

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  CRYSTAL LAKE WIND, LLC	DOCKET NOS. E-21830 E-21831 E-21832 E-21833
--------------------------------------	--

**PROPOSED DECISION AND ORDER GRANTING FRANCHISES**

(Issued May 23, 2008)

APPEARANCES:

MS. SHEILA K. TIPTON, attorney at law, Belin, Lamson, McCormick, Zumbach, and Flynn, 666 Walnut, Suite 2000, Des Moines, Iowa 50309, appearing on behalf of Crystal Lake Wind, LLC.

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.

MS. ELAINE HEESCH, 3062 Valley Road, Forest City, Iowa 50436, appearing pro se.

**STATEMENT OF THE CASE**

On August 28, 2007, Crystal Lake Wind, LLC (Crystal Lake), a subsidiary of FPL Energy, LLC (FPL), filed petitions with the Utilities Board (Board) requesting franchises to construct, maintain, and operate a total of 40.512 miles of 161,000-volt (161 kV) nominal, 169 kV maximum, electric transmission line proposed to be constructed in Cerro Gordo, Hancock, Winnebago, and Worth Counties, Iowa. (petitions for franchises; testimony of Mr. Garvin.) The petitions were identified as

Docket Nos. E-21830 (Cerro Gordo County), E-21831 (Hancock County), E-21832 (Winnebago County), and E-21833 (Worth County). Crystal Lake filed revisions to the petitions and additional information on October 10 and 19, November 7 and 15, December 21, 2007, and on January 8, 9, 16, and 18, April 7 and 29, and May 6 and 14, 2008.

As proposed, the transmission line would begin at an interconnection point with the existing ITC Midwest LLC (ITC) Lime Creek Substation north of Mason City in Cerro Gordo County, and terminate at FPL Collector Substation in Hancock County and FPL Collector Substation II in Winnebago County. (petitions for franchises; Nguyen/Stursma report; testimony of Mr. Moore, Mr. Garvin, Mr. DiDonato.) The purpose of the proposed transmission line is to connect a wind farm in Hancock County (Phase I of the project) and a wind farm in Winnebago County (Phase II of the project) to the Lime Creek Substation. (petitions for franchises; Nguyen/Stursma report; testimony of Mr. Garvin, Mr. Bouska, Mr. DiDonato, Mr. Moore.) The majority of the proposed route of the line is on public road right-of-way and runs generally along and parallel to county roads. (petitions for franchises; Nguyen/Stursma report; testimony of Mr. Moore, Mr. Thompson.) Part of the proposed route is on private property and runs along division lines of land. (petitions for franchises; Nguyen/Stursma report; testimony of Mr. Moore.)

Sections of the proposed transmission line will be double circuited with existing and future transmission lines. (petitions for franchises; Nguyen/Stursma report; testimony of Mr. Thompson, Mr. Moore.) The proposed line will carry distribution

circuit underbuild lines of 7.2 kV or 12.47 kV along approximately half of its length. (petitions for franchises; Nguyen/Stursma report; testimony of Mr. Thompson.)

Crystal Lake does not request eminent domain authority pursuant to Iowa Code § 478.6. (testimony of Mr. Moore.) Several written objections were filed in the dockets, although most of the objections have been withdrawn. (written objections; testimony of Mr. Moore.) As of the date of the hearing, one objection filed by Ms. Elaine Heesch in Docket No. E-21831 (Hancock County) remains. (Heesch objection; Exhibits EH-200, EH-201; testimony of Mr. Moore.)

On February 29, 2008, the Board issued an order assigning this case to the undersigned administrative law judge. On March 5, 2008, the undersigned issued a procedural order and notice of hearing and proposed to take official notice of a report dated February 25, 2008, concerning the proposed transmission line written by Mr. Bao Nguyen, Utility Regulatory Engineer for the Board, and Mr. Don Stursma, Manager of the Safety and Engineering Section for the Board.

Crystal Lake filed the prepared direct testimony and exhibits of Mr. Robert M. Garvin, Mr. Gary L. Bouska, Mr. John DiDonato, Mr. Michael T. Moore, Mr. Steven P. Thompson, Mr. Gregory C. Dawdy, and Mr. David W. Fugate on March 26, 2008. Crystal Lake filed a prehearing brief on March 28, 2008.

The Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed a prehearing brief on April 16, 2008.

Crystal Lake filed the rebuttal testimony and exhibit of Mr. Garvin and Mr. DiDonato on April 22, 2008. Crystal Lake filed a motion for leave to file a reply brief late and a prehearing reply brief on April 29, 2008.

Crystal Lake caused notice of the hearing to be published in Cerro Gordo County in The Globe Gazette, a newspaper of general circulation in the county, on March 19 and 26, 2008. (proof of publication.) Crystal Lake caused notice of the hearing to be published in Hancock County in The Britt News-Tribune, a newspaper of general circulation in the county, on March 19 and 26, 2008. (proof of publication.) Crystal Lake caused notice of the hearing to be published in Winnebago County in The Forest City Summit, a newspaper of general circulation in the county, on March 19 and 26, 2008. (proof of publication.) Crystal Lake caused notice of the hearing to be published in Worth County in the Northwood Anchor, a newspaper of general circulation in the county, on March 19 and 26, 2008. (proof of publication.) Crystal Lake filed the proofs of publication on April 7, 2008.

The hearing was held on May 1, 2008, beginning at 9:00 a.m., in the Basement Meeting Room, Hancock County Law Enforcement Center, 875 State Street, Garner, Iowa. Crystal Lake was represented by its attorney, Ms. Sheila K. Tipton. Mr. Garvin, Mr. Bouska, Mr. DiDonato, Mr. Moore, Mr. Thompson, Mr. Dawdy, and Mr. Fugate testified on behalf of Crystal Lake. Crystal Lake's Exhibits GLB-1, GLB-2, JD-1 through JD-4, MTM-1 through MTM-7, SPT-1 through SPT-10, GCD-1 through GCD-3, and DWF-1 were admitted at the hearing. Crystal Lake's motion for leave to file a reply brief was granted. The Consumer Advocate

was represented by its attorney, Mr. John F. Dwyer. The Consumer Advocate did not present evidence at the hearing. Objector Ms. Elaine Heesch appeared pro se for a short portion of the hearing, but did not testify. Ms. Heesch asked that Crystal Lake answer questions she raised in her prehearing filings, and this was done through the testimony of Crystal Lake's witnesses. Ms. Heesch's Exhibits EH-200 and EH-201 were admitted at the hearing. Mr. Nguyen and Mr. Stursma testified as the engineers selected by the Board to examine the petitions and proposed route pursuant to Iowa Code § 478.4. The parties did not object to the taking of official notice of Mr. Nguyen's and Mr. Stursma's report dated February 25, 2008 (Nguyen/Stursma report), and it was officially noticed. Crystal Lake agreed to file three exhibits that were introduced at the hearing and a number of post-hearing documents that corrected mistakes in the petitions for franchises and answered certain questions posed to Crystal Lake during the hearing.

Crystal Lake filed these documents on May 6, 2008, along with a motion to admit revised Exhibits GLB-2 and SPT-5, and to admit proposed Exhibits MTM-8 and JD-5. The motion should be granted and the exhibits are admitted. The undersigned issued an "Order Regarding Post-Hearing Filings" on May 13, 2008, requiring Crystal Lake to file additional evidence and petition revisions that were related to Crystal Lake's post-hearing filings. Crystal Lake filed revised Exhibit SPT-5 and revised petition Exhibit D in a "Compliance Filing" on May 14, 2008. Crystal Lake filed an "Amended Compliance Filing" on May 15, 2008, which clarified and corrected revised Exhibit SPT-5.

On May 16, 2008, Crystal Lake filed a motion to shorten the appeal period from 15 days to seven days. On May 20, 2008, the Consumer Advocate filed an opposition to the motion to shorten the appeal period.

### **NEED FOR THE PROPOSED LINE**

In order to obtain a franchise, Crystal Lake 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.

Crystal Lake plans to construct a 150 MW wind farm in Hancock County near Garner, Iowa, which it calls Phase I of the Crystal Lake wind generation facility. (testimony of Mr. Garvin, Mr. Bouska, Mr. DiDonato; petitions for franchises; Nguyen/Stursma report.) In addition, Crystal Lake plans to construct an approximately 250 MW wind farm in Winnebago County in Phase II of the proposed project. (testimony of Mr. Garvin, Mr. Bouska, Mr. DiDonato; petitions for franchises; Nguyen/Stursma report.) Crystal Lake has petitioned the Board for franchises to construct, operate, and maintain the proposed transmission line it needs to connect the wind farms to the Lime Creek Substation north of Mason City, Iowa. (petitions for franchises; testimony of Mr. Garvin, Mr. Bouska; Nguyen/Stursma report.)

Approximately five miles of the proposed line is necessary to connect Phase II of the project and the remainder of the proposed line is necessary to connect both Phase I and Phase II of the project to the Lime Creek Substation. (testimony of Mr. DiDonato; petitions for franchises.) Since Crystal Lake plans to connect both Phase I and Phase II of the project in 2008, it has applied for franchises for the entire length of the proposed line. (testimony of Mr. DiDonato.) The proposed transmission line is necessary to connect the proposed Crystal Lake wind generation facility to the electric transmission grid. (testimony of Mr. Garvin, Mr. Bouska, Mr. DiDonato; petitions for franchises.)

Crystal Lake has not applied for a certificate for the wind generation facility pursuant to Iowa Code chapter 476A. (petitions for franchises; Nguyen/Stursma report.) Such a certificate is not needed because the capacity of the wind turbines connected to each gathering line will be less than 25 MW. (testimony of Mr. Bouska; Exhibits GLB-1, GLB-2; petitions for franchises.) Pioneer Prairie Wind Farm I, LLC, Docket No. WRU-07-43, "Order Granting Waiver with Conditions," (February 27, 2008) (Pioneer Prairie Wind Farm); Iowa Code § 476A.1(5).

Crystal Lake will offer to sell the wind energy produced at the Crystal Lake wind generating facility to Iowa investor-owned utilities, rural electric cooperatives, and municipal electric utilities, and will offer the energy for sale in the Midwest Independent Transmission System Operator (MISO) wholesale electricity market. (testimony of Mr. Garvin, Mr. Bouska; petitions for franchises.) Crystal Lake cannot directly sell the energy to retail customers in Iowa because Iowa has not adopted

retail electric choice. (testimony of Mr. Garvin.) The proposed transmission line is necessary to connect the Crystal Lake wind generation facility to the Lime Creek Substation and from there to the electric grid so that the output from the wind generation facility can be sold. (testimony of Mr. Garvin, Mr. Bouska; petitions for franchises.)

The persons who filed written objections, including Ms. Heesch, do not challenge the need for the proposed line. (written objections.) The Consumer Advocate does not challenge the need for the proposed line. (Consumer Advocate prehearing brief.)

As the Consumer Advocate points out in its prehearing brief, utility applicants in electric transmission line cases ordinarily show a proposed transmission line is necessary to serve a public use by showing the line is needed to serve the load of the utilities' Iowa customers. However, in this case, Crystal Lake does not have Iowa retail customers, so it cannot show the need for the line in this way. Iowa Code chapter 478 and applicable Board rules do not require utility applicants to prove a proposed line is necessary to serve a public use by showing the line is needed to serve the utility's Iowa retail load. Iowa Code chapter 478; 199 IAC 11. Similarly, Iowa Code chapter 478 and the applicable Board rules do not limit utility applicants for electric transmission line franchises to utilities with Iowa retail customers. Iowa Code chapter 478; 199 IAC 11. The Board granted franchises to an independent power producer in Endeavor Power Partners, LLC, Docket No. E-21756, "Order

Granting Franchise" (June 8, 2006) and in Endeavor Power Partners, LLC, Docket No. E-21779, "Order Granting Franchise" (June 8, 2006).

Iowa Code chapter 478 and 199 IAC 11 neither favor nor disfavor electric transmission lines constructed to connect renewable generation sources to the electric grid. However, Iowa's policy to encourage renewable generation, including wind generation, is stated in, or can be discerned from, other statutes, and has been noted by the Board in prior decisions. Pioneer Prairie Wind Farm; Flying Cloud Power Partners LLC, Docket No. DRU-03-2, "Declaratory Order," (February 10, 2003); Iowa Code §§ 423.3(54), 423.3(90), 427.1(29), 427B.26, 441.21(8), 476.41 through 476.47; Iowa Code chapters 476B and 476C; 2007 Iowa Code Supp. chapter 469. In addition, Iowa Code § 476.53 states that it is the intent of the legislature to attract sufficient generation and transmission facilities in the state to ensure reliable electric service to Iowa consumers and provide economic benefits to Iowa. Therefore, although the transmission franchising statute and rules do not themselves encourage transmission to support renewable generation, it is reasonable to consider the purpose of this proposed transmission line, to connect wind generation to the grid, as a part of the analysis of whether the proposed line is necessary to serve a public use pursuant to Iowa Code § 478.4.

Crystal Lake presented substantial evidence that shows the proposed transmission line is needed to carry the output of the Crystal Lake wind generation facility to the Lime Creek Substation, thereby connecting it to the electric transmission grid so the output can be sold in the wholesale market. (petitions for

franchises; testimony of Mr. Garvin, Mr. Bouska, Mr. DiDonato.) It presented substantial evidence that the proposed line is necessary to connect this source of wind generation to the grid, thus furthering Iowa's goals to increase renewable energy generation, including wind generation. (petitions for franchises; testimony of Mr. Garvin, Mr. Bouska, Mr. DiDonato.) Pioneer Prairie Wind Farm; Iowa Code §§ 476.41 through 476.47; Iowa Code chapters 476B and 476C; 2007 Iowa Code Supp. Chapter 469.<sup>1</sup> Crystal Lake presented evidence that the entire Crystal Lake project, including the wind generation facility and the proposed transmission line, will provide economic development benefits to the area through payments to landowners, property tax revenue, construction jobs, and between six and 15 full-time permanent jobs with salaries ranging from \$35,000 to \$80,000 per year. (testimony of Mr. Garvin; petitions for franchises.) The wind generation project will also provide an economic benefit to Iowa because Crystal Lake will use Clipper wind turbines made in Iowa for Phase II of the project. (testimony of Mr. Garvin, Mr. Bouska, Mr. DiDonato.) Crystal Lake presented sufficient evidence that demonstrates the proposed transmission line is needed for the reasons given and is necessary to serve

---

<sup>1</sup> The undersigned notes that Iowa's renewable portfolio standard is a specific capacity requirement that applies only to Iowa's two investor-owned utilities, rather than an energy-based renewable portfolio standard that applies to all utilities. Iowa Code §§ 476.41-45; Interstate Power and Light Company and MidAmerican Energy Company, Docket No. AEP-07-1, "Order Approving Facilities and Associated Capacities, Adopting Requirements for M-RETS Participation, and Requiring Report," (November 21, 2007). Therefore, the output of Crystal Lake's wind farm will not help to meet Iowa's renewable portfolio standard. Any suggestion that the proposed transmission line is necessary to serve a public use due to Iowa's renewable portfolio standard is therefore not persuasive.

a public use. (petitions for franchises; testimony of Mr. Garvin, Mr. Bouska, Mr. DiDonato; Nguyen/Stursma report.)

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

To obtain a franchise, Crystal Lake 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). Crystal Lake provided this information in its petitions, in prefiled testimony, in testimony at the hearing, and in post-hearing filings. (petitions for franchises; testimony of Mr. DiDonato, Mr. Garvin; Exhibits JD-1 through JD-5.)

Crystal Lake, ITC,<sup>2</sup> and MISO have executed an Interconnection Agreement regarding connection of Phase I of the Crystal Lake wind generation facility and the proposed transmission line with the Lime Creek Substation and the electric grid.

---

<sup>2</sup> The Board approved Interstate Power and Light Company's sale of its transmission assets in Iowa to ITC in September 2007. (testimony of Mr. Garvin.) Interstate Power and Light Company and ITC Midwest LLC, Docket No. SPU-07-11, "Order Terminating Docket and Recommending Delineation of Transmission and Local Distribution Facilities," (September 20, 2007).

(testimony of Mr. DiDonato; Exhibit JD-5.) Crystal Lake expects to execute a separate Interconnection Agreement for Phase II of the project in September of 2008.

(testimony of Mr. DiDonato.) Crystal Lake will file a copy of the second Interconnection Agreement once it is executed. (testimony of Mr. DiDonato.)

Crystal Lake is not a rate-regulated public utility in Iowa. (testimony of Mr. Garvin.) It therefore will not be seeking to recover the construction costs of the proposed transmission line from Iowa ratepayers. (testimony of Mr. Garvin.) The shareholders of FPL and Crystal Lake will bear the cost of constructing, operating, and maintaining the proposed line. (testimony of Mr. Garvin.) Studies assessing the impact of connecting the Crystal Lake wind generation project and proposed transmission line to the grid showed certain network upgrades will be required, and Crystal Lake is negotiating with the other transmission owners and MISO regarding cost sharing for the required upgrades. (testimony of Mr. DiDonato; Exhibits JD-1 through JD-4.) Two of the upgrades are necessary to get the Crystal Lake project interconnected, and the others are necessary to connect other projects that have requested interconnection as well as the Crystal Lake project. (testimony of Mr. DiDonato; Exhibit JD-4.) The costs of the proposed transmission line and required upgrades are less than twelve percent of the total costs of the project. (testimony of Mr. DiDonato.) Crystal Lake presented sufficient evidence that shows Iowa ratepayers will not bear financial risk for the proposed transmission line. (testimony of Mr. DiDonato, Mr. Garvin; Exhibit JD-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. Iowa Code § 478.3(2). (petitions for franchises; testimony of Mr. DiDonato, Mr. Garvin, Mr. Bouska, Mr. Stursma, Mr. Nguyen, Mr. Moore, Mr. Dawdy, Mr. Fugate; Exhibits JD-1 through JD-5, MTM-1 through MTM-8, GCD-1 through GCD-3, DWF-1; Nguyen/Stursma report.)

### **CONSTRUCTION AND SAFETY REQUIREMENTS**

In order to obtain a franchise, Crystal Lake 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 (NESC) requirements and Board rules. (petitions for franchises; Nguyen/Stursma report; testimony of Mr. Thompson, Mr. DiDonato, Mr. Stursma, Mr. Nguyen; Exhibits SPT-1 through SPT-10.) 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/Stursma report; testimony of testimony of Mr. Thompson, Mr. DiDonato, Mr. Stursma, Mr. Nguyen; Exhibits SPT-1 through SPT-10.)

Crystal Lake 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/Stursma report; testimony of testimony of

Mr. Thompson, Mr. DiDonato, Mr. Stursma, Mr. Nguyen; Exhibits SPT-1 through SPT-10.) No additional terms, conditions, or restrictions regarding construction and safety requirements need to be imposed pursuant to Iowa Code § 478.4.

### **HEALTH RISKS AND ELECTRIC AND MAGNETIC FIELDS**

Crystal Lake expert witness Mr. Fugate testified that the most obvious danger with electric transmission lines is electrical contact with the high-voltage phase conductors. (testimony of Mr. Fugate.) This danger is safely addressed by design of the line to meet the minimum height and clearance requirements of the NESC. (testimony of Mr. Fugate.) Mr. Fugate further testified that if the electric fields are strong enough beneath a transmission line, a person could be shocked when they contact another object. (testimony of Mr. Fugate.) Compliance with the NESC clearance requirements will limit the electric field strength directly beneath the line, thus eliminating this shock danger. (testimony of Mr. Fugate.)

The general consensus among scientists is that insufficient evidence exists to conclude that low levels of electric and magnetic fields produce adverse health effects. (testimony of Mr. Fugate.) A number of scientific groups have generally concluded that, although some epidemiology studies report an association of magnetic field exposure with childhood leukemia, controlled laboratory studies do not support that association, and electric and magnetic field studies overall have not demonstrated that electric and magnetic fields cause or contribute to cancer or other diseases. (testimony of Mr. Fugate.)

Mr. Fugate calculated the median and maximum electric and magnetic field levels at several distances from the proposed electric transmission pole centerline for a typical configuration of the proposed line near objector Ms. Heesch's home. (testimony of Mr. Fugate; Exhibit DWF-1.) Ms. Heesch's home will be approximately 133 to 134 feet from the proposed transmission line. (testimony of Mr. Fugate; written objection; Docket No. E-21831 petition for franchise.) While there are no applicable required standards regarding electric and magnetic field exposure levels, Mr. Fugate compared his calculated levels with voluntary guidelines by two organizations, the Institute of Electrical and Electronics Engineers (IEEE), and the International Commission on Non-Ionizing Radiation Protection (ICNIRP). (testimony of Mr. Fugate; Exhibit DWF-1.) Mr. Fugate's calculated electric and magnetic field levels for the proposed line are below the IEEE and ICNIRP guidelines. (testimony of Mr. Fugate; Exhibit DWF-1.) He also compared his calculated levels with regulations from Florida and New York, and the levels are also well below the Florida and New York requirements. (testimony of Mr. Fugate; Exhibit DWF-1.)

In addition, Mr. Fugate testified, he does not expect the proposed 161 kV transmission line to interfere with radio, television, cellular telephone, satellite, or Internet operations. (testimony of Mr. Fugate.) If interference problems occur, he testified, Crystal Lake could help to provide solutions in the form of relocating or upgrading antennas, providing signal amplifiers, or providing alternative services such as cable television. (testimony of Mr. Fugate.)

Based on the record, it does not appear that there will be any adverse health effects on Ms. Heesch or any member of the public from the proposed transmission line. (testimony of Mr. Fugate; Exhibit DWF-1.) No additional terms, conditions, or restrictions related to health issues or electric and magnetic field levels need to be imposed pursuant to Iowa Code § 478.4. (testimony of Mr. Fugate; Exhibit DWF-1.)

### **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 Crystal Lake 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, Crystal Lake 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.

Crystal Lake first requested interconnection at the Hancock Substation, which is approximately 14 miles closer to the Crystal Lake wind generation project than the Lime Creek Substation. (testimony of Mr. DiDonato, Mr. Moore; Exhibits JD-1 through JD-3; petitions for franchises.) However, further analysis showed that the Lime Creek Substation was a much better connection point because the Lime Creek Substation had more transmission outlets and connection there would reduce transmission congestion. (testimony of Mr. DiDonato; Exhibits JD-1 through JD-3; petitions for franchises.) MISO allowed Crystal Lake to move the interconnection point to the Lime Creek Substation, and Crystal Lake concluded that constructing a

longer transmission line was necessary and appropriate despite the additional cost to its shareholders. (testimony of Mr. DiDonato; Exhibits JD-1 through JD-5; petitions for franchises.)

Once the interconnection point was moved to the Lime Creek Substation, Crystal Lake examined a number of possible routes between the wind farm and Lime Creek Substation, keeping in mind the statutory and regulatory factors in Iowa Code §§ 478.18(2) and 478.25-26, and Board rules at 199 IAC 11.1(7) and 42.6. (testimony of Mr. Moore; Exhibits MTM-1, MTM-2; petitions for franchises.) The goal of the preconstruction team was to find the shortest route possible, involving as much collocation of facilities with existing distribution and transmission lines as possible, using county road right-of-way as much as possible, to avoid passing through towns or densely developed areas as much as possible, to minimize the environmental impact as much as possible, and to avoid the use of eminent domain altogether. (testimony of Mr. Moore.) After further study, Crystal Lake eliminated a number of routes due to various factors and landowner opposition. (testimony of Mr. Moore.) Crystal Lake's proposed route is the shortest and most direct route studied, except for the Straight Route discussed below. (testimony of Mr. Moore.) Approximately 27 miles of the proposed route is collocated with existing distribution lines. (testimony of Mr. Moore; petitions for franchises.) Crystal Lake's proposed route is on the same side of the road as a limited number of homes and it minimizes the use of private right-of-way. (testimony of Mr. Moore; petitions for franchises.) Approximately 4.15 miles of the proposed route will cross private property. (testimony of Mr. Moore;

petitions for franchises.) Crystal Lake has obtained all voluntary easements needed for the proposed route and does not request the right of eminent domain. (testimony of Mr. Moore; petitions for franchises; Nguyen/Stursma report.)

The proposed route follows public road right-of-way and division lines of land at all locations. (testimony of Mr. Moore, Mr. Stursma; petitions for franchises; Nguyen/Stursma report.)

Ms. Elaine Heesch filed a written objection to the proposed line and suggested four alternate routes.<sup>3</sup> (written objection; Exhibits EH-200, EH-201, MTM-5; Nguyen/Stursma report; testimony of Mr. Moore.) Crystal Lake investigated each of the alternate routes suggested by Ms. Heesch. (testimony of Mr. Moore.)

Ms. Heesch's Straight Route would require crossing about one-half mile of wetlands, the Winnebago River basin, and a forested area. (testimony of Mr. Moore, Mr. Dawdy; written objection; Exhibits MTM-4, EH-200, EH-201.) Large-scale tree removal would be required. (testimony of Mr. Dawdy.) The Straight Route would be located on or adjacent to the southern boundary of the Gabrielson Wildlife Management Area. (testimony of Mr. Moore, Mr. Dawdy.) In addition, three landowners on this route refused to sign easements because they did not want the proposed line to cross their open cropland. (testimony of Mr. Moore.)

Ms. Heesch's suggested North Urban Avenue Detour would add two miles to the proposed route. (testimony of Mr. Moore; Exhibits MTM-5, EH-200; written

objection; Nguyen/Stursma report.) More than a mile of this alternate is outside the area noticed for the Informational Meeting. (testimony of Mr. Moore.) The route would affect floodplains, wetlands, and forested areas. (testimony of Mr. Dawdy.) In addition, the alternate route would require construction of approximately 3,560 feet of line within the Gabrielson Wildlife Area, which is an Iowa Sovereign Land and important bird habitat, and it is unlikely that the Iowa Department of Natural Resources would grant an easement through the area for a transmission line. (testimony of Mr. Dawdy, Mr. Moore; written objection; Exhibits EH-200 and EH-201.)

Crystal Lake rejected Ms. Heesch's suggested Highway 69 Detour because it would pass by 41 homes versus the 27 as in the proposed route. (testimony of Mr. Moore.) In addition, the alternate is two miles longer than the proposed route. (testimony of Mr. Moore; written objection; Exhibit EH-200.) Placement of a transmission line along this route would affect floodplains, wetlands, and forested land, and substantial cutting of mature trees would be required. (testimony of Mr. Dawdy.) The line would also run along the western boundary of a U.S. Fish and Wildlife Service Waterfowl Protection Area. (testimony of Mr. Dawdy.) The line would bisect two wetland areas, which could increase the potential for avian interactions with the line. (testimony of Mr. Dawdy.)

---

<sup>3</sup> One of the routes highlighted on Ms. Heesch's exhibit is Crystal Lake's proposed route. (Exhibit EH-200; testimony of Mr. Moore.) Ms. Heesch calls this the Valley Road-305<sup>th</sup> Street Detour. (Exhibit EH-200.)

Crystal Lake studied Ms. Heesch's suggested South Urban Avenue Detour as one of the routes in its initial study of the area. (testimony of Mr. Moore; petitions for franchises.) Mr. Moore testified Crystal Lake spent a significant amount of time working with landowners in the area, but three landowners refused to sign easements. (testimony of Mr. Moore.) In addition, Crystal Lake was blocked by property with large mature trees on both sides of the road, and this route would have required the removal of hundreds of trees for close to one-half mile. (testimony of Mr. Moore.) There is also a problem with farm buildings close to the road at one location along this route. (testimony of Mr. Moore.) This route would impact floodplains, wetlands, and forested land, and is closer to the Winnebago River than the proposed route. (testimony of Mr. Dawdy.)

The proposed route is superior to each of Ms. Heesch's suggested alternatives. (testimony of Mr. Moore, Mr. Dawdy; written objection; Exhibits EH-200, EH-201, MTM-1 through MTM-8, GCD-1 through GCD-3; petitions for franchises; Nguyen/Stursma report.) The proposed route is the second shortest route compared to the Straight Route, it follows public road right-of-way for most of the route, and when it crosses private property, the private property is not environmentally sensitive. (testimony of Mr. Moore; petitions for franchises.) The proposed route has fewer and less significant environmental concerns than the alternate routes. (testimony of Mr. Moore, Mr. Dawdy; Exhibits EH-200, EH-201, MTM-3 through MTM-8, GCD-1 through GCD-3; written objection) The proposed route does not contain the physical impediment of the South Urban Avenue Detour. (testimony of Mr. Moore.) Crystal

Lake has obtained all required voluntary easements for the proposed route, which it could not do on three of the alternate routes. (testimony of Mr. Moore.)

Crystal Lake's proposed transmission corridor was selected to minimize environmental impacts to wetland and forested habitats, floodplains, and the Gabrielson Wildlife Area. (testimony of Mr. Dawdy.) Crystal Lake will construct its transmission poles within road rights-of-way, which will minimize environmental impacts. (testimony of Mr. Dawdy.) The proposed line will cross the Winnebago River at an existing bridge to limit construction activities and structures near the river to areas that have been previously disturbed. (testimony of Mr. Dawdy.) Crystal Lake complied with all applicable environmental requirements in its design of the proposed transmission line and will continue to comply with all such requirements when it constructs the line. (testimony of Mr. Dawdy.)

The alternate routes suggested by Ms. Heesch would adversely impact much larger areas of floodplain, wetlands, forested lands, and the Winnebago River, than Crystal Lake's proposed route. (testimony of Mr. Dawdy, Mr. Moore; written objection; Exhibits EH-200 and EH-201, MTM-3 through MTM-8, GCD-1 through GCD-3.) Although each of Ms. Heesch's alternate routes would mean the proposed line would not be as near to her property, thus providing a benefit to her, the suggested alternate routes have significant problems and are not superior to Crystal Lake's proposed route. (testimony of Mr. Moore, Mr. Dawdy; petitions for franchises; written objection; Exhibits EH-200, EH-201, MTM-1 through MTM-8, GCD-1 through GCD-3.) When considering the public interest, the term public is not limited to

individual objectors, and is not even limited to consumers located in this state. Iowa Code § 478.3(3). Requiring Crystal Lake to follow any of the alternative routes suggested by Ms. Heesch for her benefit would not be in the public interest, and would not be just or proper.

Crystal Lake has obtained all required environmental permits and authorizations for the proposed line. (testimony of Mr. Moore, Mr. Dawdy; Exhibit MTM-8.)

Crystal Lake began its planning of the proposed route in accordance with Iowa Code § 478.18 and 199 IAC 11.1(7). (testimony of Mr. Moore; petitions for franchises.) Crystal Lake has proven that the proposed route it selected follows public road right-of-way and division lines of land and it is in compliance with the requirements of Iowa law. (petitions for franchises; Nguyen/Stursma report; testimony of Mr. Nguyen, Mr. Stursma, Mr. Moore, Mr. Dawdy; Exhibits EH-200, EH-201, MTM-1 through MTM-8, GCD-1 through GCD-3; written objection.) Crystal Lake has also proven the proposed route is the most practical and reasonable alternative and it should be approved. (petitions for franchises; Nguyen/Stursma report; testimony of Mr. Nguyen, Mr. Stursma, Mr. Moore, Mr. Dawdy; Exhibits EH-200, EH-201, MTM-1 through MTM-8, GCD-1 through GCD-3; written objection.)

## OBJECTION

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 dockets, although all but one of the objections were withdrawn prior to the hearing. As of the date of the hearing, only the objection filed by Ms. Heesch remains. (written objections; testimony of Mr. Moore, Mr. Stursma; Nguyen/Stursma report.)

Ms. Elaine Heesch filed a written objection in Docket No. E-21831 (Hancock County) on June 12, 2007, and has not withdrawn her objection. (written objection; testimony of Mr. Moore.) Ms. Heesch also filed several letters with additional information regarding her objection and four alternate routes she suggests. (written objection.) Ms. Heesch's original written objection and her subsequent letters will be referred to collectively as her written objection in this proposed decision. Ms. Heesch filed Exhibit EH-200 on March 18, 2008, and Exhibit EH-201 on April 28, 2008.

Ms. Heesch appeared pro se for a part of the hearing, but did not testify.

Ms. Heesch lives on the corner of Valley Road and 305<sup>th</sup> Street. (written objection; Nguyen/Stursma report; testimony of Mr. Moore.) The proposed route is across 305<sup>th</sup> Street from her home. (written objection; Exhibits EH-200, EH-201; testimony of Mr. Moore, Mr. Dawdy; Nguyen/Stursma report; E-21831 petition for franchise.) In her objection, Ms. Heesch expressed the concerns that the proposed route would lower her property values and would be a possible health risk. (written

objection; testimony of Mr. Moore.) Ms. Heesch suggested the four alternative routes discussed above that would avoid her property and the Torkelson Pits Recreation Area. (written objection; Exhibits EH-200, EH-201; testimony of Mr. Moore.) In her objection, Ms. Heesch also expressed concern about possible harm to birds from the proposed line. (written objection; Exhibit EH-201; testimony of Mr. Moore.)

Ms. Heesch did not present evidence to support her concern that the proposed line would lower her property values, and there is nothing in the record that suggests the proposed transmission line would do so. (written objection; Exhibits EH-200 and EH-201.) As discussed above, the evidence in the case shows that the proposed transmission line will not cause any health risk to Ms. Heesch or other members of the public. (testimony of Mr. Fugate; Exhibit DWF-1.)

In order to address Ms. Heesch's concerns, Crystal Lake moved the proposed transmission line across the street from her home. (testimony of Mr. Moore; Docket E-21831 petition for franchise.) Crystal Lake will move the distribution lines currently on Ms. Heesch's property across the street and collocate them on the structures of the proposed transmission line. (testimony of Mr. Moore; Docket E-21831 petition for franchise.)

Crystal Lake will install bird diverters along 305<sup>th</sup> Street and Valley Road and in other places along the proposed route. (testimony of Mr. Moore, Mr. Dawdy.) The bird diverters will be gray in color to blend into the landscape, but the color will not compromise their effectiveness. (testimony of Mr. Moore, Mr. Dawdy.) Although bird diverters will not prevent all avian collisions, they are effective in significantly

reducing them. (Exhibit EH-201; testimony of Mr. Dawdy.) Crystal Lake will install the bird diverters on the shield wire at the top of the poles, which is not an energized line, so corona will not be an issue with the bird diverters. (testimony of Mr. Fugate.) The proposed line should not affect avian or butterfly migration routes. (testimony of Mr. Dawdy.)

There is an eagle's nest south of 305<sup>th</sup> Street. (testimony of Mr. Dawdy; Exhibit GCD-3.) Crystal Lake designed the proposed line so the closest distance from the eagle's nest is 743 feet. (testimony of Mr. Dawdy; Exhibit GCD-3.) This distance exceeds the U.S. Fish and Wildlife Service recommended setback guideline of 660 feet. (testimony of Mr. Dawdy.) In addition, Crystal Lake's use of single-pole construction will limit large bird (raptors and bald eagles) perching and nesting opportunities. (testimony of Mr. Dawdy.) This will reduce the potential for bird interactions with the proposed line. (testimony of Mr. Dawdy.)

The proposed route will not go through the Torkelson Pits area, but will run adjacent to its northern property boundary within the existing road right-of-way along 305<sup>th</sup> Street. (testimony of Mr. Dawdy, Mr. Moore.) Crystal Lake received approval from the Hancock County Conservation Board for an easement for the proposed line in the Torkelson Pits area. (testimony of Mr. Moore.)

Ms. Heesch's objection does not provide a reason to deny the requested franchises. Nor does it provide a reason to require any additional terms, conditions, or modifications of the requested franchises.

Members of the public, including Ms. Heesch, need and use electricity. Transmission lines must go somewhere as a part of the system that provides that electricity. In this case, Crystal Lake has shown that the proposed line is necessary, its selected route is superior to the alternatives proposed and considered, the line will comply with all applicable requirements, and it is in the public interest to grant the requested franchises. Crystal Lake's petitions for franchises in Docket Nos. E-21830, E-21831, E-21832, and E-21833 should be granted.

#### **MOTION TO SHORTEN APPEAL PERIOD**

On May 16, 2008, Crystal Lake filed a motion to shorten the appeal period from 15 days to seven days. Crystal Lake argues it has obtained the cooperation of nearly all of the private property owners along the proposed route. It argues that Board staff testified the proposed route satisfies statutory and route siting criteria and any remaining technical issues may be dealt with by post-decision conferences and document updates with staff. Crystal Lake argues the Consumer Advocate does not object to the proposed transmission line, although it raises one issue concerning whether the financial ability of Crystal Lake to deal with abandonment issues in the future ought to be considered as a part of the "reasonable relationship" test. Crystal Lake further argues that the one remaining objector, Ms. Heesch, lives across the street from the proposed line. Crystal Lake argues Ms. Heesch stayed at the hearing for about 30 minutes, asked that her questions be answered, and this was done. Crystal Lake argues it hopes to commence construction of the proposed line by mid-

May 2008. Crystal Lake argues that given the relative lack of contested issues in this proceeding, the few number of participants, and the limited record, the 15-day appeal period in 199 IAC 7.26(2) should be reduced to seven days.

The Consumer Advocate opposes the motion to shorten the appeal period. The Consumer Advocate argues that there is an active objector who filed exhibits and testimony and is unrepresented by counsel. The Consumer Advocate further argues there has been no undue delay in the process and the standard time prescribed for appeal in the Board's rule is a relatively short 15 days. Therefore, argues the Consumer Advocate, the Board should adhere to the regular schedule under these circumstances.

Before analyzing whether to grant the motion, the undersigned notes that one of Crystal Lake's arguments in favor of the motion is that "Board staff testified the proposed route satisfies statutory and route siting criteria and any remaining technical issues may be dealt with by post-decision conferences and document updates with staff." Whether or not Board staff expressed the opinion that "any remaining technical issues could be dealt with by post-decision conferences and document updates with staff" does not matter. The undersigned administrative law judge must evaluate the statutory criteria and evidence filed by Crystal Lake to determine whether the proposed line meets all relevant criteria. Therefore, Crystal Lake must file all its evidence prior to or during the hearing, unless permission is granted for specific post-hearing filings. The suggestion that remaining technical issues could be worked out with staff post-hearing or that Crystal Lake could file

document updates with staff in order to satisfy any relevant statutory criteria is simply incorrect and does not comply with the method of obtaining electric transmission franchises required by Iowa Code chapters 17A and 478 and the applicable Board rules.

Board rule 199 IAC 7.26(2) states that a proposed decision will become the final order of the Board unless a party files an appeal within 15 days after the decision is issued, or the Board moves to review the decision within 15 days after issuance. The same rule states that the presiding officer may shorten the time for appeal, and in deciding whether to do so, may consider the needs of the parties for a shortened appeal period, relevant objections of the parties, the relevance of any written objections filed in the case, and whether there are any issues that indicate a need for the 15-day appeal period.

Crystal Lake wishes to begin construction of the proposed line as soon as possible, so there is a need to shorten the time for appeal. On the other hand, there is one remaining active objector, Ms. Heesch, who is unrepresented by counsel. Ms. Heesch lives across the street from the proposed transmission line. As discussed above, Ms. Heesch has raised concerns regarding reduction in her property values, possible adverse health effects of the proposed line, and she suggested several alternative routes for the proposed line. However, there are significant problems with her alternative routes, and none is superior to the route proposed by Crystal Lake. Crystal Lake will add bird diverters to the proposed line in appropriate locations. Crystal Lake will move the distribution line currently on

Ms. Heesch's property across the road and it will be constructed as underbuild on the same poles as the proposed transmission line. Crystal Lake has sufficiently addressed Ms. Heesch's concerns and her alternative routes. The proposed transmission line and route clearly meet all applicable requirements. Crystal Lake does not request the right of eminent domain. Therefore, it does not appear that there are any issues that indicate the need for a 15-day appeal period, other than the fact that there is an active objector who raised relevant issues and who is unrepresented by counsel.

Reducing the appeal period in the rule would still give Ms. Heesch and the Consumer Advocate the opportunity to appeal this proposed decision to the Board if they wish to do so. However, an appeal period of seven days would not provide sufficient time for Ms. Heesch to consider whether to appeal and then file written notice of appeal with the Board, particularly since she is unrepresented by counsel. The normal appeal period of 15 days from issuance of the decision is not that long, particularly considering the time for mailing the proposed decision and any responding notice of appeal. Under these circumstances, following the normal appeal period in the rule appears to be the most reasonable course of action.

Therefore, the motion to reduce the appeal period will be denied.

### **FINDINGS OF FACT**

1. Crystal Lake held informational meetings in Cerro Gordo, Hancock, Winnebago, and Worth Counties as required by Iowa Code § 478.2. (petitions for

franchises; Nguyen/Stursma report; testimony of Mr. Garvin; Docket Nos. E-21830, E-21831, E-21832, and E-21833 files.)

2. Crystal Lake has agreed to pay all costs and expenses of this franchise proceeding pursuant to Iowa Code § 478.4. (Docket Nos. E-21830, E-21831, E-21832, and E-21833 files; 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. Garvin, Mr. Bouska, Mr. DiDonato, Mr. Nguyen, Mr. Stursma; Nguyen/Stursma report; Exhibit JD-5.)

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. DiDonato, Mr. Garvin, Mr. Bouska, Mr. Stursma, Mr. Nguyen, Mr. Moore, Mr. Dawdy, Mr. Fugate; Exhibits JD-1 through JD-5, MTM-1 through MTM-8, GCD-1, GCD-2, GCD-3, DWF-1; Nguyen/Stursma 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/Stursma report; testimony of testimony of Mr. Thompson, Mr. DiDonato, Mr. Stursma, Mr. Nguyen; Exhibits SPT-1 through SPT-10.) No additional terms, conditions, or restrictions regarding construction and safety requirements need to be imposed pursuant to Iowa Code § 478.4.

6. From the evidence presented in this case, it does not appear that there will be any adverse health effects to Ms. Heesch or any member of the public from the proposed transmission line. (testimony of Mr. Fugate; Exhibit DWF-1.) No additional terms, conditions, or restrictions related to health issues or electric and magnetic field levels need to be imposed pursuant to Iowa Code § 478.4. (testimony of Mr. Fugate; Exhibit DWF-1.)

7. Crystal Lake has obtained all required environmental permits and authorizations and other state and local authorizations for the proposed transmission line. (testimony of Mr. Garvin, Mr. Dawdy, Mr. Moore; Exhibit MTM-8.)

8. Crystal Lake began its planning of the proposed route in accordance with Iowa Code § 478.18 and 199 IAC 11.1(7). (testimony of Mr. Moore; petitions for franchises.) Crystal Lake has proven that the proposed route it selected follows public road right-of-way and division lines of land and it is in compliance with the requirements of Iowa law. (petitions for franchises; Nguyen/Stursma report; testimony of Mr. Nguyen, Mr. Stursma, Mr. Moore, Mr. Dawdy; Exhibits EH-200, EH-201, MTM-1 through MTM-8, GCD-1 through GCD-3; written objection.) Crystal Lake has obtained all required voluntary easements for the proposed line. (testimony of Mr. Moore; petitions for franchises.) Crystal Lake has proven that the proposed route is the most practical and reasonable alternative and it should be approved. (petitions for franchises; Nguyen/Stursma report; testimony of Mr. Nguyen, Mr. Stursma, Mr. Moore, Mr. Dawdy; Exhibits EH-200, EH-201, MTM-1 through MTM-8, GCD-1 through GCD-3; written objection.)

9. As discussed in the body of this order, Ms. Heesch's objection does not provide a reason to deny the requested franchises or to require a different route, and it does not provide a reason to require any additional terms, conditions, or modifications of the requested franchises.

### **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 and 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 sections 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.

These requirements mean that Crystal Lake must have started its planning using routes along roads, railroads, and division lines of land. Iowa Code § 478.18; 199 IAC 11.1(7); Hanson v. Iowa State Commerce Comm'n, 227 N.W.2d 157, 163

(Iowa 1975). The route must follow roads, railroad rights-of-way, or division lines of land wherever practical and reasonable. Id. If such routes contain points of impracticality or unreasonableness, Crystal Lake may deviate from the route at those points if it makes the required evidentiary showing. Id.; 199 IAC 11.1(7). Crystal Lake's planning and its proposed route comply with Iowa law, the proposed route is the most practical and reasonable alternative, 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. Crystal Lake has met the requirements of Iowa Code chapter 478 and 199 IAC 11 and 25, and the requested franchises should be issued to Crystal Lake for the transmission line described in the petitions.

**IT IS THEREFORE ORDERED:**

1. Crystal Lake's motion to admit revised exhibit GLB-2, revised exhibit SPT-5, proposed exhibit MTM-8, and proposed exhibit JD-5, filed on May 6, 2008, is granted and the exhibits are admitted.

2. Official notice is taken of the report dated February 25, 2008, filed by Mr. Bao Nguyen and Mr. Don Stursma.

3. Once the Interconnection Agreement between Crystal Lake, ITC, and MISO for Phase II of the Crystal Lake project is executed, Crystal Lake must file a copy of the Interconnection Agreement with the Board.

4. 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.

5. 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 Crystal Lake 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 Crystal Lake after the proposed decision and order becomes the final order of the Board.

6. 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.

7. This proposed decision and order will become the final order of the Board unless the Board moves to review it or a party files written notice of appeal with the Board within 15 days of its issuance. 199 IAC 7.8(2). This rule means that the Board must receive the notice of appeal within 15 days of the issuance of this proposed decision.

8. A copy of this proposed decision and order will be served by ordinary mail upon Crystal Lake and objector Ms. Elaine Heesch, 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 23<sup>rd</sup> day of May, 2008.