed above. (written objection.)

Mr. Tim Harney did not present evidence to support his concern that the proposed line would damage his property values, and there is nothing in the record that suggests the proposed transmission line would cause such damage. The objections do not provide a reason to deny the requested franchises. Nor do they provide a reason to require any additional terms, conditions, or modifications of the requested franchises.

Members of the public, including the objectors, need and use electricity. Transmission lines must go somewhere as a part of the system that provides that electricity. In this case, MEC has shown that the proposed line is necessary, its selected route is superior to the alternatives proposed and considered, the line would comply with all requirements, and it is in the public interest to grant the franchise. MEC's petitions for franchises in Docket Nos. E-21820 and E-21821 should be granted.

FINDINGS OF FACT

1. MEC held informational meetings in Dallas and Polk Counties as required by Iowa Code § 478.2. (petitions for franchises; Nguyen report; Docket Nos. E-21820 and E-21821 files.)
2. MEC has agreed to pay all costs and expenses of this franchise proceeding pursuant to Iowa Code § 478.4. (petitions for franchises).

3. The evidence presented in this case shows the proposed transmission line is necessary to serve a public use. (petitions for franchises; testimony of Mr. Albertson, Mr. Swanson, Mr. Nguyen; Nguyen report.)

4. The evidence presented in this case shows that the proposed 161 kV transmission line represents a reasonable relationship to an overall plan of transmitting electricity in the public interest. (petitions for franchises; testimony of Mr. Albertson, Mr. Swanson, Mr. Williams, Ms. Norris, Ms. Wagner, Mr. Nguyen; MEC Exhibits 1 through 9; Nguyen report.)

5. The evidence presented in this case shows that the proposed transmission line will conform to the construction and safety requirements in Iowa Code §§ 478.19 and 478.20 and 199 IAC 11 and 25. (petitions for franchises; Nguyen report; testimony of Mr. Albertson, Mr. Nguyen.) No additional terms, conditions, or restrictions regarding construction and safety requirements need to be imposed pursuant to Iowa Code § 478.4.

6. Based on the record, no additional terms, conditions, or restrictions related to electric and magnetic field levels need to be imposed pursuant to Iowa Code § 478.4. (testimony of Ms. Wagner.)

7. MEC has obtained all required environmental permits and authorizations for the proposed transmission line. (testimony of Mr. Williams, Mr. Albertson; MEC Exhibits 6 through 9.)

8. MEC began its planning in accordance with Iowa Code § 478.18 and 199 IAC 11.1(7). (testimony of Mr. Albertson; petitions for franchises. The proposed route follows roads and division lines of land except for a slight deviation 0.2 miles long at one location. (petitions for franchises; testimony of Mr. Albertson; Nguyen report.) The evidence supports a conclusion that following roads, railroads, or division lines of land at this location is not practical or reasonable under the circumstances. (testimony of Mr. Albertson; Docket No. E-21821 petition for franchise; Nguyen report.) The reasons for the one deviation are reasonable, are based on engineering judgment, and comply with the requirements of 199 IAC 11.1(7). (Docket No. E-21821 petition for franchise; testimony of Mr. Albertson; Nguyen report.) MEC has obtained voluntary easements for the entire length of the proposed route. (testimony of Ms. Norris, Mr. Albertson; petitions for franchises; Nguyen report.) MEC has proven that the route it selected is the most practical and reasonable alternative and it is in compliance with the requirements of Iowa law. (petitions for franchises; Nguyen report; testimony of Mr. Nguyen, Mr. Albertson, Ms. Norris, Mr. Swanson, Mr. Williams; MEC Exhibits 1 through 9; written objections.)

9. As discussed in the body of this order, the objections do not provide a reason to deny the requested franchise and they do not provide a reason to require any additional terms, conditions, or modifications of the requested franchise.

CONCLUSIONS OF LAW

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

2. 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.

3. Iowa Code § 478.18 requires transmission lines to be constructed near and parallel to roads and railroads and along division lines of land wherever practical and reasonable. The same section requires the utility to construct the line so as not to interfere with the use by the public of the highways or streams of the state and so as not to unnecessarily interfere with the use of any lands by the occupant.

The requirement in Iowa Code § 478.18 means that MEC must start its planning using roads, railroads, or land division routes. Iowa Code § 478.18; Hanson v. Iowa State Commerce Comm'n, 227 N.W.2d 157, 163 (Iowa 1975). The route must follow a road, railroad right-of-way, or land division route wherever practical and reasonable. Id. If such routes contain points of impracticality or unreasonableness, MEC may deviate from the route at those points if it makes the required evidentiary showing. Id.; 199 IAC 11.1(7). In Anstey v. Iowa State Commerce Comm'n, 292 N.W.2d 380 (Iowa 1980), the Iowa Supreme Court approved a route that deviated

from division lines of land, when the planning began with such division line locations and the deviations were based on engineering considerations of practicality and reasonableness.

MEC's proposed route is the most practical and reasonable alternative, it complies with Iowa law, and it is approved.

4. To obtain a franchise, the petitioner must show that the proposed line is necessary to serve a public use and represents a reasonable relationship to an overall plan of transmitting electricity in the public interest. Iowa Code § 478.4.

5. MEC has met the requirements of Iowa Code chapter 478 and 199 IAC 11 and 25, and the requested franchises should be issued to MEC for the transmission line described in the petitions.

IT IS THEREFORE ORDERED:

1. Official notice is taken of the report dated October 17, 2007, filed by Mr. Bao Nguyen.

2. Motions and objections not previously granted or sustained are overruled. Arguments in written filings or made orally at the hearing that are not addressed specifically in this proposed decision and order are rejected, either as not supported by the evidence or as not being of sufficient persuasiveness to warrant comment.

3. Pursuant to Iowa Code chapter 478 and 199 IAC 11 and 25, the petitions for franchises are hereby granted. If this proposed decision and order

becomes the final order of the Board, franchises will be issued to MEC to construct, operate, and maintain the electric transmission line as described in the petitions. If this proposed decision and order becomes the final order of the Board, the franchises will be issued to MEC after the proposed decision and order becomes the final order of the Board.

4. The Board retains jurisdiction of the subject matter in this docket pursuant to Iowa Code chapter 478, and may at any time during the period of the franchises make such further orders as may be necessary.

5. This proposed decision and order will become the final order of the Board unless the Board moves to review it or a party files an appeal to the Board within 15 days of its issuance. 199 IAC 7.8(2).

6. A copy of this proposed decision and order will be served by ordinary mail upon MEC and the objectors on the Board's service list, and will be delivered to the Consumer Advocate.

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 29th day of January, 2008.