

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

<p>LINDA K. JUCKETTE, Petitioner, v. IOWA UTILITIES BOARD, Respondent.</p>	<p>No. CVCV061580 IUB Docket No.: E-22417 IOWA ASSOCIATION OF ELECTRIC COOPERATIVE'S MOTION TO INTERVENE AND APPEAR</p>
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The Iowa Association of Electric Cooperatives ("IAEC") comes before the court pursuant to Iowa Rules of Civil Procedure 1.407 and 1.1603 and Iowa Code Section 17A.19(2) and for its Motion to Intervene and Appear states:

1. The IAEC is a trade association representing 39 distribution cooperatives that provide electric service at retail to member consumers in their assigned service areas in the state of Iowa and nine generation and transmission cooperatives that provide wholesale electric service to the distribution cooperative members in the state of Iowa.

2. The subject action is a petition for judicial review of an Order of the Iowa Utilities Board ("Board"), granting an electric transmission line franchise to MidAmerican Energy Company in Madison County, Iowa. The issuance of electric transmission line franchises is governed by Iowa Code Chapter 478 and 199 IAC Chapter 11. Before granting a franchise, the Board must make a finding that the proposed line or lines are necessary to serve a public use and represent a reasonable relationship to an overall plan of transmitting electricity in the public interest.

3. The Petitioner in this review proceeding contends that the Board's Order contains many factual errors. (Petition at ¶11). The Petitioner also contends that the Board's Order contains legal errors, violates the Iowa Code, and the Petitioner's constitutional rights. The Petitioner's allegations include an assertion that the Board improperly applied Iowa Code §306.46, which

permits public utilities to "construct, operate, repair, or maintain its utility facilities within a public road right-of-way." The Petitioner asserts, among other things, that the Board failed to apply constitutional limits to Iowa Code §306.46. The Petitioner alleges that the application of Iowa Code §306.46 in this case would result in a taking of the Petitioner's property without paying just compensation in violation of Iowa Constitution, Art. 1, sec. 18.

4. The members of the IAEC regularly place their utility facilities within public road rights-of-way in the same manner as proposed by MidAmerican Energy Company and approved by the Board in the Order that is the subject of this proceeding. When doing so, the members of the IAEC often rely upon the authority granted by the Legislature in Iowa Code §306.46. The IAEC and its members have an interest in this proceeding and the application of Iowa Code §306.46.

5. Rule 1.407(1)(b) confers the right to intervene when an applicant claims an interest in the subject action that may be affected by the proceeding, and that interest is not adequately represented by existing parties. To the extent the IAEC's members rely upon Iowa Code §306.46 in order to place facilities within the public road right-of-way, said members clearly have an interest in the manner in which said Code section is applied and interpreted.

6. The IAEC's interest in this proceeding is not adequately represented by existing parties. While the Board will undoubtedly defend its Order before this Court, the Board does not own or operate electric utility facilities that have been placed in the road right-of-way under the authority of Iowa Code §306.46. The Board is charged with the responsibility of regulating public utilities to the extent and the manner provided in Iowa Code Chapter 476 and has general jurisdiction over transmission lines under Iowa Code Chapter 478; but the Board's responsibilities and obligations are much broader than the unique interests of the IAEC and its members, which include the preservation of their right to maintain facilities within the road

right-of-way. Permitting the IAEC to intervene and participate in this proceeding will ensure the development of a complete and accurate record and allow the IAEC to defend the allegations made by the Petitioner regarding the constitutionality of Iowa Code §306.46.

7. Furthermore, although it is contemplated that MidAmerican Energy Company will intervene and participate in this proceeding, MidAmerican Energy Company does not adequately represent the interests of IAEC and its members in this matter. MidAmerican Energy is similarly situated as the IAEC members to the extent it also relies upon the Legislative grant of authority contained in Iowa Code §306.46; but each utility is unique and MidAmerican will likely concentrate on its specific use of road right-of-way and not the use of the same made by the members of the IAEC.

8. The IAEC's intervention in this proceeding will be in support of the Board's decision.

9. The IAEC's intervention will not unduly delay or prejudice the adjudication of the rights of the Parties, as the Court has just recently established a procedural schedule, with the Petitioner's brief not due until July 16, 2021 and the briefs of the Board and any intervenor not being due until August 13, 2021.

WHEREFORE, the IAEC respectfully requests the Court grant its Motion to Intervene and Appear in this proceeding. In the alternative, the IAEC requests the authority to submit an amicus brief in order to assist the Court in fully evaluating the legal issues raised herein.

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ATTORNEYS FOR IAEC

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon all parties of record in this proceeding electronically via EDMS and was also sent by e-mail to each attorneys of record listed below at their respective e-mail address on May 7, 2021.

By:

- U.S. Mail
- Hand Delivered
- Certified Mail

- Fax
- Overnight courier
- Electronic Transmission

Signature: /s/ Emily Wilson

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