

Filed with the Iowa Utilities Board on July 20, 2021, E-21340



July 20, 2021

Iowa Utilities Board
1375 E. Court Ave.
Des Moines, IA 50319

RE: E-21340

Ladies and Gentlemen:

In response to the third staff review letter in the above-referenced docket, ITC Midwest LLC ("ITC Midwest") respectfully disagrees with Iowa Utilities Board ("Board") staff regarding its authority to require ITC Midwest to file an amendment to the transmission line franchise as requested. Under Iowa Code § 17A.23(3), the Board's authority is limited to the authority granted by law, which may not be expanded or enlarged. Iowa Code § 478.1(2) expressly exempts "transmission lines constructed entirely within the boundaries of property owned by a person primarily engaged in the transmission or distribution of electric power . . ." from the requirement to obtain a franchise.

Taken together, these two statutory provisions clearly exempt the taps to the Barton Switching Station from franchising requirements. ITC Midwest understands that it is the Board staff's position that the construction of the Barton Switching Station with two short taps within substation property to the existing line has created an "additional circuit" thus requiring an amendment to the franchise. However, since ITC Midwest's meeting in December of 2015 with Board staff regarding a change in the treatment of substation taps¹, the agreed-upon solution and consistent resulting common practice has been to franchise the portion of the *taps themselves* that are outside of the boundaries of substation property via an amendment or new standalone franchise.²

In just one of many examples, Board staff stated the following in a staff review letter dated March 10, 2020 in Docket No. E-21301: "Pursuant to 199 IAC 11.3(2)(c)(2), a petition for an amendment is required for construction of additional circuit which is capable of operating at 69kV or above. Staff believes the new taps are considered to be new circuits." ITC Midwest accordingly submitted an amendment to the franchise in Docket No. E-21301, adding the taps as additional circuit *but the amendment only included the portions of the taps that were located outside of substation property.*

¹ This meeting is described in ITC Midwest's November 27, 2019, "Response to Board Order" in Docket No. M-3904.

Indeed, when the taps are wholly contained on the substation property, there is no franchise requirement — the substation property is “owned by a person primarily engaged in the transmission or distribution of electric power” and thus the taps are expressly exempted from the franchise requirements under Iowa Code § 478.1(2).

In this instance, no part of the substation taps are located outside of the substation property. Therefore, they are exempt from the franchising requirements. To require ITC Midwest to franchise the taps via an amendment in this docket would be an improper expansion of the Board’s authority conferred upon it by statute.

If Board staff disagrees with this analysis, ITC Midwest respectfully requests a meeting with that staff to discuss these issues further.

Sincerely,

/s/ Leanna D. Whipple

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