Iowa Utilities Board

INFORMATIONAL MEETING PRESENTATION
Electric Transmission Lines

Iowa Code Chapter 478 is the law governing the construction of electric transmission lines in Iowa. In accordance with Iowa Code section 478.2, the following is a summary of electric line franchise process before the Utilities Board, and of the legal rights of affected landowners.

If you wish to review the laws or rules referenced in this presentation, they can be found at https://www.legis.iowa.gov/IowaLaw/statutoryLaw.aspx. The Board's administrative rules may be found under "Iowa Administrative Code"-"Utilities Division [199]"-"Chapter 11."

THE FRANCHISE PROCESS

1. Iowa Code Chapter 478 is the law, which governs the construction of electric lines in Iowa. Any electric line which operates at 69,000 volts or more, and which is located outside the boundaries of a city, requires a franchise from the Utilities Board. In this context a "franchise" is a permit authorizing the construction, operation, and maintenance of the line. Lines operating at 69,000 volts or more are defined as electric transmission lines. A company seeking a franchise can also request that the Utilities Board grant the right of eminent domain, or condemnation, to obtain the right-of-way needed for the project.

2. If an electric transmission line would extend for one mile or more on privately owned real estate, Iowa Code section 478.2 requires that before a franchise can be requested from the Utilities Board, an informational meeting must be held. The company proposing the electric line is required to notify all parties with an ownership interest in possibly affected property of the meeting.

3. At informational meetings, a representative of the Utilities Board presents a summary of the legal rights of affected landowners, and a representative of the company explains the proposed project. The company cannot begin right-of-way negotiations with landowners until after this meeting, and cannot petition the Utilities Board for a franchise until at least 30 days after this meeting.

4. This informational meeting is not a hearing upon which the Utilities Board will base a decision. At this time, there is no franchise petition before the Utilities Board. The purpose of this meeting is to provide you with information relative to a proposed project, not to receive evidence on its merits. No formal record of this meeting is made. Anyone wishing to present evidence to the Utilities Board in favor of or opposing this project does not do so at this meeting.

5. After a petition is filed, there are two procedural paths toward a Utilities Board decision. If no objections are on file and the petition does not request eminent domain, a notice is published for two consecutive weeks in a newspaper located in the county. If no objections are filed within 20 days of the second publication, a franchise may be granted without a hearing.

If objections are filed, however, a hearing may be held. If objections are on file, or if eminent domain is requested, a hearing must be held. Notice of the hearing will be published, and objectors and/or owners of eminent domain parcels will receive notice by mail.

6. When the electric line for which the hearing is being held is more than one mile long, Iowa Code section 478.6 requires the hearing be held in the county seat of the county located at the midpoint of the proposed line.

7. In its proceedings, the Utilities Board is not the advocate or protector of any particular landowner, landowners, or any other party. The duty of the Utilities Board is to determine whether a proposed electric line is necessary to serve a public use, represents a reasonable relationship to an overall plan of transmitting electricity in the public interest, and meets all other legal requirements. The Utilities Board cannot serve as a legal advisor to any party. If you believe you have need for a personal advocate, i.e., lawyers, you may retain them at your expense.

8. Utilities Board proceedings are conducted pursuant to Iowa Code Chapters 478 and 17A, and 199 Iowa Administrative Code Chapter 11. The decision whether to grant a franchise and/or the right of eminent domain will be made by the Utilities Board. The Utilities Board may appoint an administrative law judge to preside over the hearing and issue a proposed decision. This proposed decision will become the final decision of the Utilities Board unless it is appealed to the Board by a party to the case within the time limit provided in the proposed decision.

9. When the Utilities Board has decided the case, either initially or on appeal from a proposed decision, any party to the proceeding may file for rehearing within 20 days under Iowa Code Sections 17A.16 and 478.32. Once a final decision has been made, any party may appeal to the District Court within 30 days under Iowa Code sections 17A.19 and 478.32.

OBJECTIONS

1. Under Iowa Code Section 478.5, you have the right to file written objections to the proposed project.

2. You may file your written objection using the Utilities Board's electronic filing system (EFS). Electronic filing of the objection is optional, not mandatory. If you choose to file electronically, prepare your written objection using the form that is available on the Board's Web site or by using the word processing program on your computer to prepare a letter that states your objection and includes information requested on the objection form. Access the EFS by at http://efs.iowa.gov or by clicking on the link on the Board's Web site at http://iub.iowa.gov. Detailed instructions about using EFS to file your objection are found in the attached "Electronic Filing Instructions."

3. Objections may be filed at any time but not later than 20 days after the date of last publication of the notice. The Utilities Board may, but is not required to, allow late filed objections, in which case the company must be given reasonable time to respond. Verbal objections, other than statements made on the record during a hearing, will not be part of the official case record.

4. A suggested form of objection is available. By providing this form the Utilities Board is not promoting the filing of objections, and use of this form is not required to file an objection. The form is provided to show the type of information an objection should include. See attached *Suggested Form for Filing Objections*.

5. You have the right to appear before the Utilities Board at any and all hearings, with or without the aid of legal counsel.

6. At formal hearings, objectors will be given reasonable opportunity to cross-examine company witnesses, and to present witnesses on their own behalf. The burden is on the company to prove the necessary elements of its petition.

7. Utilities Board proceedings are quasi-judicial in nature. Hearings are comparable to courtroom proceedings, and follow similar rules of testimony, cross-examination, and presentation of evidence. The person presiding over the hearing will assist participants unfamiliar with such proceedings, but cannot assist any party with presentation of their case.

8. Anyone who files an objection will be presumed to be a party. However, no objector is entitled to party status merely because that person has filed an objection. To qualify as a party, the objector must be able to demonstrate some right or interest that may be affected by the granting of the franchise. An objector's status may be challenged at the hearing.

9. All communications, except the filing or withdrawal of objections, from you to the Board having to do with the case (such as motions, prepared testimony or exhibits) must be filed electronically using EFS. If you cannot participate using

EFS, send the Board a written request asking for permission under Board rule 14.4(1) to participate on paper and explaining why you cannot participate electronically. The attached instructions on electronic filing include the method for requesting permission to continue on paper.

RIGHT-OF-WAY

1. To locate an electric line on private property, the company must obtain the necessary rights from the landowner or owners. The legal document providing such rights is called an easement. An easement may be voluntary, or it may be obtained through the use of eminent domain.

2. Generally speaking, an easement is an acquired privilege of the company for the use of a property. The landowner retains ownership, but use of the easement area is restricted by conditions set forth in the easement or by law. The rights sought by the company will be similar whether obtained by voluntary easement or by eminent domain.

3. The Utilities Board does not supervise or control negotiations for the purchase or acquisition of voluntary right-of-way easements. Once this informational meeting is completed, negotiations are strictly between you and the company, either with or without your use of private counsel.

4. Landowners should read carefully the form of easement provided by the company and be thoroughly aware of the rights the company seeks. The landowner has the right to negotiate with the company over the terms of the easement.

5. If you decide to sign a voluntary easement, you have for a limited time the right under Iowa Code section 478.33 to cancel the agreement. Cancellation must be by certified mail with return receipt requested, mailed to the company's principal place of business. The cancellation must be received by the company within seven days, excluding Saturday and Sunday, of the date the agreement was signed.

The company must inform you in writing of your right to cancel, and provide you with a form in duplicate for the notice of cancellation. The right of cancellation may be exercised only once.

6. Iowa Code section 478.15 contains provisions for the reversion of easements which the company obtained but does not use or ceases to use.

7. Iowa Code section 478.17 gives the company the right of reasonable access to its lines for purposes of construction, reconstruction, repairs, and maintenance. The company must pay the owner of the land and crops for all damages resulting from such entry and action. The law allows execution of agreements to cover such situations between the owner of the land or crops and the company. Damage settlements are different than, and separate from, payment for the easement, although an easement may include provisions dealing with damages.

EMINENT DOMAIN (CONDEMNATION)

1. If the company cannot obtain the rights it seeks by voluntary easement, it may petition the Utilities Board for authority to take those rights by eminent domain, or condemnation.

2. Under federal and state law, private property cannot be taken for public use without: a) A need to serve a public use, and b) Just compensation.

Under Iowa Code Chapter 478, the Utilities Board determines whether the company has shown a need to serve a public use. The matter of just compensation for property rights taken by eminent domain is not determined by the Utilities Board, but rather it is determined by a "Compensation Commission" appointed from your county under Iowa Code Chapter 6B.

3. At this time, the company does not have the right of eminent domain. In other words, it does not have the right of condemnation. The right of eminent domain may only be granted by the Utilities Board after a public hearing on the eminent domain request.

4. You will receive written notice of the public hearing if the right of eminent domain is requested to acquire rights to locate an electric transmission line on your property.

5. Iowa Code section 478.2 requires that at informational meetings the Utilities Board representative shall distribute and review a Statement of Property Owner's Rights prepared by the Iowa Attorney General. These have been adopted as Administrative Rules in 61 IAC Chapter 34. In these rules, an "acquiring agency" is not limited to government agencies; it can include private entities that by law have the right of eminent domain. The rules primarily address acquisition of property ownership, but some provisions apply to condemnation of easements. See attached *Statement of Property Owner's Rights*.

There are 12 property rights set forth in Chapter 34. These rights pertain to owners of record who may have property acquired by condemnation. Condemnation is the process of taking private property for public use through the power of eminent domain.

The rights specified in Chapter 34 are derived from Iowa Code chapters 6A and 6B, which pertain to procedures for condemnation, and Chapter 316 on the relocation of persons displaced by highways. These rights do not pertain when a landowner voluntarily negotiates for an easement.

If your property would be condemned, the first right on the statement, Number 1, would apply. The Iowa Constitution guarantees the right to just compensation for the taking of property. Rights 5, 6, and 10 could also apply to property condemned for a utility easement. These rights address procedures in condemnation proceedings taken by the court-appointed compensation commission in determining the amount to be paid to the landowner. Other rights may only apply if property ownership is to be obtained by condemnation. An easement is a right of use over the property of another, but does not transfer ownership.

The rights set out in Chapter 34 are not a full and complete list or explanation of a landowner's rights under condemnation law. For a more thorough presentation of an owner's rights, you should refer directly to the Iowa Code or contact an attorney of your choice.

Rev. 10/13

TYPICAL SEQUENCE OF EVENTS

NOTE: You should not attach any rigid significance to following the sequence. It is merely an example to aid you in understanding the process.

1. Company planning determines need for the line between termini.

2. Prime route, and possibly alternative routes, are tentatively selected.

3. Route landowners and tenant names and addresses collected.

4. Informational meeting notices mailed.

5. Informational meeting is held.

6. Company right-of-way personnel contact landowners to solicit voluntary easements.

7. The company files petition for franchise with the Utilities Board. Eminent domain may be requested at this same time or later.

8. Newspaper publishes notices of petition.

9. Public hearing is held by the Utilities Board.

10. A Utilities Board decision denying or granting franchise is issued. If the petition requested eminent domain, a ruling granting or denying that right will also be issued.

11. If the petition and/or eminent domain is denied, the company may petition for rehearing, or appeal the Utilities Board denial to the courts. If the petition is granted, the landowner may petition for rehearing or appeal the Utilities Board decision to the courts.

To simplify the balance of this list; it is assumed that the Utilities Board granted the franchise and the right of eminent domain and the decision was not appealed.

12. The company may commence construction where it has voluntary easement.

13. If eminent domain actions are taken, the company petitions the chief judge of the judicial district for the county involved to appoint a Compensation Commission. (Iowa Code Chapter 6B).

14. The Compensation Commission sets compensation amounts, the company pays landowners who will accept; posts payment with the sheriff for those who won't, and may commence construction over the balance of the route.

15. Either the landowners or the company may appeal the amount determined by the Compensation Commission to the courts.

16. Line construction and clean up completed.

17. Company pays voluntary easement amounts, agreed-to construction damages to eminent domain parcel owners, and give written notice of renegotiation right. See Iowa Code Section 6B.52

18. If the landowner or tenant and company cannot agree on the amount of construction damages, and there is no provision in the easement or other agreement calling for such disputes to be settled by an arbitrator or other means, the landowner or tenant may petition the county board of supervisors to establish a Compensation Commission to determine the damages.

19. Either the landowners or the company may appeal the amount determined by the Compensation Commission to the courts.

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SUGGESTED FORM FOR FILING OBJECTIONS

The use of this form is not required. If you have interest in several properties, you may wish to attach additional sheets for each affected property. Completed forms may be filed electronically at http://efs.iowa.gov . Written forms may be mailed to: Executive Secretary, Iowa Utilities Board, 1375 E Court Ave Rm 69, Des Moines, Iowa 50319-0069.

A. _____
(Name of company or utility)

B. _____
(Date and Location, if known, of Informational Meeting)

_____
(Docket Number, if known, of the proceeding)

C. _____
(Statement of the nature of the objection(s))

_____

_____

_____
(Use additional sheets, if necessary)

D. _____
(A description of the remedy or relief that you seek. If you are proposing an alternate route, please attach map.)

_____

E. _____ _____
(Name -- typed or printed) (Signature)

_____ _____
(Mailing address) (Date)

_____ ( )_____
(City & Zip Code) (Phone)

F. _____
(Email address)

G. _____
(Description of affected property, including Section, Township, Range and County)

H. _____
(Statement of your property interest: such as owner, contract purchaser, mortgagor, lessee-tenant, holder of mineral rights, etc.)

I. Are you the party in possession? ___ Yes ___ No

ELECTRONIC FILING INSTRUCTIONS

If you want to file your objection electronically through the Board's Electronic Filing System (EFS), follow these steps to prepare and submit your objection:

1. Prepare your written objection. You can use the form available on the Board's Web site or you can prepare a letter stating your objection.

   - To access the objection form on the Board's Web site, follow the links on the Board's Web site at http://iub.iowa.gov for "How to File" on the left-hand side of the page to "Forms & Applications," "Safety & Engineering," and click on the link to the appropriate objection form. The form is a "fillable form," which means that you can enter information on the form from your computer. When you are done, save the form on your computer.
   - If you do not use the objection form available on the Board's Web site, use the word processing program on your computer to prepare a letter stating your objection and including the information requested on the Board's sample objection form. Save the letter on your computer.

2. Access EFS at http://efs.iowa.gov or from the Board's Web site at http://iub.iowa.gov by clicking on the link to EFS on the left side of the screen.

3. From the EFS home page, click on "Submit Filing" on the menu at the top of the screen.

4. Clicking on *(S)ubmit Filing As Guest* will take you to a screen where you will provide the following information about you (the submitter) and your filing (the objection).

   - If you know the Docket Number (E-xxxxx, for example), enter it in the Docket Number field.
   - Enter "Objection" in the Filing Title Field. Use a title that will help the Board understand which application you are objecting to, such as "Objection to [Name of Company] Electric Transmission line in [Name of County]."
   - Enter your name in the Submitter Name field. If you are filing the objection for a company, search for the name of the company using the Company Search magnifying glass icon to the right of the Submitter Company field. If the name of the company does not appear in search results, or if you are filing the objection for another individual, enter the name of the company or individual in the Submitter Company field and provide all required information about the company or individual in the fields in the lower half of the screen.
   - Enter your Email address and mailing address.
   - Scroll down to the bottom of the screen and identify the characters that show in the image on the left side of the screen and then press the *(A)dd Documents* button to proceed to the next step in the filing process. To start over, press *(C)lear Screen*.

5. On this screen you will select the document you wish to file using the Browse function.

   - Click the *Browse...* button to select the file on your computer that you would like to submit.

- Enter a title for the document. In some cases, such as where the filing consists of only one document, the document title will be the same as the Filing Title entered on the previous screen.
- Click on the *Add This Document to Filing* button. After adding a document, a list of the documents included in the filing will show at the bottom of the screen. From this list, you can delete the document or verify the file size.
- If you have another document to include in your filing, return to the Browse function to select the document and add it to the filing. Continue adding documents until all documents are included.
- If you wish to start over in entering information about the document, click on *(C)lear Screen*.
- If you want to cancel the filing, click on *Ca(n)cel Filing*.
- Check the list. If you find a document in the list that you don't want to file, click *delete* and the file will be removed from the filing. Note that deleting the document from the list of documents to be filed does not delete the file from your computer.
- When you are ready to submit the filing, click on *(S)ubmit Filing*.
- You will see an "Upload Complete" message when your filing has been uploaded into EFS.

INSTRUCTIONS FOR REQUESTING PERMISSION TO FURTHER PARTICIPATE ON PAPER

All communications, except the filing or withdrawal of objections, from you to the Board having to do with the case (such as motions, prepared testimony or exhibits) must be filed electronically using EFS. If you want to submit further communications to the Board and you cannot do so electronically, you must ask the Board for permission to submit paper filings. File a written request for permission to file paper documents under subrule 14.4(1) with the Board's Executive Secretary at 1375 E Court Ave Rm 69, Des Moines, Iowa 50319-0069. File the original and ten copies of the request. The request should explain why you are not able to use the Board's Internet-based electronic filing system. The Board will issue an order responding to your request.

CHAPTER 478

ELECTRIC TRANSMISSION LINES

Referred to in §6B.2A, 6B.42, 306A.3, 318.9, 437A.7, 474.1, 474.9, 476.1A, 476A.1, 546.7, 716.7

478.1 Franchise.
478.2 Petition for franchise — informational meetings held.
478.3 Petition — requirements.
478.4 Franchise — hearing.
478.5 Notice — objections filed.
478.6 Taking under eminent domain.
478.7 Form of franchise.
478.8 Valuation of franchise.
478.9 Exclusive rights — duration of franchise.
478.10 Franchise transferable — notice.
478.11 Record of franchises.
478.12 Acceptance of franchise.
478.13 Extension of franchise — public notice.
478.14 Service furnished.
478.15 Eminent domain — procedure — entering on land — reversion on nonuse.
478.16 Repealed by 86 Acts, ch 1198, §1.
478.17 Access to lines — damages.
478.18 Supervision of construction — location.
478.19 Manner of construction.
478.20 Distance from buildings.
478.21 Nonuse — revocation of franchise — extensions of time.
478.22 Action for violation.
478.23 Prior franchises — legislative control.
478.24 Violations.
478.25 Wire crossing railroads — supervision.
478.26 Wires across railroad right-of-way at highways.
478.27 Wires — how strung.
478.28 Examination of existing wires.
478.29 Civil penalties.
478.30 Crossing highway.
478.31 Temporary permits for lines less than one mile.
478.32 Rehearing — judicial review.
478.33 Cancellation.
478.34 and 478.35 Reserved.
478.36 Repealed by 92 Acts, ch 1103, §11, 12. See chapter 480.

478.1 Franchise.

1. A person shall not construct, erect, maintain, or operate a transmission line, wire, or cable that is capable of operating at an electric voltage of sixty-nine kilovolts or more along, over, or across any public highway or grounds outside of cities for the transmission, distribution, or sale of electric current without first procuring from the utilities board within the utilities division of the department of commerce a franchise granting authority as provided in this chapter.

2. A franchise shall not be required for electric lines constructed entirely within the boundaries of property owned by a person primarily engaged in the transmission or distribution of electric power or entirely within the boundaries of property owned by the end user of the electric power.

3. If the transmission line, wire, or cable is capable of operating only at an electric voltage of less than sixty-nine kilovolts, no franchise is required. However, the utilities board shall retain jurisdiction over all such lines, wires, or cables.

4. A person who seeks to construct, erect, maintain, or operate a transmission line, wire, or cable that will operate at an electric voltage of less than sixty-nine kilovolts outside of cities and that cannot secure the necessary voluntary easements to do so may petition the board pursuant to section 478.3, subsection 1, for a franchise granting authority for such construction, erection, maintenance, or operation, and for the use of the right of eminent domain.

5. Notwithstanding any other provision of this chapter, if an existing transmission line, wire, or cable is operating at thirty-four and one-half kilovolts, it may be franchised, rebuilt, and upgraded to be capable of operation at sixty-nine kilovolts using an abbreviated franchise process if the upgraded line will meet required safety standards, will be on substantially the same right-of-way, and will have substantially the same effect on the underlying properties. The abbreviated franchise process shall not require published notice or a public informational meeting. The board may adopt rules defining relevant terms, setting forth the steps of the abbreviated process, and specifying the requirements for the petition and landowner notification. The petitioner shall provide written notice concerning the anticipated construction to the last known address of the owners of record of the

property where construction will occur and to the parties residing on such property. The franchise may be granted if the board finds the upgraded line is necessary to serve a public use and represents a reasonable relationship to an overall plan of transmitting electricity in the public interest. The franchise shall not become effective until the petitioner has paid, or agreed to pay, all costs and expenses of the franchise proceeding specified in section 478.4.

[S13, §1527-c, 2120-n; C24, 27, 31, 35, 39, §**8309;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §489.1; C77, 79, 81, §478.1]

84 Acts, ch 1101, §2; 94 Acts, ch 1136, §1; 97 Acts, ch 113, §1; 2002 Acts, ch 1048, §1, 5; 2009 Acts, ch 66, §1, 2

Referred to in §478.31

[P] Authorization in cities, §364.2

478.2 Petition for franchise — informational meetings held.

1. Any person authorized to transact business in the state including cities may file a verified petition asking for a franchise to erect, maintain, and operate a line or lines for the transmission, distribution, use, and sale of electric current outside cities and for such purpose to erect, use, and maintain poles, wires, guy wires, towers, cables, conduits, and other fixtures and appliances necessary for conducting electric current for light, heat, or power over, along, and across any public lands, highways, streams, or the lands of any person, company, or corporation, and to acquire necessary interests in real estate for such purposes.

2. As conditions precedent to the filing of a petition with the utilities board requesting a franchise for a new transmission line, and not less than thirty days prior to the filing of such petition, the person shall hold informational meetings in each county in which real property or rights will be affected.

a. A member of the board, the counsel of the board, or a hearing examiner designated by the board shall serve as the presiding officer at each meeting, shall present an agenda for such meeting which shall include a summary of the legal rights of the affected landowners, and shall distribute and review the statement of individual rights required under section 6B.2A, subsection 1. A formal record of the meeting shall not be required.

b. The meeting shall be held at a location reasonably accessible to all persons that may be affected by the granting of the franchise.

3. The person seeking the franchise for a new transmission line shall give notice of the informational meeting to each person, company, or corporation determined to be the landowner affected by the proposed project and any person, company, or corporation in possession of or residing on the property.

a. For the purposes of this section, unless the context otherwise requires:

(1) *"Landowner"* means a person listed on the tax assessment rolls as responsible for the payment of real estate taxes imposed on the property.

(2) *"Transmission line"* means any line capable of operating at sixty-nine kilovolts or more and extending a distance of not less than one mile across privately owned real estate.

b. The notice shall contain the following:

(1) The name of the applicant.

(2) The applicant's principal place of business.

(3) A general description and purpose of the proposed project.

(4) The general nature of the right-of-way desired.

(5) The possibility that the right-of-way may be acquired by condemnation if approved by the utilities board.

(6) A map showing the route of the proposed project.

(7) A description of the process used by the utilities board in making a decision on whether to approve a franchise or grant the right to take property by eminent domain.

(8) A statement that the landowner has the right to be present at such meetings and to file objections with the utilities board.

(9) The place and time of the meeting.

c. The notice shall be served not less than thirty days prior to the time set for the meeting by certified mail with return receipt requested and shall be published once in a newspaper of general circulation in the county at least one week and not more than three weeks before

the time of the meeting and such publication shall be considered notice to landowners whose residence is not known.

4. A person seeking rights under this chapter shall not negotiate or purchase any easements or other interests in land in any county known to be affected by the proposed project prior to the informational meeting.

[S13, §2120-n; C24, 27, 31, 35, 39, §**8310;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §489.2; C77, 79, 81, §478.2]

94 Acts, ch 1136, §2; 2000 Acts, ch 1179, §22, 30; 2002 Acts, ch 1048, §2, 5

Referred to in §6B.2A

478.3 Petition — requirements.

1. All petitions shall set forth:

a. The name of the individual, company, or corporation asking for the franchise.

b. The principal office or place of business.

c. The starting points, routes, and termini of the proposed lines, accompanied with a map or plat showing such details.

d. A general description of the public or private lands, highways, and streams over, across, or along which any proposed line will pass.

e. General specifications as to materials and manner of construction.

f. The maximum voltage to be carried over each line.

g. Whether or not the exercise of the right of eminent domain will be used and, if so, a specific reference to the lands described in paragraph *"d"* which are sought to be subject thereto.

h. An allegation that the proposed construction is necessary to serve a public use.

2. *a.* Petitions for transmission lines capable of operating at sixty-nine kilovolts or more and extending a distance of not less than one mile across privately owned real estate shall also set forth an allegation that the proposed construction represents a reasonable relationship to an overall plan of transmitting electricity in the public interest and substantiation of such allegations, including but not limited to, a showing of the following:

(1) The relationship of the proposed project to present and future economic development of the area.

(2) The relationship of the proposed project to comprehensive electric utility planning.

(3) The relationship of the proposed project to the needs of the public presently served and future projections based on population trends.

(4) The relationship of the proposed project to the existing electric utility system and parallel existing utility routes.

(5) The relationship of the proposed project to any other power system planned for the future.

(6) The possible use of alternative routes and methods of supply.

(7) The relationship of the proposed project to the present and future land use and zoning ordinances.

(8) The inconvenience or undue injury which may result to property owners as a result of the proposed project.

b. The utilities board may waive the proof required for such allegations which are not applicable to a particular proposed project.

c. The petition shall contain an affidavit stating that informational meetings were held in each county which the proposed project will affect and the time and place of each meeting.

3. For the purpose of this section, the term *"public"* shall not be interpreted to be limited to consumers located in this state.

[S13, §2120-n; C24, 27, 31, 35, 39, §**8311;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §489.3; C77, 79, 81, §478.3]

94 Acts, ch 1136, §3; 2001 Acts, 1st Ex, ch 4, §34, 36; 2002 Acts, ch 1048, §3, 5; 2011 Acts, ch 25, §143

Referred to in §478.1, 478.31

478.4 Franchise — hearing.

The utilities board shall consider the petition and any objections filed to it in the manner provided. It shall examine the proposed route or cause any engineer selected by it to do so. If a hearing is held on the petition it may hear testimony as may aid it in determining the propriety of granting the franchise. It may grant the franchise in whole or in part upon the terms, conditions, and restrictions, and with the modifications as to location and route as may seem to it just and proper. Before granting the franchise, the utilities board shall make a finding that the proposed line or lines are necessary to serve a public use and represents a reasonable relationship to an overall plan of transmitting electricity in the public interest. A franchise shall not become effective until the petitioners shall pay, or file an agreement to pay, all costs and expenses of the franchise proceeding, whether or not objections are filed, including costs of inspections or examinations of the route, hearing, salaries, publishing of notice, and any other expenses reasonably attributable to it. The funds received for the costs and the expenses of the franchise proceeding shall be remitted to the treasurer of state for deposit in the department of commerce revolving fund created in section 546.12 as provided in section 476.10.

[S13, §2120-n; C24, 27, 31, 35, 39, §**8312, 8313;** C46, 50, 54, 58, 62, §489.4, 489.5; C66, 71, 73, 75, §489.4; C77, 79, 81, §478.4]

87 Acts, ch 234, §431; 94 Acts, ch 1107, §82; 2009 Acts, ch 181, §53

Referred to in §476.10, 478.1, 478.13

478.5 Notice — objections filed.

Upon the filing of such petition, the utilities board shall cause a notice, addressed to the citizens of each county through which the proposed line or lines will extend, to be published in a newspaper located in each such county for two consecutive weeks. Said notice shall contain a general statement of the contents and purpose of the petition, a general description of the lands and highways to be traversed by the proposed line or lines, and shall state that any objections thereto must be filed in writing with the board not later than twenty days after the date of last publication of the notice. Any person, company, city or corporation whose rights may be affected, shall have the right to file written objections to the proposed improvement or to the granting of such franchise; such objections shall be filed with the board not later than twenty days after the date of last publication and shall state the grounds therefor. The board may allow objections to be filed later in which event the applicant must be given reasonable time to meet such late objections.

[S13, §2120-n; C24, 27, 31, 35, 39, §**8312, 8313;** C46, 50, 54, 58, 62, §489.4, 489.5; C66, 71, 73, 75, §489.5; C77, 79, 81, §478.5]

Referred to in §478.31

478.6 Taking under eminent domain.

Upon the filing of objections or when a petition involves the taking of property under the right of eminent domain, the utilities board shall set the matter for hearing and fix a time and place for the hearing. The hearing shall be not less than thirty days from the date of last publication and, where a new proposed transmission line exceeds one mile in length, shall be held in the county seat of the county located at the midpoint of the proposed electric transmission line. Written notice of the time and place of the hearing shall be served by the board, by ordinary mail, on the applicant, and those having filed objections. If no objections are filed and the petition does not involve the taking of property under the right of eminent domain, the board may grant a franchise without a hearing; however, the board may conduct a hearing if the board deems it necessary.

Where a petition seeks the use of the right of eminent domain over specific parcels of real property, the board shall prescribe the notice to be served upon the owners of record and parties in possession of the property over which the use of the right of eminent domain is sought. The notice shall include the statement of individual rights required pursuant to section 6B.2A, subsection 1.

When the board grants a franchise to any person, company, or corporation for the construction, erection, maintenance, and operation of transmission lines, wires, and cables

for the transmission of electricity, such person, company, or corporation shall be vested with the power of condemnation to such extent as the board may approve and find necessary for public use.

[C66, 71, 73, 75, §489.6; C77, 79, 81, §478.6; 81 Acts, ch 159, §1]

2000 Acts, ch 1179, §23, 30

478.7 Form of franchise.

The general counsel for the utilities board shall prepare a blank form of franchise, which shall provide space for a general description of the improvement authorized, the name and address of the person or corporation to whom granted, the general terms and conditions upon which the franchise is granted, and other things as necessary. This blank form shall be filled out and signed by the chairperson of the utilities board which grants the franchise, and the official seal shall be attached. The franchise is subject to regulations and restrictions as the general assembly prescribes, and to rules, not inconsistent with statutes, as the utilities board may establish.

[S13, §2120-n; C24, 27, 31, 35, 39, §**8314;** C46, 50, 54, 58, 62, §489.6; C66, 71, 73, 75, §489.7; C77, 79, 81, §478.7]

83 Acts, ch 127, §41

[P] Legislative control in general, §491.39

478.8 Valuation of franchise.

No financial consideration shall be charged for such franchise. In fixing the value for rate-making purposes of the property of any person, company, or corporation owning it or operating under it no account shall be taken of, and no increased value shall be allowed for, any such franchise, except that the reasonable cost to the petitioners of obtaining said franchise may be included in the cost of constructing said line.

[C24, 27, 31, 35, 39, §**8315;** C46, 50, 54, 58, 62, §489.7; C66, 71, 73, 75, §489.8; C77, 79, 81, §478.8]

478.9 Exclusive rights — duration of franchise.

No exclusive right shall ever be given by franchise or otherwise to any person, company, corporation or city to conduct electrical energy, or to place electric wires, along or over or across any public highway or public place or ground; and no franchise or privilege shall ever be granted for any such purpose for a longer period than twenty-five years.

[C24, 27, 31, 35, 39, §**8316;** C46, 50, 54, 58, 62, §489.8; C66, 71, 73, 75, §489.9; C77, 79, 81, §478.9]

478.10 Franchise transferable — notice.

When any such electric transmission line or lines are sold and transferred either by voluntary or judicial sale, such transfer shall carry with it the franchise under which the said improvement is owned, maintained, or operated. If a transfer of such franchise is made before the improvement for which it was issued is constructed, in whole or in part, such transfer shall not be effective till the person, company, or corporation to whom it was issued shall file in the office of the utilities board granting the franchise a notice in writing stating the date of such transfer and the name and address of the transferee.

[C24, 27, 31, 35, 39, §**8317;** C46, 50, 54, 58, 62, §489.9; C66, 71, 73, 75, §489.10; C77, 79, 81, §478.10]

478.11 Record of franchises.

The utilities board shall keep a record of all such franchises granted and issued by it, when and to whom issued, with a general statement of the location, route, and termini of the transmission line or lines covered thereby. When any transfer of such franchise has been made as provided in this chapter, the board shall also make note upon its record of the date of such transfer and the name and address of the transferee.

[C24, 27, 31, 35, 39, §**8318;** C46, 50, 54, 58, 62, §489.10; C66, 71, 73, 75, §489.11; C77, 79, 81, §478.11]

478.12 Acceptance of franchise.

Any person, company, or corporation obtaining a franchise as in this chapter provided, or owning or operating under one, shall be conclusively held to an acceptance of the provisions thereof and of all laws relating to the regulation, supervision, or control thereof which are now in force or which may be hereafter enacted, and to have consented to such reasonable regulation as the utilities board may, from time to time, prescribe. The provisions of this chapter shall apply equally to assignees as well as to original owners.

[S13, §2120-p; C24, 27, 31, 35, 39, §**8319;** C46, 50, 54, 58, 62, §489.11; C66, 71, 73, 75, §489.12; C77, 79, 81, §478.12]

478.13 Extension of franchise — public notice.

1. Any person, firm, or corporation owning a franchise granted under this chapter or previously existing law may petition the utilities board for an extension of the franchise. The board shall adopt rules governing extension applications and proceedings with the intent that the extension applications and proceedings are less extensive than original applications and proceedings. Assessment of costs shall be as provided in section 478.4.

2. If the extension of franchise is sought for all lines in a given county or counties, the published notice need not contain a general description of the lands and highways traversed by the lines, but in lieu of containing such description the petitioner may offer to provide to any interested party, free of charge and within ten working days, a current, accurate map showing the location of the lines for which the franchise extension is sought. The public notice shall advise the citizens of the county or counties affected of the availability of such map. If this alternate procedure is not followed, the publication of the description of the lands and highways traversed by the lines shall be done in the manner as in an original application for franchise.

3. An extension under this section shall be granted only for a valid, existing franchise, and the lands, roads, or streams covered by the franchise over, through, or upon which electric transmission lines have in fact been erected or constructed and are in use or operation at the time of the application for the extension of the franchise.

4. The application for the extension of the franchise shall be accompanied by the written consent of the applicant that the provisions of all laws relating to public utilities, franchises, and transmission lines, or to the regulation, supervision, or control thereof which are then in force or which may be thereafter enacted, shall apply to its existing line or lines, franchises, and rights as if the franchise had been granted, the lines had been constructed, or rights had been obtained under the provisions of this chapter.

5. An extension of a franchise is not required for an electric transmission line that has been permanently retired from operation at sixty-nine kilovolts or more but that remains in service at a lower voltage. The board shall be notified of changes in operating status.

[S13, §2120-o; C24, 27, 31, 35, 39, §**8320;** C46, 50, 54, 58, 62, §489.12; C66, 71, 73, 75, §489.13; C77, 79, 81, §478.13]

94 Acts, ch 1136, §4; 97 Acts, ch 63, §1; 2002 Acts, ch 1048, §4, 5; 2002 Acts, ch 1097, §1

478.14 Service furnished.

Any city which owns or operates a system for the distribution of electric light or power, and which has obtained electric energy for such distribution from any person or firm or corporation owning or operating an electric light and power plant or transmission line, shall be entitled to have the service reasonably needed by such municipality and its patrons continued at and for a reasonable rate and charge and under reasonable rules of service.

It shall be unlawful for the owner or operator of such light and power plant or transmission line to disconnect or discontinue such service (except during nonpayment of reasonable charges) so long as such operator holds or enjoys any franchise to go upon or use any public streets, highways, or grounds.

Until the municipality and the operator shall agree upon a rate or charge for such service the municipality shall pay and the operator shall accept the rate provided in the expired contract if any existed, and if none existed then the rate before paid. This shall be without

prejudice, however, to the right of either party to test in court or before any lawfully constituted rate-making tribunal the reasonableness of such rate.

This section shall not apply if the original service to the municipality was given in case of emergency or for any other temporary purpose.

[C24, 27, 31, 35, 39, §**8321;** C46, 50, 54, 58, 62, §489.13; C66, 71, 73, 75, §489.14; C77, 79, 81, §478.14]

478.15 Eminent domain — procedure — entering on land — reversion on nonuse.

Any person, company, or corporation having secured a franchise as provided in this chapter, shall thereupon be vested with the right of eminent domain to such extent as the utilities board may approve, prescribe and find to be necessary for public use, not exceeding one hundred feet in width for right-of-way and not exceeding one hundred sixty acres in any one location, in addition to right-of-way, for the location of electric substations to carry out the purposes of said franchise; provided however, that where two hundred K V lines or higher voltage lines are to be constructed, the person, company, or corporation may apply to the board for a wider right-of-way not to exceed two hundred feet, and the board may for good cause extend the width of such right-of-way for such lines to the person, company, or corporation applying for the same. The burden of proving the necessity for public use shall be on the person, company or corporation seeking the franchise. A homestead site, cemetery, orchard or schoolhouse location shall not be condemned for the purpose of erecting an electric substation. If agreement cannot be made with the private owner of lands as to damages caused by the construction of said transmission line, or electric substations, the same proceedings shall be taken as provided for taking private property for works of internal improvement.

Any person, company or corporation proposing to construct a transmission line or other facility which involves the taking of property under the right of eminent domain and desiring to enter upon the land, which it proposes to appropriate, for the purpose of examining or surveying the same, shall first file with the utilities board, a written statement under oath setting forth the proposed routing of the line or facility including a description of the lands to be crossed, the names and addresses of owners, together with request that a permit be issued by said board authorizing said person, company or corporation or its duly appointed representative to enter upon the land for the purpose of examining and surveying and to take and use thereon any vehicle and surveying equipment necessary in making the survey. Said board shall within ten days after said request issue a permit, accompanied by such bond in such amount as the board shall approve, to the person, company or corporation making said application, if in its opinion the application is made in good faith and not for the purpose of harassing the owner of the land. If the board is of the opinion that the application is not made in good faith or made for the purpose of harassment to the owner of said land it shall set the matter for hearing and it shall be heard not more than twenty days after filing said application. Notice of the time and place of hearing shall be given by said board, to the owner of said land by registered mail with a return receipt requested, not less than ten days preceding date of hearing.

Any person, company or corporation that has obtained a permit in the manner herein prescribed may enter upon said land or lands, as above provided, and shall be liable for actual damages sustained in connection with such entry. An action in damages shall be the exclusive remedy.

If an electric transmission line right-of-way, or any part thereof, is wholly abandoned for public utility purposes by the relocation of the transmission lines, is not used or operated for a period of five years, or if its construction has been commenced and work has ceased and has not in good faith been resumed for five years, the right-of-way shall revert to the person or persons who, at the time of the abandonment or reversion, are the owners of the tract from which such right-of-way was taken. Following such abandonment of right-of-way, the owner or holder of purported fee title to such real estate may serve notice upon the owner of such right-of-way easement, or the owner's successor in interest, and upon any party in possession of said real estate, a written notice which shall accurately describe the real estate in question, set out the facts concerning ownership of the fee, ownership of the right-of-way

easement, and the period of abandonment, and notify said parties that such reversion shall be complete and final, and that the easement or other right shall be forfeited, unless said parties shall, within one hundred twenty days after the completed service of notice, file an affidavit with the county recorder of the county in which the real estate is located disputing the facts contained in said notice.

Said notice shall be served in the same manner as an original notice under the Iowa rules of civil procedure, except that when notice is served by publication no affidavit therefor shall be required before publication. If no affidavit disputing the facts contained in the notice is filed within one hundred twenty days, the party serving the notice may file for record in the office of the county recorder a copy of the notice with proofs of service attached thereto or endorsed thereon, and when so recorded, the record shall be constructive notice to all persons of the abandonment, reversion, and forfeiture of such right-of-way.

[S13, §2120-q; C24, 27, 31, 35, 39, §**8322;** C46, 50, 54, 58, 62, §489.14; C66, 71, 73, 75, §489.15; C77, 79, 81, §478.15]

[P] Condemnation procedure, chapter 6B

478.16 Repealed by 86 Acts, ch 1198, § 1.

478.17 Access to lines — damages.

Individuals or corporations operating such transmission lines shall have reasonable access to the same for the purpose of constructing, reconstructing, enlarging, repairing, or locating the poles, wires, or construction and other devices used in or upon such line, but shall pay to the owner of such lands and of crops thereon all damages to said lands or crops caused by entering, using, and occupying said lands for said purposes. Nothing herein contained shall prevent the execution of an agreement between the person or company owning or operating such line and the owner of said land or crops with reference to the use thereof.

[S13, §2120-t; C24, 27, 31, 35, 39, §**8324;** C46, 50, 54, 58, 62, §489.16; C66, 71, 73, 75, §489.17; C77, 79, 81, §478.17]

478.18 Supervision of construction — location.

1. The utilities board shall have power of supervision over the construction of a transmission line and over its future operation and maintenance.

2. A transmission line shall be constructed near and parallel to roads, to the right-of-way of the railways of the state, or along the division lines of the lands, according to the government survey, wherever the same is practicable and reasonable, and so as not to interfere with the use by the public of the highways or streams of the state, nor unnecessarily interfere with the use of any lands by the occupant.

[S13, §2120-r; C24, 27, 31, 35, 39, §**8325;** C46, 50, 54, 58, 62, §489.17; C66, 71, 73, 75, §489.18; C77, 79, 81, §478.18]

2002 Acts, ch 1097, §2

[P] Removal from highway, chapter 318

478.19 Manner of construction.

Such lines shall be built of strong and proper wires attached to strong and sufficient supports properly insulated at all points of attachment; all wires, poles, and other devices which by ordinary wear or other causes are no longer safe shall be removed and replaced by new wires, poles, or other devices, as the case may be, and all abandoned wires, poles, or other devices shall be at once removed. Where wires carrying current are carried across, either above or below wires used for other service, the said transmission line shall be constructed in such manner as to eliminate, so far as practicable, damages to persons or property by reason of said crossing. There shall also be installed sufficient devices to automatically shut off electric current through said transmission line whenever connection is made whereby current is transmitted from the wires of said transmission line to the ground, and there shall also be provided a safe and modern improved device for the protection of said line against lightning. The utilities board shall have power to make and enforce such further and additional rules relating to location, construction, operation and maintenance of said transmission line as may be reasonable.

All transmission lines, wires or cables outside of cities for the transmission, distribution or sale of electric current at any voltage shall be constructed and maintained in accordance with standards adopted by rule by the utilities board.

[S13, §2120-r; C24, 27, 31, 35, 39, §**8326;** C46, 50, 54, 58, 62, §489.18; C66, 71, 73, 75, §489.19; C77, 79, 81, §478.19]

84 Acts, ch 1101, §3

478.20 Distance from buildings.

No transmission line shall be constructed, except by agreement, within one hundred feet of any dwelling house or other building, except where said line crosses or passes along a public highway or is located alongside or parallel with the right-of-way of any railway company. In addition to the foregoing, each person, company, or corporation shall conform to any other rules, regulations, or specifications established by the utilities board, in the construction, operation, or maintenance of such lines.

[S13, §2120-r; C24, 27, 31, 35, 39, §**8327;** C46, 50, 54, 58, 62, §489.19; C66, 71, 73, 75, §489.20; C77, 79, 81, §478.20]

478.21 Nonuse — revocation of franchise — extensions of time.

1. If the improvement for which a franchise is granted is not constructed in whole or in part within two years from the date the franchise is granted, or within two years after final unappealable disposition of judicial review of a franchise order or of condemnation proceedings, the franchise shall be forfeited and the utilities board which granted the franchise shall revoke the franchise and make a record of the revocation, unless the person holding the franchise petitions the board for an extension of time.

2. Upon a showing of sufficient justification for the delay of construction, the board may grant one or more extensions of time for periods up to two years for each extension.

[C24, 27, 31, 35, 39, §**8329;** C46, 50, 54, 58, 62, §489.20; C66, 71, 73, 75, §489.21; C77, 79, 81, §478.21]

94 Acts, ch 1136, §5; 2002 Acts, ch 1097, §3

478.22 Action for violation.

When the board determines that a person is in violation of this chapter, the board may commence an action in the district court of the county in which the violation is alleged to have occurred, for injunctive relief or other appropriate remedy.

[C24, 27, 31, 35, 39, §**8330;** C46, 50, 54, 58, 62, §489.21; C66, 71, 73, 75, §489.22; C77, 79, 81, §478.22]

91 Acts, ch 112, §1

478.23 Prior franchises — legislative control.

Any such franchise heretofore granted under previously existing law shall not be abrogated by the provisions of this chapter, but all such franchises and all franchises granted under the provisions of this chapter shall be subject to further legislative control.

[C24, 27, 31, 35, 39, §**8331;** C46, 50, 54, 58, 62, §489.22; C66, 71, 73, 75, §489.23; C77, 79, 81, §478.23]

478.24 Violations.

Any person, company or corporation constructing or undertaking to construct or maintain any electric transmission line, without first procuring a franchise for such purpose in accordance with the provisions of this chapter, shall be guilty of a serious misdemeanor; and for violating any of the other provisions of this chapter relating to electric transmission lines or disobeying any order or rule made by the utilities board in relation thereto, shall be guilty of a simple misdemeanor.

[S13, §1527-d; C24, 27, 31, 35, 39, §**8332;** C46, 50, 54, 58, 62, §489.23; C66, 71, 73, 75, §489.24; C77, 79, 81, §478.24]

478.25 Wire crossing railroads — supervision.

The utilities board shall have general supervision over any and all wires whatsoever crossing under or over any railway track and shall make rules prescribing the manner in which such wires shall cross such track; but in no case shall the board prescribe a less height for any wire than twenty-two feet above the top of the rails of any railroad track.

[S13, §2120-d, -e, -h; C24, 27, 31, 35, 39, §**8333;** C46, 50, 54, 58, 62, §489.24; C66, 71, 73, 75, §489.25; C77, 79, 81, §478.25]

478.26 Wires across railroad right-of-way at highways.

The utilities board shall prescribe the manner for the crossing of wires over and across railroad rights-of-way at highways and other places within the state.

[S13, §2120-i; C24, 27, 31, 35, 39, §**8334;** C46, 50, 54, 58, 62, §489.25; C66, 71, 73, 75, §489.26; C77, 79, 81, §478.26]

478.27 Wires — how strung.

No corporation or person shall place or string any such wire for transmitting electric current or any wire whatsoever across any track of a railroad except in the manner prescribed by the utilities board.

[S13, §2120-f; C24, 27, 31, 35, 39, §**8335;** C46, 50, 54, 58, 62, §489.26; C66, 71, 73, 75, §489.27; C77, 79, 81, §478.27]

478.28 Examination of existing wires.

The utilities board shall, either by personal examination or otherwise, obtain information where railroad tracks are crossed by wires contrary to, or not in compliance with, the rules prescribed by it. It shall order such change or changes to be made by the persons or corporations owning or operating such wires as may be necessary to make the same comply with said rules and within such reasonable time as it may prescribe.

[S13, §2120-g; C24, 27, 31, 35, 39, §**8336;** C46, 50, 54, 58, 62, §489.27; C66, 71, 73, 75, §489.28; C77, 79, 81, §478.28]

478.29 Civil penalties.

A person who violates a provision of this chapter is subject to a civil penalty, which may be levied by the board, of not more than one hundred dollars per violation or one thousand dollars per day of a continuing violation, whichever is greater. Civil penalties collected pursuant to this section shall be forwarded by the executive secretary of the board to the treasurer of state to be credited to the Iowa energy center created in section 266.39C.

Any civil penalty may be compromised by the board. In determining the amount of the penalty, or the amount agreed upon in compromise, the board shall consider the appropriateness of the penalty to the size of the business of the person charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance after notification of a violation.

[S13, §2120-j; C24, 27, 31, 35, 39, §**8337;** C46, 50, 54, 58, 62, §489.28; C66, 71, 73, 75, §489.29; C77, 79, 81, §478.29]

83 Acts, ch 127, §42; 91 Acts, ch 112, §2

478.30 Crossing highway.

Nothing in this chapter shall prevent any such individual or corporation having its high tension line on its own private right-of-way on both sides of any highway, from crossing such public highway under such rules and regulations as the utilities board may prescribe, and subject from time to time to legislative control as to duration and use.

[C24, 27, 31, 35, 39, §**8338;** C46, 50, 54, 58, 62, §489.29; C66, 71, 73, 75, §489.30; C77, 79, 81, §478.30]

478.31 Temporary permits for lines less than one mile.

Notwithstanding the provisions of section 478.1 any person, company or corporation proposing to construct an electric transmission line not exceeding one mile in length and

which does not involve the taking of property under the right of eminent domain may obtain a temporary construction permit from the utilities board by proceeding in the manner hereinafter set forth. Said person, company or corporation shall first file with the board a verified petition setting forth the requirements of section 478.3, subsection 1, paragraphs "*a*" through "*h*", with the further allegation that the petitioner is the nearest electric utility to the proposed point of service.

The petition shall also state that the filing thereof constitutes an application for a temporary construction permit and shall also have endorsed thereon the approval of the appropriate highway authority or railroad concerned if such line is to be constructed over, across or along a public highway or railroad.

Upon receipt of such petition the utilities board shall consider same and may grant a temporary construction permit in whole or in part or upon such terms, conditions and restrictions, and with such modifications as to location as may seem to it just and proper, however, no finding of public use will be made at the time of the issuance of the permit, such finding to be made, if substantiated by petitioner, at the subsequent consideration of the propriety of granting a franchise for the line subject to the permit. The signature of one utilities board member on such permit shall be sufficient. The issuance of such permit shall constitute temporary authority for the permit holder to construct the line for which the permit is granted.

Upon the granting of such temporary construction permit the utilities board shall cause the publication of notice required by section 478.5 and all other requirements shall be complied with as in the manner provided for the granting of a franchise. If a hearing is required then the petitioner shall make a sufficient and proper showing thereat before a franchise will be issued for the line. Any franchise issued will be subject to all applicable provisions of this chapter.

Notwithstanding anything foregoing, if the utilities board shall determine that a franchise should not be granted, or that further restrictions, conditions or modifications are required, or if the petitioner shall fail to make a sufficient and proper showing of the necessity for the granting of a franchise within six months of the granting of the temporary construction permit, the permit issued hereunder shall become null and void and the permit holder may be required to take such action deemed necessary by the board to remove, modify or relocate the construction undertaken by virtue of the temporary permit issued hereunder.

[C66, 71, 73, 75, §489.31; C77, 79, 81, §478.31]

478.32 Rehearing — judicial review.

Any person, company, or corporation aggrieved by the action of the utilities board in granting or failing to grant a franchise under the provisions of this chapter, shall be entitled to the rehearing procedure provided in section 476.12. Judicial review of actions of the board may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A.

[C71, 73, 75, §489.32; C77, 79, 81, §478.32]

2003 Acts, ch 44, §114

[P] See §476.13

478.33 Cancellation.

A person seeking to acquire an easement or other property interest for the construction, maintenance or operation of an electric transmission line shall:

1. Allow the landowner or a person serving in a fiduciary capacity in the landowner's behalf to cancel any agreement granting an easement or other interest by certified mail with return requested to the company's principal place of business if received by the company within seven days, excluding Saturday and Sunday, of the date of the contract and inform the landowner or such fiduciary in writing of the right to cancel prior to the signing of the agreement by the landowner or such fiduciary.

2. Provide the landowner or a person serving in a fiduciary capacity in the landowner's behalf with a form in duplicate for the notice of cancellation.

3. Not record any agreement until after the period for cancellation has expired.

4. Not include in the agreement any waiver of the right to cancel in accordance with this section. The landowner or a person serving in a fiduciary capacity in the landowner's behalf may exercise the right of cancellation only once for each transmission line project.

[C81, §478.33]

478.34 and 478.35 Reserved.

478.36 Repealed by 92 Acts, ch 1103, § 11, 12. See chapter 480.

STATEMENT OF PROPERTY OWNER'S RIGHTS

(61 Iowa Administrative Code, Chapter 34)

Just as the law grants certain entities the right to acquire private property, you as the owner of the property have certain rights. You have the right to:

1. Receive just compensation for the taking of property. (Iowa Constitution, Article I, section 18)

2. An offer to purchase which may not be less than the lowest appraisal of the fair market value of the property. (Iowa Code section 6B.45 as amended by 1999 Iowa Acts, House File 476, section 18; Iowa Code section 6B.54 as amended by 1999 Iowa Acts, House File 476, section 20)

3. Receive a copy of the appraisal, if an appraisal is required, upon which the acquiring agency's determination of just compensation is based not less than ten days before being contacted by the acquiring agency's acquisition agent. (Iowa Code section 6B.45 as amended by 1999 Iowa Acts, House File 476, section 18)

4. An opportunity to accompany at least one appraiser of the acquiring agency who appraises your property when an appraisal is required. (Iowa Code section 6B.54)

5. Participate in good-faith negotiations with the acquiring agency before the acquiring agency begins condemnation proceedings. (1999 Iowa Acts, House File 476, section 3)

6. A determination of just compensation by an impartial compensation commission and the right to appeal its award to the district court if you cannot agree on a purchase price with the acquiring agency. (Iowa Code section 6B.4; Iowa Code section 6B.7 as amended by 1999 Iowa Acts, House File 476, section 8; Iowa Code section 6B.18)

7. A review by the compensation commission of the necessity for the condemnation if your property is agricultural land being condemned for industry. (1999 Iowa Acts, House File 476, section 7)

8. Payment of the agreed upon purchase price or, if condemned, a deposit of the compensation commission award before you are required to surrender possession of the property. (Iowa Code section 6B.25; Iowa Code section 6B.26; Iowa Code section 6B.54(11))

9. Reimbursement for expenses incidental to transferring title to the acquiring agency. (Iowa Code section 6B.33 as amended by 1999 Iowa Acts, House File 476, section 15; Iowa Code section 6B.54(10))

10. Reimbursement of certain litigation expenses: (a) if the award of the compensation commissioners exceeds 110 percent of the acquiring agency's final offer before condemnation; and (b) if the award on appeal in court is more than the compensation commissioners' award. (Iowa Code section 6B.33)

11. At least 90 days' written notice to vacate occupied property. (Iowa Code section 6B.54(4))

12. Relocation services and payments, if you are eligible to receive them, and the right to appeal your eligibility for and amount of the payments. (Iowa Code section 316.9; Iowa Code section 6B.42 as amended by 1999 Iowa Acts, House File 476, section 17)

The rights set out in this statement are not claimed to be a full and complete list or explanation of an owner's rights under the law. They are derived from Iowa Code chapters 6A, 6B and 316. For a more thorough presentation of an owner's rights, you should refer directly to the Iowa Code or contact an attorney of your choice.