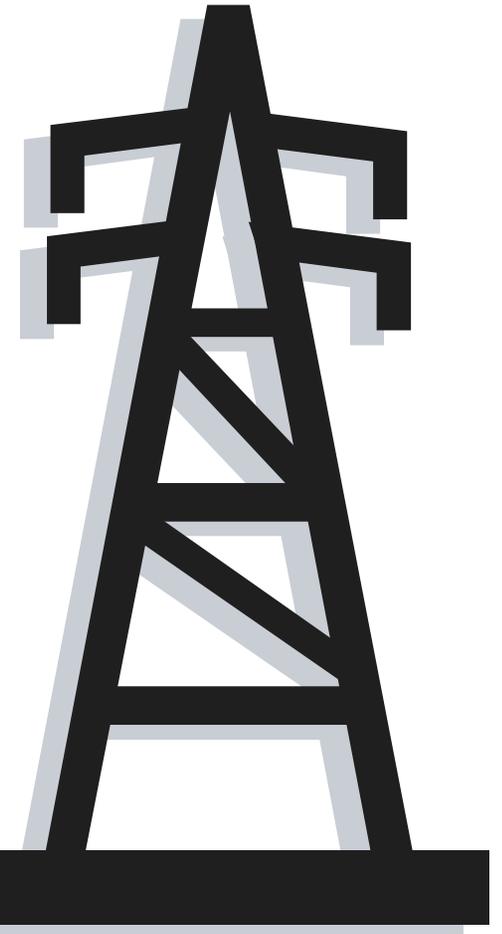


Electric transmission line franchise proceedings in Iowa



Explaining the application process to affected Iowans

Iowa Utilities Board
Customer Service
Toll Free 877-565-4450

A contested case hearing is a formal, respectful process governed by Iowa law and rules. It is similar to a trial held by a judge in district court, although there is no jury. A franchise hearing is typically conducted by a Board-appointed administrative law judge. All testimony must be taken under oath so witnesses are sworn in prior to testifying. The Office of Consumer Advocate (OCA) is a party that represents the public interest in all IUB hearings. The OCA does not represent any individual customer or member of the public.

Right-of-way acquisition

The utility company must obtain the necessary rights, called easements, from the landowner(s) to locate an electric line on private property. An easement is the legal document for providing such rights. It may be voluntary or it may be obtained through the use of eminent domain. Generally speaking, an easement provides the utility company an acquired privilege for use of the property. The landowner retains ownership, but use of the easement area is restricted by conditions set forth in the easement or by law. Right-of-way negotiations are strictly between landowners and the utility company. Landowners should carefully read the form of easement provided by the utility company to be fully aware of the rights the company seeks. The landowner has the right to negotiate terms of the easement. If a landowner signs a voluntary easement, he/she has a limited time to cancel the agreement. This is a one-time cancellation right that must be sent by certified mail to the company's principal place of business and be received within seven business days of the date the agreement was signed.



Decision process

After a public hearing, all evidence presented in a case is reviewed. This includes evidence provided by the utility company, the OCA, objectors and persons with an interest in eminent domain parcels of land. Typically, the administrative law judge hearing the case will issue a proposed decision order. If parties, objectors, or persons with an interest in an eminent domain parcel wish to appeal a proposed decision, they must file notice of appeal within 15 days after the proposed decision is issued. The Board has the authority to review a proposed decision even if no one appeals it. If there is no appeal and the Board does not review it, a proposed decision becomes the final decision of the Board on the 16th day after it was issued. If there is an appeal or the Board decides to review a proposed decision, the Board will issue a procedural order that tells the parties how the appeal will be handled. The Board itself would issue a final decision order in such a case.



When the Board has decided the case, any party to the proceeding may file for rehearing within 20 days. Upon issuance of a final decision on rehearing, any party may appeal to Iowa District Court within 30 days.



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Transmission line franchises

Iowa law provides the Iowa Utilities Board (IUB) the authority to grant or deny the franchise requests of



utility companies to construct, maintain, and operate electric transmission lines outside of cities in Iowa. The IUB must grant a franchise in each county where a utility proposes transmission lines. The IUB does not have authority

regarding transmission lines that run inside of city limits. In addition, the Federal Energy Regulatory Commission has supplemental authority regarding the siting of electric transmission lines running beyond the boundaries of the state. A transmission line is defined as an electric line operating at 69,000 volts or more.

Iowa law states that the IUB may grant franchises in whole or in part upon such terms, conditions, and restrictions as are just and proper, and with such modifications as to line location and route as are just and proper. To obtain a franchise, the applicant utility must show that the proposed transmission line is necessary to serve a public use. The utility must also show that the proposed line is reasonably related to an overall plan of transmitting electricity in the public interest and will conform to established construction and safety requirements.

Iowa Code Chapter 478 and IUB rules at 199 Iowa Administrative Code Chapters 11 and 25 govern electric transmission line cases. There are additional procedural laws that govern electric transmission line cases in Iowa Code Chapter 17A and addition-

al procedural rules at 199 IAC Chapters 1 and 7. There are links to Iowa Code and the IUB rules on the IUB Web site, <http://iub.iowa.gov>.

Informational meetings

A utility is required to hold a public informational meeting not less than 30 days before a franchise petition can be filed with the IUB. A public informational meeting must be held in each Iowa county through which a proposed line would be constructed. Notice of a public informational meeting must be provided at least 30 days in advance to each landowner with property that may be affected by the project. Affected landowner determinations are based on county real estate assessment records. The utility cannot discuss easements (land use rights) with landowners until after a public informational meeting. Representatives of the utility and the IUB will be present at the informational meeting. The purpose of the informational meeting is to explain to landowners the franchise process, rights of the landowners, and the scope of the proposed project and to provide an opportunity for landowners to ask questions. No formal record is made of informational meetings. Anyone wishing to present evidence to the IUB either favoring or opposing a proposed project must file written comments or appear at the hearing to comment. The utility may not begin contacting landowners to secure easements until an informational meeting has been held in the county. The only exception to the informational meeting requirement is for short lines that would affect less than one mile of pri-



vate property rights. In such cases, an informational meeting is not required.

Typically, the utility will secure as many voluntary easements as possible before filing a formal franchise petition with the IUB. If the utility has been unable to secure all voluntary easements, it may petition the IUB for the right of eminent domain. The IUB has the authority to grant eminent domain to the extent it is necessary for the public use, which the applicant utility has the burden to prove. A county compensation commission, not the IUB, determines the matter of just compensation for property rights taken by eminent domain.

Public hearings

Once the utility files a franchise petition, Iowa law requires that a public hearing be held on the proposed electric transmission line if objections to the franchise petition are filed or if the utility company requests the right of eminent domain. If the line exceeds one mile, the hearing must be held in the county seat of the county located at the midpoint of the proposed transmission line. Landowners may send written objections to the Iowa Utilities Board, 1375 E. Court, RM 69, Des Moines, Iowa 50319. A comment form that may be used when filing an objection is available at <http://iub.iowa.gov>. Persons filing objections should include their full name and mailing address and indicate the IUB docket number in their correspondence. Objectors and persons with property subject to a request for eminent domain will receive notices about the proceeding and have an opportunity to participate in the hearing process.