



500 IDS CENTER
80 SOUTH EIGHTH STREET
MINNEAPOLIS, MN 55402
MAIN: 612.632.3000
FAX: 612.632.4444

GREGORY R. MERZ
ATTORNEY
DIRECT DIAL (612) 632-3257
DIRECT FAX (612) 632-4257
GREGORY.MERZ@GPMLAW.COM

December 1, 2011

Dr. Burl W. Haar
Minnesota Public Utilities Commission
350 Metro Square Building
121 Seventh Place East
St. Paul, MN 55101-2147

Via: **E-File**

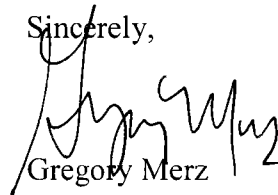
Re: In the Matter of the Joint Petition for Approval of Transfer of Transmission Assets of Interstate Power and Light Company to ITC Midwest LLC
Docket No. E001/PA-07-540

Dear Dr. Haar:

I enclose via e-filing in the above referenced matter ITC Midwest's Status Report and an Affidavit of Service.

Please don't hesitate to contact if you have any questions.

Sincerely,



Gregory Merz

GRM/akm
Enclosure

cc: Service List

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF MINNESOTA

Ellen Anderson	Chair
David Boyd	Commissioner
J. Dennis O'Brien	Commissioner
Phyllis Reha	Commissioner
Betsy Wergin	Commissioner

In the Matter of the Joint Petition for Approval of
Transfer of Transmission Assets of Interstate Power
and Light Company to ITC Midwest LLC

PUC DOCKET NO. E001/PA-07-540

ITC MIDWEST'S STATUS REPORT

INTRODUCTION

ITC Midwest LLC ("ITC Midwest") respectfully submits this Status Report for the purpose of keeping the Commission informed regarding the status of ITC Midwest's compliance with certain commitments it made in connection with obtaining Commission approval for its acquisition of the electric transmission assets of Interstate Power and Light ("IPL"). In its Order Approving Transfer of Transmission Assets, With Conditions ("Order Approving Transfer"), the Commission approved ITC Midwest's acquisition of the IPL transmission network subject to certain conditions, including, among others, commitments contained in a settlement agreement entered into between ITC, IPL, the Department of Commerce, the Midwest Municipal Transmission Group, Missouri River Energy Services and Wisconsin Public Power, Inc. ("Settlement Agreement").¹ Among the commitments contained in the Settlement Agreement, ITC Midwest agreed to complete two major construction projects: 1) re-conductoring/rebuilding a 161 kV line in eastern Iowa running from Arnold, through Vinton and Dysart, to Washburn (the "Arnold-Vinton Rebuild"); and 2) construction of an 81 mile 345 kV line in northeastern

¹ The Settlement Agreement is Attachment A to the Order Approving Transfer.

Iowa running from the substation at Salem, through Lore to Hazleton (the “Salem-Hazleton Project”).² These construction commitments included specific timelines to be met relating to the completion of the projects and, to the extent that the timelines were not met and such failure was not the result of circumstances beyond ITC Midwest’s control, substantial financial penalties.

ITC Midwest previously reported to the Commission, at the Commission’s April 29, 2010, public agenda meeting, regarding the status of the two projects.³ At that time, ITC Midwest noted that the Arnold-Vinton Rebuild had been completed and the line energized in December 2009, consistent with the schedule provided for in the Settlement Agreement. ITC Midwest also informed the Commission that, although work on the Salem-Hazleton Project was underway, there were potential delays due to factors beyond ITC Midwest’s control. This Status Report is intended to supplement the April 29 presentation by providing the Commission with additional detail regarding the progress that has been made on the Project and also to provide an update regarding activities and events since the April 29 presentation.

Based upon current conditions, ITC Midwest believes that circumstances beyond its control, particularly delays relating to receiving regulatory approvals from the Iowa Utilities Board (“IUB”), have caused the projected in-service date for the Salem-Hazleton Project to move out beyond the timeline contained in the original commitment. Although ITC Midwest commenced construction in October of this year, delays in receiving regulatory approval to site the line through Iowa—including the need to request the right of eminent domain from the IUB—have resulted in a delay in the completion of the Salem-Hazleton Project. Provided that there are

² Throughout the IUB proceedings, the Salem-Lore-Hazleton line is referred to as the Salem-Hazleton line, which is a proposed 345 kV Electric transmission line, approximately 80.19 miles in length, which will ultimately connect ITC Midwest’s Hazleton Transmission Substation in Buchanan County, Iowa, to ITC’s Salem Transmission Substation located in the Dubuque County. The Salem-Lore-Hazleton line was changed to just the Salem-Hazleton line based upon the fact that it was impractical and likely impossible to route the line through the City of Dubuque to the Lore Substation.

³ PowerPoint slides used by ITC Midwest in connection with its April 29 presentation were filed with the Commission, pursuant to a request from Commission staff.

no further delays, ITC Midwest now anticipates that construction of the Project will be completed and the line placed into service in the first half of 2013. The nature of the regulatory delays that ITC Midwest has experienced on the Project are described in more detail below.

DISCUSSION

I. The Current Status of the Construction Commitments Under the Settlement Agreement

A. The Construction Commitments

By its Order Approving Transfer, the Commission approved ITC Midwest's acquisition of transmission assets owned by IPL. In that Order, the Commission rejected the conclusion of the Administrative Law Judge that the transaction was not in the public interest and concluded instead that commitments included in the Settlement Agreement, as well as additional commitments made during the course of the Commission's hearings in the docket, adequately addressed the concerns that the ALJ had expressed regarding the transaction.⁴ Accordingly, the Commission found that the transaction, subject to those conditions, was consistent with the public interest and should be approved.

Among the commitments made by ITC Midwest and adopted by the Commission were commitments relating to the completion of two major construction projects. First, ITC Midwest agreed to re-conductor/rebuild a 161 kV line in eastern Iowa running from Arnold, through Vinton and Dysart, to Washburn (the "Arnold-Vinton Rebuild").⁵ The purpose of the Arnold-Vinton Rebuild was to increase system capacity to reduce congestion. Pursuant to the Order Approving Transfer, the Arnold-Vinton Rebuild was to be completed two years after closing of the transaction (*i.e.*, by December 31, 2009).

⁴ Order Approving Transfer at pp. 2-3.

⁵ Order Approving Transfer, Ordering Paragraph 1.a; Settlement Agreement, ¶ 4.d.

Second, ITC Midwest agreed to complete construction of an 81 mile 345 kV line in southeastern Iowa running from the substation at Salem, through Lore to Hazelton (the “Salem-Hazleton Project”).⁶ The Salem-Hazleton Project, which completes a reliability loop in eastern Iowa, was intended to address a number of system inadequacies:

- Loss of the existing single 345 kV line into Salem Substation creates low voltage on the 161 kV system feeding Dubuque and other eastern Iowa communities during periods of high system loading.
- High loading on the existing eastern Iowa 345 kV system causes the Midwest Independent Transmission System Operator (“MISO”) to frequently order the dispatch of more expensive generation to relieve congestion, resulting in higher costs to ratepayers.
- Scheduling outages for maintenance activities on the existing eastern Iowa 345 kV system is difficult due to the potential for creating overloads and low voltage that could result in reliability issues on the remaining system.
- Unscheduled outages have the potential to violate North American Electric Reliability Corporation (“NERC”) requirements and create the possibility of significant system events that would impact eastern Iowa and beyond.

ITC Midwest committed to complete construction of the Salem-Hazleton Project by the later of December 31, 2011, or three years after approval by the MISO Board of Directors, “provided ITC Midwest is able to acquire all needed regional transmission approvals, acceptances, permits and regulatory approvals.”⁷ To assure that the Project would proceed in a timely manner, ITC Midwest committed to use its commercially reasonable best efforts to:

- Within 60 days of closing, initiate and pursue action to obtain MISO approval of the Project;
- Within 90 days following MISO approval of the Project, initiate and pursue action to seek any other regulatory approvals needed to complete construction;
- Concurrent with seeking regulatory approvals, initiate and continue to pursue actions to design and arrange for equipment procurement for the Project;

⁶ Order Approving Transfer, Ordering Paragraph 1.a; Settlement Agreement at ¶ 4.f.

⁷ Settlement Agreement ¶ 4.f.

- Concurrent with seeking regulatory approval, initiate and pursue action to acquire property interests, easements and rights of way;
- Within 90 days of obtaining regulatory approvals, complete design and real property acquisition, initiate construction.

If ITC Midwest fails to meet any of its commitments relating to either the Arnold-Vinton Rebuild or the Salem-Hazleton Project, and such failure is not due to circumstances beyond ITC Midwest's control, ITC Midwest must discount the Return of Equity ("ROE") component of its formula rate to 10.39% from the date of closing until such time as the commitment has been satisfied and refund any amounts in excess of what would have been collected if a 10.39% ROE had been used since closing of the transaction.⁸ "Circumstances beyond ITC Midwest's control" is, for purposes of determining ITC Midwest's compliance with the construction commitments, defined to mean:

- 1) acts of God or the public enemy;
- 2) any action, order, or injunction of any federal, state, local or other governmental or regulatory authority, or court, rendering the project illegal or otherwise prohibiting, preventing, or inhibiting the timely completion of the project or a commitment stated herein related to pursuing completion of the project, provided that ITC Midwest must use commercially reasonable best efforts to pursue timely completion of the project or a commitment stated herein in relation to pursuing completion of the project;
- 3) fires, floods, explosions, or other catastrophes;
- 4) epidemics and quarantine restrictions;
- 5) freight embargoes;
- 6) causes which could not have reasonably been anticipated and which are beyond control or influence of and without fault or negligence of either party hereto, but shall not include economic changes resulting in increases in the cost of materials.⁹

⁸ Settlement Agreement ¶¶ 4.e and 4.g.

⁹ Settlement Agreement, p. 11, fn. 22.

Pursuant to the Settlement Agreement, the Commission is authorized to determine whether an event or events constitute circumstances beyond ITC Midwest's control.¹⁰

B. Status of the Arnold-Vinton Rebuild Project

The Arnold-Vinton Rebuild Project, which did not require state siting approvals or acquisition of easements or rights of way, was completed in December 2009, consistent with the schedule set out in the Settlement Agreement.

C. Status of the Salem-Hazleton Project

ITC Midwest has also worked diligently to meet its construction commitments relating to the Salem-Hazleton Project by initiating and pursuing actions on three parallel paths: 1) project design; 2) real estate acquisition; and 3) regulatory approvals.¹¹

ITC Midwest's work on the Project began even before MISO approved the Project. ITC Midwest retained an engineering consulting firm, Black and Veatch, to assist in the design efforts and a design kickoff meeting was held on January 28, 2008, to initiate a route study. The consultant issued a draft preliminary route study report on July 28, 2008, and a project kick-off meeting was held with a cross functional team on August 18, 2008, to plan the various activities that needed to be completed once the Project was approved by the MISO Board of Directors. These activities included identifying potentially affected landowners, providing legal notice to potentially affected landowners, planning four public informational meetings, acquiring voluntary easements, making all necessary regulatory filings, determining internal resource allocation, and developing a communications plan. The MISO Board of Directors approved the Project on December 4, 2008, and, less than a month later, the consultant issued the final preliminary route study report.

¹⁰ Settlement Agreement, p. 11, fn 23.

¹¹ A complete timeline of activities that ITC Midwest has undertaken with regard to the Salem-Hazleton Project accompanies this Status Report as Attachment A.

During the week of January 5, 2009, ITC Midwest sent certified letters to nearly one thousand landowners along the proposed route, informing them of the upcoming public meeting and providing a map of the proposed route. The IUB and Iowa Office of Consumer Advocate (“OCA”) were notified at the same time. In addition to the certified letters, consistent with the requirements of Iowa law, ITC Midwest also published notice of the public meeting, along with a route map, in each affected county in newspapers with county-wide circulation. Public informational meetings were held in Buchanan and Delaware Counties on February 9, 2009, and in Dubuque and Jackson Counties on February 10, 2009.

The first objections to the Project were filed with the IUB on February 3, 2009. Additional objections were filed on February 6, 9, 11, 20, and 26, 2009; March 2, 6, 13, and 16, 2009; April 9, 2009; October 2 and 29, 2009, and February 8, 2010. All objections were filed in the Dubuque County docket.

ITC Midwest began its easement acquisition efforts on February 11, 2009, immediately following the public meetings, consistent with Iowa law which prohibits easement acquisition activities before public meetings are held. ITC Midwest focused initially on Buchanan and Delaware Counties, where it believed that it would be able to acquire all of the necessary easements voluntarily. It completed the preparation of a preliminary bid package on August 12, 2009, in anticipation of being able to commence construction in Buchanan and Delaware Counties as soon as the easements were acquired and the franchises issued. On August 23, ITC Midwest informed IUB staff that it would soon be filing franchise petitions in Buchanan and Delaware Counties and was told by IUB staff that the IUB likely would not issue franchises in Buchanan and Delaware Counties while objections were pending in Dubuque County. All

efforts by ITC Midwest to resolve the objections in Dubuque County were unsuccessful, including ITC Midwest's moving the route to avoid the majority of the objectors.

ITC Midwest completed acquisition of a majority of the easements in Buchanan and Delaware Counties on September 1, 2009, and on September 3 filed petitions with the IUB for franchises in Buchanan and Delaware Counties. After these petitions were filed the IUB General Counsel confirmed that the IUB would not issue franchises in any of the franchise dockets until all objections had been withdrawn in the Dubuque County docket and the IUB was certain that eminent domain would not be requested.

On September 4, 2009, ITC Midwest shifted its easement acquisition efforts to Dubuque and Jackson Counties and, by November 11, 2009, had acquired a majority of the necessary easements in those counties. On November 22, 2009, ITC Midwest filed petitions with the IUB for franchises in Dubuque and Jackson Counties. However, because easement acquisition efforts were not completely successful, on February 26, 2010, ITC Midwest filed an amended franchise petition with the IUB requesting eminent domain over 27 parcels in Dubuque County. ITC Midwest subsequently was able to acquire voluntary easements for 16 of these parcels before the IUB heard the case, leaving 11 parcels for which eminent domain was requested. Under Iowa law, a hearing must be held by the IUB if objections are pending in a docket or the right of eminent domain is requested over specific land parcels.

On March 10, 2010, ITC Midwest filed a motion to expedite proceedings in all four franchise dockets, to have the hearing conducted by the IUB rather than an administrative law judge, and to have the hearing held in June 2010. The IUB agreed to conduct the hearing, rather than have the matter heard by an administrative law judge, but scheduled the hearing for August 3 and 4, rather than in June as ITC Midwest had requested. On July 16, 2010, after the filing of

written testimony by all parties, the IUB issued an order scheduling additional hearing dates for October 5, 6, and 7. Additional hearing dates were considered necessary because the Landowner Group (primarily comprised of the landowners for which the right of eminent domain had been requested) was unable to get their expert witnesses to submit prefiled testimony prior to the August hearing dates. As a result, the IUB gave the Landowner Group additional time to submit this testimony, requiring additional hearing dates for cross-examination on the prefiled testimony. An evidentiary hearing was held on August 3 and 4 as scheduled. After the filing of expert testimony by the Landowner Group and in order to expedite the hearing process, ITC Midwest waived its right to file surrebuttal testimony and also waived cross examination of the Landowner Group's expert witnesses, so that the October hearing dates were cancelled. Pursuant to the scheduling order, the parties filed initial and reply briefs in October 2010.

On March 9, 2011, the IUB issued an order requesting an updated review by MISO of the Salem-Hazelton line based upon current system conditions. The IUB's Order granting the franchise petition states that the March 28, 2011, MISO review "was requested by the Board to ensure that the Board was considering the most recent eastern Iowa electric system information available when reaching a decision concerning the proposed transmission line."¹²

On June 1, 2011, the IUB issued its Order granting the petitions for electric franchise in Buchanan, Delaware, Jackson and Dubuque Counties. This Order is Attachment B to this filing. On June 30, the OCA and the Landowner Group filed separate appeals in Polk and Dubuque County District Courts, respectively. The cases were ultimately consolidated in Dubuque County District Court and a hearing on both appeals is scheduled for March 8, 2012. A partial stay of the IUB's decision granting ITC Midwest the right of eminent domain over certain land parcels in Dubuque County was entered into by the Dubuque County District Court. This stay is

¹² June 1 Order, pp. 9-10.

scheduled to expire in April 2012 absent any further action by the Court. Even though the IUB order is under appeal, ITC Midwest decided to move forward with construction of the line on all but the parcels impacted by eminent domain, which are subject to the stay.

ITC Midwest awarded the construction contract to M. J. Electric and began receiving material in September 2011. The drilled pier foundation construction activities started on October 5, 2011, at the Liberty substation near New Vienna, Iowa. As of November 13, 2011, 34 foundations have been installed. Material continues to be received at the two material sites, one near Dyersville, Iowa, and one on the south side of Dubuque, Iowa. ITC anticipates receiving over 50 percent of the material for the 81 mile project by the end of 2011. As of November 13, 2011, there are four foundation crews and additional line crews are scheduled to begin setting the monopole, double circuit steel structures during the last week of November 2011. The line is scheduled to be in service in the first half of 2013.

II. Delay in Completion of the Salem-Hazleton Project Is the Result of Circumstances Beyond ITC Midwest's Control

ITC Midwest's construction commitments relative to the Salem-Hazleton Project are expressly conditioned on ITC Midwest's ability to obtain necessary regulatory approvals. ITC Midwest committed to complete construction by December 31, 2011, "provided ITC Midwest is able to acquire all needed regional transmission approvals, acceptances, permits and regulatory approvals." Furthermore, the Settlement Agreement provides that "any action, order, or injunction of any federal, state, local or other governmental or regulatory authority, or court, rendering the project illegal or otherwise prohibiting, preventing, or inhibiting the timely completion of the project" constitutes circumstances beyond ITC Midwest's control. As explained above, although MISO approved the Project on December 4, 2008, ITC Midwest has

experienced a number of unanticipated delays in connection with obtaining state regulatory approvals from the IUB.

There have been three primary reasons for these delays. First, ITC Midwest's strategy was to focus its initial easement acquisition efforts on Delaware and Buchanan Counties, where the line was being built on an existing right of way. ITC Midwest believed that it would be able to acquire all of the easements it needed in these counties voluntarily, without having to resort to eminent domain, and this turned out to be the case. ITC Midwest filed petitions for franchises in these counties with the IUB on September 3, 2009, once most of the easements were acquired. ITC Midwest believed that, because no objections had been filed in Buchanan and Delaware Counties and eminent domain proceedings were not needed, the IUB would issue the franchises and ITC Midwest would be able to commence construction on the portion of the project located in those counties while continuing to pursue necessary easements in the remaining counties. This belief was based on ITC Midwest's prior experience with the IUB's franchise processes in which the IUB consistently authorized franchises during different timeframes for multi-county lines. This would have allowed the Company to incrementally construct lines across several counties as easements were acquired, design completed, and contractors hired. However, the IUB decided to defer consideration of any of the franchise petitions until all objections were resolved for the entire route. The IUB's change in approach resulted from the fact that objections had been filed in Dubuque County for this multi-county project soon after the public information meetings were held, resulting in the need for the IUB to hold a hearing on the Project. This prevented ITC Midwest from commencing construction on the "undisputed" portion of the route, which has caused the Project to be behind schedule.

Second, objections filed by a landowner group in Delaware County required ITC Midwest to file an amended franchise petition with the IUB requesting the exercise of eminent domain. Although a number of the eminent domain petitions were ultimately resolved and withdrawn, in the end ITC Midwest was unable to acquire voluntary easements for eleven parcels owned by nine land owners. The unanticipated need to pursue eminent domain proceedings resulted in additional delay. ITC Midwest's goal at the beginning of this project was to acquire 100% voluntary easements, such that a hearing could be avoided and the project construction timeline met. Despite considerable efforts made by ITC Midwest and its contracted land agents, it was not possible to voluntarily acquire approximately 4% of the easements due to numerous and varied concerns by select landowners. Further, since several of the objections were filed by persons for which easements were not required, the IUB determined it was necessary to hold a hearing and proceed through the lengthy hearing process, regardless of whether eminent domain was requested.

Finally, on March 9, 2011, the IUB required that MISO perform an updated review of the Salem-Hazleton Project to reflect current system conditions as compared to conditions at the time MISO originally approved the Project. As reflected in its Order of June 1, 2011, granting the Petitions for Electric Franchises, the IUB considered this to be a case of first impression in that it was the first franchise proceeding in which MISO studies played a significant role. The June 1 Order states:

In determining whether the proposed Salem-Hazleton transmission 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 Board must address a fundamental issue regarding electric transmission franchises that the Board will have to address for each major transmission project now and in the future. The issue involves the relationship of the transmission planning process at MISO to the findings required in Iowa Code § 478.4 and the weight to be given to

the decisions concerning the need for transmission and cost sharing made by MISO.¹³

Although ITC Midwest was recently able to commence construction of the Project, it is now behind schedule. Assuming that there are no additional delays, ITC Midwest currently anticipates that the Project will be completed in the first half of 2013. ITC Midwest believes it has acted in all respects in a commercially reasonable manner to limit the extent of the delays. For example, ITC Midwest has i) made its filings with the IUB expeditiously; ii) acquired as many easements as possible voluntarily, thereby attempting to avoid the need for eminent domain proceedings, and iii) successfully expedited proceedings by requesting the IUB hear the case directly rather than have the ALJ hear the case, issue an order, and then await an appeal and ultimate decision by the IUB. The ultimate delay in the regulatory proceedings has been beyond ITC Midwest's control and could not have been foreseen at the time the settlement was signed.

CONCLUSION

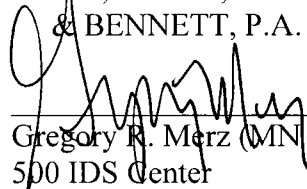
ITC Midwest appreciates this opportunity to further inform the Commission regarding the status of its compliance with its construction commitments under the Commission's order approving ITC Midwest's acquisition of the IPL transmission assets. ITC Midwest is pleased that it has been able to complete work on the Arnold-Vinton Rebuild Project on schedule. Although ITC Midwest has acted diligently, using commercially reasonable best efforts, to move forward in a timely manner with Salem-Hazleton Project, it has experienced a number of unanticipated delays resulting from circumstances beyond its control, relating particularly to delays in receiving required regulatory approvals from the IUB. Construction on the Project has now commenced and, barring further delays, ITC Midwest expects that the Project will be completed during the first half of 2013. ITC Midwest will provide the Commission with updates

¹³ Order pp. 9-10.

regarding the status of the Project at regular intervals, not to exceed six months, until the project is completed and will also report to the Commission within 30 days of the Project completion. ITC Midwest also stands ready to respond to any questions or concerns the Commission may have.

Dated: November 30, 2011

GRAY, PLANT, MOOTY, MOOTY
& BENNETT, P.A.



Gregory R. Merz (MN Reg. No. 185942)

500 IDS Center
80 South Eight Street
Minneapolis, MN 55402
Telephone: 612-632-3257
Facsimile: 612-632-4257
gregory.merz@gpmlaw.com

Attorney for ITC Midwest LLC

GP:3078360 v1

Attachment A

Hazleton-Salem 345kV Line Timeline

1-28-08	Design holds kick-off meeting with B&V to initiate Route study
4-30-08	Aerial Survey of the existing 161kV line is performed
5-23-08	Planning issues E1 Sketch for internal review and approval of project
7-28-08	Draft Preliminary Route Study Report is issued by B&V
8-18-08	Project Kick-off Meeting w/cross-functional team
12-04-08	MISO Board of Directors approves project
1-12-09	Preliminary Route Study Report Issued by B&V
Wk of 1-5-09	Certified letters sent to close to 1,000 landowners along the route informing them of the public information meeting (sent map of route and notice). Iowa Utilities Board (“IUB”) and Iowa Office of Consumer Advocate (“OCA”) were also notified.
Wk of 1.27-09	Published notice of information meetings in each affected county in newspapers with county-wide circulation (publication included route map and notice)
2-03-09	IUB receives first objection to the project in Dubuque County. Other objections were filed on February 6, 9, 11, 20, and 26 2009; March 2, 6, 13, and 16, 2009; April 9, 2009, October 2 and 29, 2009; and February 8, 2010. All objections have been filed in the Dubuque County docket.
2-09-09	Public information meetings held in Buchanan and Delaware Counties
2-10-09	Public information meetings held in Dubuque and Jackson Counties
2-11-09	Easement acquisition begins with focus on Buchanan and Delaware Counties (under Iowa law, easement acquisition cannot begin until the public information meetings are held). Goal is 100% voluntary easement acquisition in all counties.
7-28-09	Completed Ground Survey from Hazleton to Dundee
8-5-09	Completed Soil Boring from Hazleton to Dundee
8-12-09	Completed Structure Framing Analysis
8-12-09	Completed Prelim. Bid package for Hazleton to Dundee Construction
8-23-09	ITC Midwest informs IUB staff of pending Franchise Petition filings in Buchanan and Delaware Counties. IUB staff informs ITC Midwest that the IUB will likely not issue franchises in Buchanan and Delaware Counties when objections to the project are pending in Dubuque County.
9-01-09	Majority of easements acquired voluntarily in Buchanan and Delaware Counties.

Sept. -09 IUB General Counsel confirms that the IUB will not issue franchises in any of the franchise dockets until all objections are withdrawn from Dubuque County and the Company is certain that eminent domain will not be requested. The IUB's rationale for this approach is that it must determine that the entire project is needed and in the public interest prior to issuing any of the franchises needed for the project. This IUB approach is the primary reason the timeline in the Settlement was not met for construction of Salen-Hazleton.

9-03-09 Filed with the IUB Separate Franchise Petitions (with Exhibits) for Buchanan and Delaware Counties

9-04-09 IUB staff begins review of Buchanan and Delaware County Petitions and Exhibits. ITC Midwest responds to IUB staff concerns by amending Petition and Exhibits. IUB staff review will continue until the IUB issues an official notice for publication indicating the hearing dates and location.

9-04-09 Easement acquisition continues with emphasis on Dubuque and Jackson counties.

11-21-09 Majority of easements acquired voluntarily in Dubuque and Jackson counties.

11-22-09 Filed with the IUB separate petitions (with Exhibits) for franchises in Dubuque and Jackson Counties. Route reflected in the Petitions was slightly different than that presented at the public information meetings due to problems with easement acquisition.

11-23-09 IUB staff begins review of Buchanan and Delaware County Petitions and Exhibits. ITC Midwest responds to IUB staff concerns by amending Petition and Exhibits. IUB staff review will continue until the IUB issues an official notice for publication indicating the hearing dates and location.

2-26-10 Despite significant efforts by ITC Midwest, easement acquisition was not 100% successful in Dubuque County. ITC Midwest was compelled to file with the IUB an amended Dubuque petition to include request for eminent domain over 27 parcels in Dubuque County. Ultimately, ITC Midwest was successful in acquiring all but 11 parcels affecting 9 landowners.

2-27-10 IUB staff begins review of eminent domain filings in Dubuque County. IUB staff review will continue until the IUB issues an official notice for publication indicating the hearing dates and location.

3-01-10 ITC Midwest filed a motion for expedited proceedings in all four dockets, requested that the IUB conduct the hearing in the case instead of assigning the dockets to a presiding officer, and asked that the hearing be held in June 2010.

3-31-10 IUB granted ITC Midwest's motion in part, but scheduled the hearing for August 3 and 4, 2010.

5-19-10 IUB staff engineer assigned to review the petition and electric line route filed a report addressing the petition and route.

5-26-10 ITC Midwest receives IUB order setting hearing for August 3rd and 4th, 2010, agreeing to hear the case (versus an ALJ), deferring the decision on easement width, and taking official notice of staff engineer report.

6-4-10 ITC Midwest files prepared direct testimony and exhibits.

6-29-10 Office of Consumer Advocate (OCA) files prepared rebuttal testimony and exhibits.

6-30-10 Landowner Group files late prepared rebuttal testimony and exhibits.

7-13-10 ITC Midwest files prepared surrebuttal testimony and exhibits.

7-16-10 IUB issues order setting additional hearing dates for October 5, 6, and 7, 2010.

8-3 and 4 Hearing held in Delaware County Seat.

9-1-10 Landowner Group files prepared testimony of expert witnesses.

9-3-10 ITC Midwest waives right to file surrebuttal, cross-examine the Landowner Group's expert witnesses, and asked that the October hearing be cancelled.

9-15-10 IUB issues order cancelling additional hearing dates.

10-15-10 Initial briefs filed.

10-28-10 Reply briefs filed.

3-9-11 IUB issues an order requesting the MISO provide an updated review of the Salem-Hazleton electric transmission line project proposal's performance based upon current system conditions relative to the project system conditions established at the time of MISO approval of the project.

3-28-11 MISO provides updated project performance review. IUB reopens evidentiary record for the purpose of admitting the MISO review.

3-31-11 ITC Midwest filed a response to the MISO review.

4-8-11 OCA filed prepared testimony in response to the MISO review.

4-22-11 IUB held open meeting.

6-1-11 IUB issues order granting petitions for electric franchise.

6-30-11 OCA appeals IUB decision in Polk County District Court. Landowner appeals IUB decision in Dubuque County District Court. Hearing on appeal is scheduled for March 8, 2012.

Oct. – 11 Construction on the Salem-Hazleton Project began.

There were three primary reasons (highlighted in yellow) that the schedule was not met to complete construction by year-end 2011:

- 1) The Company strategy was to focus easement acquisition in Delaware and Buchanan Counties where the line was being built on existing ROW. The belief was that 100% of easements could be acquired voluntarily in these counties. This belief turned out to be accurate. The Petitions for franchise were filed once most of the easements were acquired. Since no objections had been filed in these counties and the right of eminent domain was not needed, ITC Midwest believed it could start construction in these counties (without a hearing) once the franchises were issued. The IUB staff guidance that none of the franchises

would be issued until all objections were resolved in all dockets proved to be the most significant reason the regulatory and construction schedule could not be met. This IUB approach to the project caused at least a year delay in the schedule.

- 2) The Company strategy was to acquire 100% of the easements voluntarily to avoid requesting the right of eminent domain in Iowa, which requires a hearing. In Dubuque County, this was not possible. The request for eminent domain filed in February 2010 added at least another four months to delay in the schedule.
- 3) The IUB's request for additional MISO review of the project added at least another two months to the delay.

Attachment B

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: ITC MIDWEST LLC	DOCKET NOS. E-21948, E-21949, E-21950, E-21951
-------------------------------	---

**ORDER DENYING PETITION FOR LIMITED INTERVENTION
AND GRANTING PETITIONS FOR ELECTRIC FRANCHISES**

(Issued June 1, 2011)

TABLE OF CONTENTS

I.	PROCEDURAL BACKGROUND	2
II.	PETITION FOR LIMITED INTERVENTION	5
III.	DESCRIPTION OF PROPOSED ROUTE.....	6
IV.	NECESSARY TO SERVE A PUBLIC USE AND REPRESENTS A REASONABLE RELATIONSHIP TO AN OVERALL PLAN OF TRANSMITTING ELECTRICITY IN THE PUBLIC INTEREST	7
V.	BOARD ANALYSIS OF IOWA CODE § 478.4 FINDINGS.....	21
VI.	ENGINEERING AND SAFETY ISSUES	34
VII.	EMINENT DOMAIN PARCELS.....	39
VIII.	ELECTRIC AND MAGNETIC FIELDS	64
IX.	WAIVER OF IOWA CODE § 478.15 RIGHT-OF-WAY LIMIT	75
X.	OBJECTORS.....	78
XI.	FINDINGS OF FACT	83
XII.	CONCLUSIONS OF LAW.....	84
XIII.	ORDERING CLAUSES.....	85

I. PROCEDURAL BACKGROUND

On September 3, 2009, ITC Midwest LLC (ITC) filed with the Utilities Board (Board) a petition for a franchise in Delaware County, Iowa, identified as Docket No. E-21949. Also, on September 3, 2009, ITC filed a petition for a franchise in Buchanan County, Iowa, identified as Docket No. E-21951. On November 23, 2009, ITC filed a petition for a franchise in Dubuque County, Iowa, identified as Docket No. E-21948. Also on November 23, 2009, ITC filed a petition for a franchise in Jackson County, Iowa, identified as Docket No. E-21950. In the four petitions, ITC proposes to erect, maintain, and operate a 345 kilovolt (kV) (nominal) electric transmission line. The proposed line is approximately 80 miles long and is designed to upgrade ITC's transmission system in eastern Iowa.

On May 26, 2010, the Board issued an order establishing a procedural schedule for the filing of prefiled testimony and exhibits to address the four petitions filed by ITC. In the May 26, 2010, order, the Board scheduled an evidentiary hearing for August 3 and 4, 2010. On July 16, 2010, the Board issued an order scheduling additional hearing dates for October 5, 6, and 7, 2010, to consider evidence relating to the safety and health effects of the proposed line.

In Docket No. E-21948, ITC is requesting eminent domain authority for the following parcels: Parcel E-3 — Paul N. and William C. Schmitt; Parcel E-4 — Clement N., Paul N., and William C. Schmitt; Parcel E-9 — Richard J. Reuter; Parcel E-10 (P-1, P-2) — Knight Realty, LLC; Parcel E-11 (P-1, P-2) — Clarence J. and Mary Beth Turnis; Parcel E-12 — Steve J. and Donna M. Kalb; Parcel E-15 — Mark

F. and Rhonda M. McCullough; Parcel E-23 — Roger H. Kunde; and Parcel E-28 — Daniel and Jill Reuter. All of these parcels are in Dubuque County.

Paul N., William C., and Clement N. Schmitt (collectively Schmitts) are represented by counsel in these dockets. Richard J. Reuter, Knight Reality, LLC, Clarence J. and Mary Beth Turnis, Steve J. and Donna M. Kalb, Roger H. Kunde, and Daniel and Jill Reuter (collectively Landowner Group) are represented by counsel in these dockets. Mark F. and Rhonda M. McCullough (McCulloughs) are represented by counsel in these dockets. The Landowner Group also includes one of the objectors, James Sweeney. The Consumer Advocate Division of the Department of Justice (Consumer Advocate) is represented by counsel in these dockets.

Objections to the proposed transmission line, in addition to objections filed by the owners of the eminent domain parcels listed above, that have not been withdrawn were filed by Richard Knight; John F. Sweeney and William H. Sweeney, representing the Sweeney Farm Trust; Anne and Mary Clare Sweeney; James Sweeney; and Richard C. and Margaret Weydert.

The hearing was held as scheduled in August. ITC, the Landowner Group, the Schmitts, Consumer Advocate, and the McCulloughs appeared by counsel. Richard Weydert and Mary Clare Sweeney appeared pro se. In addition, Board Safety and Engineering Section Manager Don Stursma testified at the hearing.

On September 1, 2010, the Landowner Group filed the prepared testimony of expert witnesses Dr. Michael Behr and Hynek Burda. On September 3, 2010, ITC filed a motion waiving its right to file surrebuttal testimony, cross examine the two

witnesses, and asking to cancel the additional hearing and set a briefing schedule.

On September 15, 2010, the Board issued an order that canceled the additional hearing dates and established a briefing schedule.

On October 15, 2010, ITC, Consumer Advocate, and the McCulloughs filed initial briefs. On October 28, 2010, ITC, the Landowner Group, and Consumer Advocate filed reply briefs.

On March 9, 2011, the Board issued an order that requested the Midwest Independent Transmission System Operator, Inc. (MISO), provide an updated review of the Salem-Hazleton electric transmission line project proposal's performance based upon current system conditions relative to the project system conditions established at the time of MISO approval of the project. In the March 9, 2011, order, the Board stated that once the updated MISO study had been provided, the Board would establish a schedule for the parties to address the updated study.

On March 28, 2011, MISO provided the updated project performance review requested by the Board. On March 29, 2011, the Board issued an order that reopened the evidentiary record for the purpose of admitting the MISO review. In the March 29, 2011, order, the Board established dates for the filing of supplementary testimony and exhibits to address the MISO review.

On March 31, 2011, ITC filed a response to the MISO review. On April 8, 2011, Consumer Advocate filed prepared testimony in response to the MISO review.

The Board extended the deadline for filing a response to the MISO review; however, no other responses were filed.

The Board will admit the MISO review into the record as Exhibit 300. The Board will admit the prepared testimony of Consumer Advocate witness Xiaochuan Shi into the record as Exhibit 107. ITC did not file supplemental testimony or exhibits in response to the MISO review.

On April 22, 2011, the Board held an open meeting at which the Board addressed the issues involved in these four petitions. As a result of the decisions made at the open meeting, the Board directed its General Counsel to prepare an order for Board review that reflected those decisions. This order is the final decision of the Board regarding the four franchise petitions in this docket.

II. PETITION FOR LIMITED INTERVENTION

On April 8, 2011, the Midwest Municipal Transmission Group (MMTG) filed a late-filed petition for limited intervention to file comments regarding the proposed route. MMTG states that the group has an interest in this proceeding since the decision on whether to construct the Salem-Hazleton line will directly affect the members of the group. MMTG states that the interests of the group are not represented by any other party and MMTG requests intervention only for the purpose of having the Board consider its comments in reaching a decision. MMTG states that it only decided to seek intervention once the Board reopened the record to receive the March 28, 2011, MISO review.

On April 15, 2011, Consumer Advocate filed a response to the comments filed by MMTG, but did not object to the intervention.

The Board's procedural rules in 199 IAC chapter 7, which include requirements and time limits for intervention, state specifically that these procedural rules do not apply to petitions for electric franchises. The procedures for electric franchise dockets are found in 199 IAC chapter 11 and those rules do not establish requirements or time limits for filing for intervention in an electric franchise docket.

Since the Board does not have specific rules regarding petitions to intervene in electric franchise petition dockets, the Board must decide whether to grant MMTG intervention based upon due process and the specific circumstances regarding the petition to intervene. Here MMTG filed to intervene after briefs have been filed and the Board had almost completed its deliberations. MMTG states that it only determined that it should request intervention after the Board reopened the record to receive the MISO review.

The Board will deny the petition to intervene. The reopening of the record to receive the MISO review did not raise additional issues that were not already raised by the parties in these four franchise dockets. MMTG provides no other justification for not intervening in the proceeding during the evidentiary phase or briefing phase. Without some unique circumstance or other justification, the Board does not consider it reasonable to allow intervention during the deliberation phase of these proceedings.

III. DESCRIPTION OF PROPOSED ROUTE

ITC has filed petitions for four new franchises for the construction of a 345 kV transmission line, known as the Salem-Hazleton line, in Buchanan, Delaware,

Jackson, and Dubuque Counties, Iowa. As proposed by ITC, the Salem-Hazleton line will be a 345 kV electric transmission line, approximately 80.19 miles in length, and will connect ITC's Hazleton Transmission Substation located in the Southwest corner of Section 22, Township 90 North, Range 9 West of the 5th Principal Meridian, Buchanan County, Iowa to ITC's Salem Transmission Substation located in the South half of Section 30, Township 88 North, Range 3 East of the 5th Principal Meridian, Dubuque County, Iowa.

As proposed by ITC, the line would be double-circuited along a portion of the route with the existing 161 kV line owned in part by ITC and in part by Central Iowa Power Cooperative (CIPCO). For 2 miles along the proposed route, the 345 kV line will be double-circuited with ITC's existing 69 kV line along Sundown Road in Dubuque County. ITC proposes to retire the CIPCO-owned 161 kV line and rebuild it as a double-circuit on the new 345 kV structures and to retire the 69 kV line for the 2-mile section along Sundown Road and rebuild it as a separate circuit on the 345 kV line structures.

IV. NECESSARY TO SERVE A PUBLIC USE AND REPRESENTS A REASONABLE RELATIONSHIP TO AN OVERALL PLAN OF TRANSMITTING ELECTRICITY IN THE PUBLIC INTEREST

Iowa Code § 478.1 requires a person proposing to construct, erect, maintain, or operate an electric transmission line to obtain a franchise from the Board. Board rules require ITC to obtain a franchise for each county in which the proposed line will be located. In order to grant a franchise, Iowa Code § 478.4 requires the Board to find that the proposed transmission line is necessary to serve a public use and

represents a reasonable relationship to an overall plan of transmitting electricity in the public interest. In addition, Iowa Code § 478.3(2) requires a person proposing to construct a transmission line to substantiate the allegation that the proposed line represents a reasonable relationship to an overall plan of transmitting electricity in the public interest by showing, at a minimum, the following:

- (a) The relationship of the proposed project to present and future economic development of the area.
- (b) The relationship of the proposed project to comprehensive electric utility planning.
- (c) The relationship of the proposed project to the needs of the public presently served and future projections based on populations trends.
- (d) The relationship of the proposed project to the existing electric utility system and parallel existing utility routes.
- (e) The relationship of the proposed project to any other power system planned for the future.
- (f) The possible use of alternative routes and methods of supply.
- (g) The relationship of the proposed project to the present and future land use and zoning ordinances.
- (h) The inconvenience or undue injury which may result to property owners as a result of the proposed project.

A. Relationship to MISO Planning Studies

In determining whether the proposed Salem-Hazleton transmission 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 Board must address a fundamental issue regarding electric transmission franchises that the Board will have to address for each major transmission project now and in the future. The issue involves the relationship of the transmission planning process at MISO to the findings required in Iowa Code § 478.4 and the weight to be given to the decisions concerning the need for transmission and cost sharing made by MISO. ITC has relied primarily on the studies discussed below to support its position that the proposed line meets the statutory findings. Consumer Advocate has made arguments that require the Board to address the studies performed by MISO and the decisions made by MISO regarding the need for and cost sharing for the proposed Salem-Hazleton transmission line.

In this case, the Board will have to decide what weight to give the 2006 Eastern Iowa Transmission Reliability Study (EITRS), the 2008 and 2009 MISO Transmission Expansion Plan (MTEP08 and MTEP09) reports, and the MISO review filed March 28, 2011. The EITRS is the first study to address the need for a line in eastern Iowa. In the MTEP08 and MTEP09 reports MISO considered whether there was need for construction of the Salem-Hazleton transmission line and whether the line is eligible for cost sharing. The EITRS and the MTEP08 and MTEP09 reports were admitted into evidence and the parties presented evidence and arguments addressing the weight to be given each of the studies. The March 28, 2011, MISO review was requested by the Board to ensure that the Board was considering the most recent eastern Iowa electric system information available when reaching a

decision concerning the proposed transmission line. The MISO review is admitted into evidence in this order.

As a background for consideration of the weight to give the studies regarding electricity needs of eastern Iowa, the Board considers the reasons behind the establishment of a system of wholesale electric competition and the regional transmission organizations such as MISO to be important.

The U.S. Congress enacted the Energy Policy Act of 1992 (1992 Act) to address a lack of ready access to the transmission system and to develop competition in the wholesale electricity market, which had already occurred in some other regulated industries. The 1992 Act also eliminated constraints caused by certain actions taken by vertically integrated transmission owners.

In 1996, the Federal Energy Regulatory Commission (FERC) established the open access transmission tariff and unbundled wholesale power services. FERC also encouraged electric utilities to re-organize and place control of their transmission facilities in regional independent transmission system operators such as MISO. In Order 2000, FERC encouraged utilities to form and join the regional transmission operators which would be independent and have operational authority over the wholesale electricity markets. MISO was formed as part of the FERC process and one of the primary responsibilities of MISO is to study and prepare plans for construction of electric transmission lines that serve the MISO footprint.

The MISO transmission planning area spans all or parts of 13 states and one Canadian province. As part of the MISO organization agreement, MISO develops annual MTEPs designed to ensure the reliability of the transmission system that is

under the operational and planning control of MISO. The MTEPs are designed to identify expansion that is needed to support reliability needs as well as the competitive supply of electric power on the MISO system. The MTEPs consider all market perspectives, including demand-side options, generation location, and transmission expansion. The MTEPs are designed to meet the requirements of and be consistent with Order 2000 for regional planning.

Order 2000 requires that, among other things, regional transmission organizations (RTOs), such as MISO, have ultimate responsibility for both transmission planning and expansion within the RTO's region that will enable the RTO to provide efficient, reliable, and non-discriminatory service and will coordinate such efforts with the appropriate state authorities. Order 2000 recognizes the statutory authority of states to regulate siting of transmission facilities and the RTO planning process is designed to be consistent with these state and local responsibilities.

Transmission projects that are approved by MISO are included in Appendix A of the MTEPs when approved by the MISO Board of Directors. Appendix A projects are classified based upon their designation and include: (1) Baseline Reliability Projects (BRP) which are required to meet NERC standards; (2) Generator Interconnection Projects (GIP) which provide necessary upgrades to ensure reliability when new generation is connected to the system; (3) Transmission Service Delivery Projects (TDSP) which meet the requirements of a transmission service request; and (4) Regionally Beneficial Projects (RBP) which meet requirements for reduction in

market congestion. Projects in Appendix A may also be eligible for regional cost-sharing if the project meets designated thresholds.

Projects included in Appendix A that do not meet any of the above classifications are designated as "Other" and are designed to provide local economic or similar benefit and do not meet the threshold requirements for qualification as a RBP or are lower voltage projects outside of MISO control. Projects included in Appendix A as "Other" do not meet the cost-sharing threshold.

B. EITRS

In 2003, Interstate Power and Light Company (IPL), as a result of the establishment of open access of the wholesale electricity market and increased transfers of power through the eastern Iowa transmission system, raised concerns regarding transmission flows on the IPL system with the North American Electric Reliability Corporation (NERC) and MISO. To address the concerns raised by IPL, NERC and MISO conducted the EITRS, which was completed in 2006. The EITRS concluded that with the advent of open access to the interstate transmission systems, additional stress was placed on the eastern Iowa system as regional power flow patterns had increased from the south and southeast of the MISO region to the north and northwest. Based upon the results of the EITRS, a Salem-Lore-Hazleton 345 kV transmission line was determined to be the best option for resolving the system issues found by the study. The EITRS also showed that smaller projects such as additional transformers at the Lore and Salem substations would be useful as interim steps, but they would not make the proposed line unnecessary.

The EITRS states that it may take seven to ten years to build the Salem-Lore-Hazleton line and it recommends that several of the smaller upgrades be constructed sooner, to address near-term issues. The EITRS then states that completion of all of the proposed projects would resolve all or part of the reliability issues in eastern Iowa and might provide some economic value. The EITRS finds that a Salem-Lore-Hazleton 345 kV transmission line would be the most economical project and would be a good transmission solution to address real time system issues.

C. MTEP08 and MTEP09

MTEP reports include analysis of Narrow Constrained Areas (NCAs) as determined by the Independent Market Monitor (IMM). An NCA is "[a]n electrical area that has been identified by the IMM that is defined by one or more Binding Transmission Constraints that are expected to be binding for at least five hundred (500) hours during a given year and within which one or more suppliers are pivotal." In the MTEP08 report, one of the NCAs described is in the Southeast Minnesota, Northern Iowa, Southwest Wisconsin area, which includes the area in eastern Iowa where the Salem-Hazleton transmission line is proposed.

The congestion in eastern Iowa occurs on the 345 kV line from Arnold to Hazleton and on the Arnold-Vinton 161 kV line. The congestion problems in these two areas are listed as two of the 45 post-market flowgates that, on the average, were congested more than 1 percent of the time. The Arnold-Hazleton 345 kV line was also listed as one of the ten of top 25 most congested post-MISO market flowgates that realized increased congestion in the second year, and also realized an annual rate of congestion higher than they realized in the pre-MISO market period.

The Salem-Lore-Hazleton 345 kV line is listed as one of the projects that could mitigate the number of constrained hours in the future.

The MTEP08 report states that all projects in Appendix A have a MISO-documented need. The Salem-Lore-Hazleton 345 kV transmission line, changed to the Salem-Hazleton line, is listed as a new project in Appendix A in MTEP08 and classified as "Other." The Salem-Lore-Hazleton was changed to just the Salem-Hazleton based upon the decision by ITC that the route should not go through the City of Dubuque to the Lore Substation.

The MTEP08 report states in section 8.1.2 that the Salem-Hazleton 345 kV project had a 2013 installation expected date in the MTEP07 report and was not initially included in the 2011 model. The report states that when the installation date was moved to 2011, the model was re-run with the Salem-Hazleton 345 kV line. The report states that the re-run model with the 345 kV line as the only additional project shows that the Narrowly Constrained Area (NCA) is still binding for more than 500 hours in 2008 and 2011. The model shows that the NCA will go below 500 binding hours only after the installation of the Lakefield-Fox Lake-Rutland-Winnebago-Hayward-Adams 161 kV line in 2015.

Appendix D-1 West of the MTEP08 (Exhibit 105) states that the project is being built primarily for economic purposes, but some reliability benefits also result from the project. The appendix then goes through the Regional Economic Cost Benefit (RECB II) analysis and states the project is not eligible for regional cost sharing, based upon the RECB II criteria. The appendix states that the project shows some reliability improvements but cannot be recommended as a BRP due to the cost

of the project relative to reliability upgrades already planned in the area to address those reliability issues.

The MTEP09 report updates the analyses performed in MTEP08. MTEP09 states that MISO's role is not to construct transmission facilities and the responsibility of construction is with the transmission owners and the Transmission Owner's Agreement requires that transmission owners such as ITC make a good faith effort to design, certify, and build the facilities included in the MTEP that are approved by the MISO Board of Directors, which includes the Salem-Hazleton line. The MTEP states that MISO's intention is to continue to evolve the level and robustness of analysis in the transmission plan.

MTEP09 discusses the Arnold-Hazleton and Arnold-Vinton flowgates as two of the 31 flowgates that realized congestion in the pre-market period and in all four post-market periods. The Arnold-Hazleton 345 kV flowgate was not one of the seven flowgates with increasing congestion over the four-year period. The charts relating to these electric transmission lines show that congestion has diminished since 2007 for both the Arnold-Hazleton 345 kV line and the Arnold-Vinton 161 kV line. Appendix A of MTEP09 shows that the Salem-Hazleton line is still classified as "Other," costs are not shared, and the total estimated cost is now \$119,010,000.

D. Updated MISO Review

The Executive Summary of the updated March 28, 2011, MISO review states that the Salem-Hazleton 345 kV transmission project was approved for inclusion in MTEP08. The Executive Summary states that the project was recommended on the basis of a variety of benefits that included improved reliability and reductions in

congestion that would contribute to (1) eliminating the need for the NCA designation in the area and (2) reducing system production costs. The study provides a review of the continuing relevance of those benefits based on updated system conditions and planning models, and the review confirms that the congestion and NCA transmission issues, identified in support of MTEP08 approval of the project, still exist using latest data. In addition, the Executive Summary states that under current planning models there continue to be reliability issues projected in eastern Iowa if the proposed Salem-Hazleton transmission line is not constructed. The Executive Summary states that the Salem-Hazleton project is a key element of the present expansion plan for the area and MISO continues to support construction of the project on the same basis upon which the project was originally recommended. According to the MISO review, there continues to be congestion in eastern Iowa and that congestion varies from year-to-year. MTEP11 preliminary findings indicate that there are more congestion hours in 2009-2010 than there were in 2005-2006, but they are spread over more flowgates. Prior MTEP analyses of the Salem-Hazleton line indicated the line provided annual benefit in terms of production cost and LMP (locational marginal price) metrics in excess of its annual costs and, because congestion persists in the area, the line continues to be expected to provide congestion relief benefits to the area.

The MISO review states that Steady-State AC contingency analysis was performed on the eastern Iowa system for MTEP10 2015 summer peak and shoulder peak system conditions with and without the Salem-Hazleton line, in order to determine the ramifications of not constructing the project. Plan year 2021 shoulder

load cases were also examined to determine the impact of the Salem-Hazleton line on projected reliability issues in the area.

The MISO review states that reliability issues are expected in eastern Iowa under the latest study assumptions for the near-term planning horizon. The review then identifies the reliability issues that would be caused by not proceeding with the Salem-Hazleton project. There are a few issues which are aggravated by construction of the Salem-Hazleton project, but overall the line is beneficial for reliability under present study conditions. The MISO review states that the updated analysis shows that the Salem-Hazleton project continues to be effective in relieving projected reliability violations in the area and without construction reliability in the area will not meet accepted standards.

The MISO review concludes that the congestion and NCA transmission issues identified in the MTEP08 still exist when modeled using the latest data. The IMM continues to note that there is an NCA in eastern Iowa and southern Minnesota, which has potential to create market power issues. The review concludes that under present planning cases there are projected reliability issues in eastern Iowa if the proposed Salem-Hazleton line is not constructed.

In its response to the MISO review, ITC states that the MISO review confirms that the benefits identified in support of the MTEP08 approval of the project still exist using the latest data. Those benefits, according to ITC, are identified as: (1) improved reliability; (2) eliminating the need for the NCA designation in the area; and (3) reducing system production costs. ITC states that it does not believe there is a need for it to file any additional testimony or exhibits to address the MISO review,

since in ITC's opinion the review confirms that the Salem-Hazleton line is necessary to serve a public use and represents a reasonable relationship to an overall plan of transmitting electricity in the public interest.

In response to the MISO review, Consumer Advocate filed the prepared testimony of Xiaochuan Shi. The Board is including a lengthy summary of the Shi testimony since this is the only testimony from a Consumer Advocate witness. The length of the summary does not indicate agreement with the testimony, but the summary is provided to ensure there is a complete explanation of Consumer Advocate's position in the order.

Shi stated that the MISO review did not provide any new evidence that MISO has changed the status of the Salem-Hazleton project and the Salem-Hazleton project is still not required as a Baseline Reliability Project under MISO reliability standards or qualified as a Regionally Beneficial Project.

Shi testified that the MISO review did not perform any new calculations in its review of congestion, but instead listed the historical congestion data for eastern Iowa. He also testified that the MISO review conclusion that "because congestion persists in the area, the line continues to be expected to provide congestion relief benefits to the area" is not supported by specific benefits and does not compare the benefits with the cost of the project.

Shi testified that in the Steady-State Reliability review section MISO performed new calculations and identifies certain thermal and voltage violations caused by not proceeding with the proposed Salem-Hazleton transmission line. Shi testified the review is incomplete because it does not explain whether these reliability issues are

associated with NERC category A, B, or C contingencies. Shi pointed out that the review mentions a supporting exhibit that is not filed with the Board. Shi testified that different category issues can be mitigated using different models. An example would be category C violations that could be mitigated by generation redispatch or system reconfiguration. Shi testified that more expensive transmission expansion is not the only solution.

Shi testified that he compared the MISO review with the MTEP reports and draft reports in Exhibits 102, 103, and 105 and concluded that there are no significant differences from the earlier reports. Shi concluded that the MISO review does not contradict the conclusion reached by MISO in the earlier reports and the review does not modify the earlier MISO findings except to state that, under present planning cases, there continues to be projected reliability issues in eastern Iowa if the Salem-Hazleton line is not constructed. Shi testified that the MISO review does not say anything about whether the risks of system failure are greater than they were in 2008, with or without the proposed Salem-Hazleton project.

Shi testified that the conclusion in the MISO review regarding the reliability issues in eastern Iowa is not a change from the earlier reports. Shi testified that the earlier MISO reports not only listed each reliability issue identified in the area but also provided alternative solutions to each issue and the MISO review did not provide any analysis to investigate whether low cost options are available or whether other planned projects exist that would mitigate each reliability issue identified.

Shi testified that Consumer Advocate does not dispute that the proposed Salem-Hazleton line would mitigate some projected reliability issues; however, the

MTEP08 report clearly concluded that the project would not deal with reliability issues in eastern Iowa in a cost-effective manner.

Shi testified that the purpose of the project has not changed and that the primary purpose is economic. He testified that congestion reductions and elimination of the NCA designation would lead to production cost savings and are therefore economic issues. He testified that constraints may limit the commercial use of the transmission system, but constraints are not reliability issues.

Shi testified that the MISO review does not contain any analysis on economic benefits of the project and the MISO review does not say whether the project would meet the criteria that exist for a Regionally Beneficial Project. Shi recommended that the Board should be guided by the criteria established by MISO for four types of projects: (1) Generator Interconnection; (2) Transmission Service Delivery Projects; (3) Baseline Reliability Projects; and (4) Regionally Beneficial Projects. Shi testified that the fifth category, "Other," for projects that do not qualify for one of the four listed above, is for projects that do not qualify for a MISO-designated need. Shi testified that prospective owners of "Other" projects must demonstrate to the Board that the projects serve a public need and are cost effective. Shi testified that it is important that rate payers who are asked to pay for a project benefit from the project. Shi testified that the Board should be guided by the MISO standards for approving a transmission line in this case.

V. BOARD ANALYSIS OF IOWA CODE § 478.4 FINDINGS

The Legislature, in enacting chapter 478, directed the Board to decide whether a public use exists for a proposed line, and, if so, the necessity of the proposed line to serve the public use. Race v. Iowa Electric Light and Power Company, 134 N.W.2d 335, 338 (Iowa 1965). The Iowa Supreme Court has determined that the transmission of electricity to the public constitutes a public use. Vittetoe v. Iowa Southern Utilities Company, 123 N.W.2d 878, 880 (Iowa 1963). The public use test is satisfied when proposed system changes will meet existing needs and, at the same time, constitute a reasonable effort to meet future needs. Fisher v. Iowa State Commerce Comm'n, 368 N.W.2d 88, 98 (Iowa 1985).

A. Necessary to Serve a Public Use

The Board finds that the history of the development of competition in the wholesale electric market and the federal policy that has established regional transmission organizations such as MISO with the intent of providing a comprehensive system for planning electric transmission projects lends significant credibility to the planning process employed by MISO and, thus, to the public need for the proposed Salem-Hazleton transmission line. The MISO planning process is designed to address reliability and economic dispatch issues throughout the MISO footprint and the EITRS, the MTEPs, and the MISO review have considered the need for the proposed line. Even though the EITRS indicates that the proposed line would have economic benefits, it also finds that the proposed line would address reliability concerns. The MISO update then confirms that the proposed line will address reliability concerns that still exist in eastern Iowa.

In these dockets, the MISO MTEP reports and MISO review show the need for the proposed line as early as 2006. These analyses, the Board staff engineers' reports, the other evidence presented by ITC, and the general lack of countervailing evidence supports a finding that the proposed Salem-Hazleton transmission line is necessary to serve a public use because the line will address existing needs and constitute a reasonable approach to future needs.

B. Represents a Reasonable Relationship to an Overall Plan for Transmitting Electricity in the Public Interest

Both ITC and Consumer Advocate agree that the MISO planning studies provide significant evidence upon which the Board can rely in determining whether the proposed Salem-Hazleton transmission line represents a reasonable relationship to an overall plan for transmitting electricity in the public interest. Both parties appear to consider the determinations made by MISO to be determinative, even though ITC and Consumer Advocate reach different conclusions based upon the studies. Although the MISO studies provide compelling evidence of the need for the proposed line, whether the proposed Salem-Hazleton transmission line represents a reasonable relationship to an overall plan of transmitting electricity in the public interest requires evidence beyond the determinations made by MISO. In fact, additional evidence is required by Iowa Code § 478.3(2)(a)-(h). And while the MISO planning studies also provide evidence when analyzing the criteria in Iowa Code § 478.3(2), the Board must still consider all of the evidence presented to reach a final determination. The Board will address the criteria in Iowa Code § 478.3(2) below.

1. Iowa Code § 478.3(2)(a) requires that ITC show the relationship of the proposed line to the present and future economic development of the area. The evidence shows that the Salem-Hazleton line allows for economic delivery of bulk power through eastern Iowa to customers outside the eastern Iowa area. Economic overflow on the IPL system was the initial problem that caused IPL to ask for the eastern Iowa study and the designation of the area by the IMM as an NCA was based primarily on congestion in the area.

Consumer Advocate argued that the benefits from the proposed Salem-Hazleton line will flow to customers outside of the eastern Iowa area and without cost sharing from those customers in other states the proposed line does not meet this statutory criterion. The Board understands Consumer Advocate's position that a proposed transmission line should provide benefits to Iowa customers. The Board also agrees customer benefits are an important consideration for determining whether the proposed line meets the statutory standard. However, the Board reaches a different conclusion about the benefits to Iowa customers from the proposed line than did Consumer Advocate.

While MISO cost sharing rules in place at the time of MTEP08 and MTEP09 made a clear distinction between reliability and economic benefits, the Board believes this is an arbitrary and artificial distinction. It was possible for a project to create both reliability and economic benefits, with significant overall benefits of the project, even though the benefits classified under each category did not rise to the level that triggered cost sharing under MISO's reliability or the economic cost sharing standards. While the failure of a project to qualify for MISO cost sharing might be

considered an unfortunate lost opportunity¹, the absence of cost sharing in and of itself does not disqualify a project from being considered as having a reasonable overall benefit-cost ratio for Iowa ratepayers.

The EITRS found that the proposed line would provide both economic and reliability benefits to eastern Iowa and MTEP08 found that there was a demonstrated need for the line. The MISO review updated the EITRS and the MISO review concluded that there was still a demonstrated need for the proposed line and that the line would address both reliability and economic needs in the area.

The fact that the proposed line will relieve transmission congestion and improve transactions in the wholesale power market and benefit customers in other jurisdictions are reasons to support the project, not reject it. In fact, Iowa Code § 478.3(3) directs the Board to look beyond the customers in Iowa in considering the required findings. The Board finds that construction of the proposed line will improve the reliability of the electric transmission system in eastern Iowa, enhance economic development in the area, and be a benefit to the public throughout the MISO region. Reliable electric service is an important and necessary component of economic development in any area in Iowa.

In addition, the Iowa Legislature and Executive Branch have for many years developed policies that encourage economic development through the development of transmission and generation. For example, see Iowa Code § 476.53 where it

¹ Exhibit 105, the MTEP08 report, Appendix D1West, shows that there are significant economic benefits from construction of the Salem-Hazleton transmission line, and that the RECB II benefits to cost ratio for the project was 1.23, which is very close to the 1.6 threshold.

states "[I]t is the intent of the general assembly to attract the development of electric power generating and transmission facilities within the state in sufficient quantity to ensure reliable electric service to Iowa consumers and to provide economic benefits to the state." Another aspect under Iowa Code § 478.3(2)(a) to consider is the development of renewable energy generation. The benefits from the development of wind and other renewable energy generation are benefits that can only be achieved if the transmission system is constructed to carry this electric energy to market. The evidence shows that the proposed line will provide additional electric paths to transmit renewable energy.

2. Iowa Code § 478.3(2)(b) requires ITC to show the relationship of the Salem-Hazleton line to comprehensive electric utility planning. MISO has been given the responsibility for regional transmission planning and the MISO MTEP reports represent comprehensive transmission plans for the MISO footprint. These reports are substantial evidence on their own but in this case there was no persuasive countervailing evidence presented. This criterion is satisfied by the MISO MTEP reports.

3. Iowa Code § 478.3(2)(c) requires that ITC show the relationship of the proposed line to the needs of the public presently served and future projections based on population trends. As discussed above, the proposed line will provide for additional reliability to the eastern Iowa area as well as reduce congestion. This in turn results in more efficient market operations and reduced congestion costs for ratepayers. As the economy recovers from the current economic downturn the need for reliable, efficient electric service can be expected to increase. The Board finds

that the benefits to the reliability of the eastern Iowa transmission system from construction of the proposed line provide sufficient support to show that the proposed line provides both reliability and economic benefits to the area and meets the needs of present and future customers.

4. Iowa Code § 478.3(2)(d) requires ITC to show the relationship of the proposed line to the existing electric utility system and parallel existing utility routes. The EITRS and MTEP08 and MTEP09, as well as the MISO review, show the relationship of the Salem-Hazleton line to the constraints in eastern Iowa and adjacent areas. In addition, 56 miles of the proposed line already follow an existing 161 kV line; another 2 miles of the line follow an existing 69kV line; almost 2 miles of the 12.5 distribution circuit will be underbuilt on the proposed new line; and the existing 161 kV and 69 kV circuits will be removed and attached to the proposed 345 kV structure. All of this reduces the impact on the underlying properties and demonstrates the line has a substantial relationship to the existing utility system as well as parallel existing routes. The Board finds that the evidence shows this criterion is met.

5. Iowa Code § 478.3(2)(e) requires ITC to show the relationship of the proposed line to any other proposed power system planned for the future. Under the current transmission planning system, MISO is responsible for developing plans for the power system that includes eastern Iowa. The MISO studies address the relationship of the proposed Salem-Hazleton line to other existing and proposed power systems in the MISO region and meet this criterion.

Consumer Advocate argues there is no up-to-date study validating this project as one needed to meet reliability standards. However, the MISO review provided to the Board on March 28, 2011, updates the earlier MISO study concerning the need for the proposed Salem-Hazleton transmission line. As stated in the MISO review, the proposed Salem-Hazleton transmission line was recommended for construction on the basis of a variety of benefits that included reliability and reductions in congestion.

As discussed earlier, Consumer Advocate objects to the proposed line because it did not meet the threshold for cost sharing with other jurisdictions. Consumer Advocate witness Shi points out that MISO did not find that the Salem-Hazleton project met one of the four criteria for cost sharing, but rather recommended the project be included in the "Other" category. Inclusion in the "Other" category means that the project did not meet the RECB standards for cost sharing as a Regionally Beneficial Project. According to Shi, "Other" category projects must be shown to meet a public need and to be cost effective in order to meet the statutory requirements. Shi also argued that constraints may limit the commercial use of the transmission system, but constraints are not reliability issues. The Board disagrees.

As stated above, the Board does not consider MISO's decision that the cost of the proposed line will not be shared with other jurisdictions to be fatal to the proposed line. The Board points out, with regard to the argument that constraints are not reliability issues, that economic flows are not the only reason for transmission constraints on this proposed line; constraints and resulting reliability issues can be caused by increased electric flows due to variations in generation and load profiles.

In fact, the MISO review shows that since MTEP08 was completed, more than 1,600 MW (megawatts) of new generation with interconnection agreements have been completed or are in process and there continues to be congestion on many flowgates in eastern Iowa despite the fact that transmission upgrades have been constructed in the area. The fact that MISO did not provide for cost sharing of the proposed line does not outweigh the benefits to the area from the improved reliability to the electric transmission system in eastern Iowa while providing economic benefits to the area. The Board finds that the MISO studies meet this criterion.

6. Iowa Code § 478.3(2)(f) requires ITC to address the possible use of alternate routes and methods of supply. The evidence in the record shows that ITC hired Black & Veatch to conduct a preliminary route study to determine which route would be the best route, based upon certain criteria, to construct the proposed transmission line. The evidence indicates that Black & Veatch used a study method for developing three alternatives that was similar to study methods that had been used for other transmission lines. The alternatives were then compared. The alternative described as the Northern alternative was chosen and was the initial route noticed for the informational meetings and then, with certain revisions, filed as the proposed route with the Board in the four petitions.

According to the Black & Veatch route study, the various routes from the Salem Substation to the Hazleton Substation were developed using approximately 102 line segments ranging in size from a fraction of a mile to several miles. Initially, segments were eliminated based upon personal observation, Internet maps, and professional judgment. Eighty-three segments remained for consideration after this

initial review. Using these 83 line segments and after consultations among the staff of Black & Veatch and ITC, 27 potential routes were scored using the scoring system described in the Black & Veatch study and testimony. Late-filed Exhibit 38 was provided to show the scoring for the 24 routes reviewed by Black & Veatch. Exhibit 20 was also admitted, which shows the scoring for a route that could have used Segments 17, 22, and 29.

The evidence concerning the method of scoring of the routes shows that the scoring is based upon the judgment of the engineers and other Black & Veatch personnel who were involved in the study. Black & Veatch developed a weighting system that was applied to the various land use criteria based upon the descriptions in the route study. Some landowners disputed the relative weights given to different categories of land, but the objections seem to have been based on the assumption that the relative weights reflected a judgment about the relative social or economic value of the land.

However, the land category weights actually reflect the relative costs and engineering difficulties encountered when constructing transmission lines. For example, cropland was given a lower weight than woody wetlands, not because cropland was considered less valuable or worthy of preservation than woody wetlands, but because construction through cropland would have fewer impediments than construction through woody wetlands. Black & Veatch also divided the criteria into three categories of engineering, social, and environmental. The Board finds that the weighting given to the various land use categories and the division into the three criteria for evaluation of line segments were reasonable for this project.

Black & Veatch then calculated a raw score for each route using the weighting assigned to land use. Each weighted value was multiplied times miles, acres, or number of occurrences, depending upon the nature of the factor. This provided a comparison of the use of each criterion for each route. The raw scores from this calculation give a rough comparison of similar criteria. According to the route study, the raw scores for each criterion were then normalized and the normalized scores were added together for a total normalized score. Normalization was accomplished by giving the lowest raw score a 1 and the highest raw score a 5 and then giving the middle raw score a normalized score depending on its relationship to the raw scores of the highest and lowest raw score.

The best route was considered to be the route with the lowest normalized score, except in this case the three lowest scoring routes were dropped from further consideration because each of these routes left the Salem Substation to the north and passed through congested areas and too close to the Dubuque Airport. The routes that went north from the Salem Substation also followed the existing 161 kV right-of-way, which the evidence suggests was only 50 feet wide. Based upon the narrow right-of-way, the existence of extensive development along the right-of-way, and the proximity to the Dubuque Airport, the three routes exiting the Salem Substation to the north were eliminated from consideration.

The evidence in the record supports the decision to eliminate the three routes that exited the Salem Substation to the north. The evidence shows that the right-of-way was only 50 feet wide in places and ITC would have been required to obtain at

least another 50 feet of right-of-way in an area where development is up to and sometimes onto the existing right-of-way.

As far as the overall evaluation process, the Board is not convinced that the method used to normalize the raw scores provides any greater clarity or relevant evaluation of the various segments. No evidence was presented that the flaws in this process changed the final decision; however, it seems that the normalization process combines ordinal rankings and cardinal numbers in a mathematically inappropriate² way. This method could in certain instances distort the route selection process and obscure the information provided by the raw scores. Even though the normalization does not appear to have changed the evaluation process in these dockets, future route studies should avoid such calculations or procedures which do not provide any greater understanding or clarity to the route selection process and tend to distract from the evaluation of the scoring system used to select the best route.

The Board finds that the route selection process appears to be reasonable overall, understanding that this is not a completely scientific process and that reliance on the experience and knowledge of the engineers conducting the route study is necessary. Based upon the route selection process described in the evidence, the Board finds that the selection of the Northern route as the best route was reasonable. The Northern route uses the existing 161 kV line right-of-way as much as possible

² In this context, the Board uses "inappropriate" in a mathematical sense. While the normalization method may not be perfect, there was no evidence presented in this docket that the choice of normalization method changed the result of the route selection process, and the outcome of the overall process is still reasonable in this case.

and any final route that did not include the 161 kV right-of-way as much as possible would have been questionable. Use of existing right-of-way where practicable reduces the impact of construction of a new line on land use. The Board is aware that double-circuit lines raise some reliability issues; however, reducing the effect of the proposed line on land use, in these dockets, outweighs the reliability issues caused by double circuit lines.

Although the Board has concerns about the evaluation process and the failure of ITC to calculate a score for some routes, which appear to be reasonable alternate routes, the evidence supports the overall selection process. The decision that the three alternative routes, Northern, Southern, and Central, would follow the same route south from the Salem Substation is reasonable. The Central and Northern route then follow a similar path until the Northern route turns north to meet the existing 161 kV line right-of-way while the Central route goes further west and then north but then turns west some distance from the existing 161 kV line right-of-way. The Southern route separates from the other two routes just shortly after the three turn west and then follows a route completely separate from the other two routes.

Based upon the above discussion of the route selection process followed by ITC, the Board finds that ITC considered alternative routes in determining that the proposed route was the best route for the proposed line. The Board finds that the criterion in Iowa Code § 478.3(2)(f) has been met.

7. Iowa Code § 478.3(2)(g) requires ITC to show the relationship of the proposed project to the present and future land use and zoning ordinances. The Board interprets this criterion to refer to region-wide land use and development as

determined by zoning ordinances and governmental planning studies. Although the Landowner Group raised the issue of zoning and ITC compliance with Iowa Code § 478.3(2)(g) concerning the relationship of the proposed project to the present and future land use and zoning ordinances, there is no substantive evidence that the construction of the proposed transmission line will violate any ordinance or adversely affect present or future land use.

In fact, the only issue raised about zoning was the potential that the proposed line would need to be designed to ensure it did not interfere with flight restrictions of the Dubuque Airport. The decision made by ITC to exit the Salem Substation to the south alleviated most of this issue and the design of the proposed transmission line addresses any remaining issue. (Tr. 396-98). In addition, Board staff did not raise an issue concerning zoning ordinances in the three reports that addressed construction of the transmission line. The Board finds this criterion has been met.

8. Iowa Code § 478.3(2)(h) provides that ITC must address the inconvenience or undue injury which may result to property owners as a result of the proposed line. Issues involving inconvenience and undue injury to landowners are raised by landowners of the parcels over which ITC is requesting the right of eminent domain and will be discussed for each of those parcels separately. The issue of electric and magnetic fields (EMFs) was an issue raised by several landowners and that issue will also be addressed separately.

Finally, Iowa Code § 478.4 gives the Board the discretion to modify the line location and route if it determines the modification to be just and proper and Iowa Code § 478.18 requires the Board to consider whether the construction of a

transmission line would unnecessarily interfere with the use by the occupant of the land. These issues will also be addressed with the discussion of the eminent domain parcels.

Issues regarding whether the line will be constructed in compliance with applicable Board safety and engineering standards will be addressed first.

VI. ENGINEERING AND SAFETY ISSUES

In determining whether the proposed transmission line meets the safety and engineering requirements in the Board's rules, the Board relies heavily on the reports of the Board staff engineers. In this case, the Board staff engineers filed three reports dated May 19, July 21, and September 10, 2010. The Board has taken official notice of the three reports and they are part of the record in these dockets. In addition, Board Safety and Engineering Section Manager Don Stursma testified at the hearing.

The May 19, 2010, report addresses the four petitions, the requests for eminent domain, objections to the proposed transmission line, the construction of the proposed line, the proposed route, and requests additional information from ITC. The report states that the total length of the proposed transmission line will be 80.19 miles and the route selected is primarily on private rights-of-way, generally along and parallel to division lines of land. The routes in the petitions are close to the preferred routes shown on the informational meeting maps, except areas south and east of Peosta, Iowa. The proposed routes are all in the corridors as shown on the maps at the informational meetings.

The report describes the proposed transmission line as connecting the Salem Substation in Dubuque County to the Hazleton Substation in Buchanan County. The report states that the line is designed to provide a second source to the Salem Substation to address reliability issues and increase bulk power transfer capacity in eastern Iowa. The proposed 345 kV line follows the same line route as existing 161 kV line for approximately 55.87 miles, and existing 69 kV line for approximately 2 miles. This results in a project that is mostly multiple circuit construction on existing right-of-way.

The report states that the route primarily follows an existing 161 kV transmission line route and is mostly on private rights-of-way along and parallel to division lines of land. There are a few segments that deviate from division lines of land, but these deviations reflected landowner preference.

The report describes the proposed construction of the line with regard to the type of poles to be used, where double circuits would be located, and other aspects of the construction. The report states that the proposed line would cross over some existing transmission lines and states that there is still more information needed concerning these crossings. The report states the conclusion that, except for the additional information needed about the crossing of other electric transmission lines, the Board staff engineers have concluded that the design of the proposed facilities is consistent with the National Electrical Safety Code (NESC) and other safety and engineering provisions in 199 IAC 25.2.

In addition, the staff engineers requested that ITC file "Plan and Profile" drawings of the proposed line. The report concludes that where there is proposed

double circuiting with the 161 kV lines the information provided by ITC was not sufficient to verify that the proposed line can and would be constructed with the necessary clearances.

The report points out that the proposed route departs from being near and parallel to roads or division lines of land at a number of locations. The deviations, according to the report, are typically diagonal segments about a half-mile long. The majority of these diagonal segments are on the route of an existing electric line that the proposed line intends to occupy.

The report indicates that ITC identified two locations in Dubuque County where the line is on a diagonal on a new route. One is a transition from one side of a section line to the other side of the section line. The report states that this is not inconsistent with routing criteria. The other diagonal on a new route is based upon landowner wishes and accommodates an Iowa Department of Transportation request for the right angle crossing of a diagonal highway.

The report points out that lines carrying double circuits have some disadvantages in the area of reliability and lack of redundancy. A single weather-related event could take out multiple major electric supply circuits. The report states that the reliability issues create a conflict with the language in Iowa Code § 478.4 that requires the Board to find that the proposed transmission line represents a reasonable relationship to an overall plan of transmitting electricity in the public interest.

On July 21, 2010, Board staff engineers filed a supplemental report concerning the proposed transmission line. In the supplemental report, Board staff

engineers updated the list of parcels where ITC is requesting the right of eminent domain and the list of objectors who had not withdrawn their objections. The report points out that three parcels had been withdrawn from the list of parcels where ITC is seeking the right of eminent domain and that 11 parcels were still on this list, including one parcel that has been divided into two parcels for this purpose.

The supplemental report goes through the issues raised by Board staff engineers in their May 19, 2010, report and describes the responses by ITC and the landowners. Included in the description of responses is a summary of the MTEP08 Report which considered a Salem-Lore-Hazleton 345 kV line to be the best option for addressing the NCA in eastern Iowa. The report points out that ITC chose to propose the Salem-Hazleton 345 kV line, one of the options considered in the MTEP08 Report, instead of the Salem-Lore-Hazleton line.

At the hearing Don Stursma, one of the Board staff engineers, testified that the questions raised in the May 19 and July 21, 2010, reports and the information the reports indicated ITC needed to file had largely been addressed by ITC. Stursma testified that the reports raised the issue of the change in the route from going through the Lore Substation to not going through the Lore Substation to ensure that the Board had information on this change. He testified that he is satisfied that it would be extremely difficult to use the existing 161 kV right-of-way through the City of Dubuque.

Stursma testified that he is not aware of any outstanding issues regarding the content of the four petitions. Stursma testified that he and the other Board engineers had not had the opportunity to review information late-filed by ITC. Stursma testified

that the route presented at the informational meetings is a starting point for a proposed route and changes to the route are expected as negotiations with landowners are held. The route may also be changed for engineering reasons.

In the second supplemental report filed September 10, 2010, Board staff engineers address two issues: (1) a review of the "Plan and Profile" drawings filed by ITC on July 30, 2010, and (2) whether ITC has executed an agreement with CIPCO for use of CIPCO right-of-way.

With regard to the "Plan and Profile" drawings, Board staff engineers state that the proposed line as shown on these drawings is not always consistent with the route and structure design as shown in the petitions for franchises. Board staff engineers state that the petition drawings are the drawings used by the Board to consider whether the project meets safety and engineering standards; however, the "Plan and Profile" drawings could be used during construction and so should be consistent with the petition drawings.

Board staff engineers state that the proposed line cannot be constructed using CIPCO's existing 161 kV right-of-way unless there is an agreement between ITC and CIPCO. The second supplemental report points out that no agreement had been filed as of the date of the second supplemental report.

ITC filed a response to the second supplemental report. In its response, ITC states that the "Plan and Profile" drawings require modifications to reflect the revised pole-top configuration. In addition, ITC stated that it had filed amendments to Exhibit C in ITC Exhibit 23 (the Dubuque County Petition and Exhibits) to reflect the triple circuit pole-top arrangement along Sundown Road in Sections 21 and 28,

T88N, R1E, Dubuque County. The reason for the change, according to ITC, is that during the development of the "Plan and Profile" drawings, it became evident that the pole-top configuration could be improved.

ITC states with regard to the discrepancy noted by Board staff engineers between the "Plan and Profile" drawings and the petition for the line route from pole #115 to pole #118 that the "Plan and Profile" drawings are correct. ITC made a last minute change to the route alignment on the Drees property to accommodate owner preference and acquire a voluntary easement. ITC states that it amended Exhibit 23, the Dubuque County petition, to reflect this slight realignment on the Drees Parcel. This change is also a revision to Exhibit 31.

ITC states that it and CIPCO are currently finalizing a contract that will allow ITC to construct on the proposed line on the route and in the manner proposed. ITC said it would inform the Board when the contract is executed.

On October 7, 2010, ITC filed a letter with the Board stating that the necessary agreement for use of the CIPCO right-of-way had been executed.

Based upon the testimony of Don Stursma and the reports filed by the Board staff engineers and the revised exhibits filed by ITC, the Board finds that the evidence shows that the proposed line complies with the safety and engineering requirements in the Board's rules.

VII. EMINENT DOMAIN PARCELS

Iowa Code § 478.6 provides that 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.

Iowa Code § 478.15 provides in part that 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 Board may approve, prescribe and find to be necessary for public use, not exceeding 100 feet in width for right-of-way. The statute then provides that where 200 kV 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 200 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. The statute places the burden of proving the necessity for public use on the person, company, or corporation seeking the franchise. 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. See Iowa Code chapter 6B.

In accordance with Iowa Code §§ 478.6 and 478.15, the Board may vest a franchise holder with the power to take an interest in private property by eminent domain. To grant eminent domain, the Board must find that a taking is necessary for public use, it must prescribe the extent of the taking, and it must approve the taking.

A determination of the extent of the taking cannot be left for future determination.

Race v. Iowa Electric Light & Power Company, 134 N.W.2d 335, 338 (Iowa 1965).

As stated earlier, Iowa Code § 478.3(2)(h) includes a requirement concerning any inconvenience or undue injury which may result to property owners as a result of construction of a proposed transmission line as one of the showings that ITC must make to substantiate that the proposed line represents a reasonable relationship to an overall plan of transmitting electricity in the public interest. Iowa Code § 478.18(2) requires that a transmission line be constructed so that it does not unnecessarily interfere with the use of any lands crossed.

The court cases do not provide any guidance on what standard to apply to the terms "inconvenience," what would be considered an "undue injury" to the property owner, or what would be considered to "unnecessarily interfere" with the use of the land. These terms are left for the Board to determine on a case-by-case basis. The Board considers the three standards to be similar and will use the terms individually or the term "undue interference" to address the issue. Questions of damages or compensation for the taking of the landowner's property are to be determined by a county compensation commission as set forth in Iowa Code chapter 6B.

The parcels where ITC is still requesting the right of eminent domain are:
Parcel E-3 — Paul N. and William C. Schmitt; Parcel E-4 — Clement N., Paul N., and William C. Schmitt; Parcel E-9 — Richard J. Reuter; Parcel E-10 (P-1, P-2) — Knight Realty, LLC; Parcel E-11 (P-1, P-2) — Clarence J. and Mary Beth Turnis; Parcel E-12 — Steve J. and Donna M. Kalb; Parcel E-15 — Mark F. and Rhonda M. McCullough; Parcel E-23 — Roger H. Kunde; and Parcel E-28 — Daniel and Jill Reuter.

Most of the objectors raise issues related to the possible health impacts of EMF generated by the proposed transmission line on people and livestock. The resolution of all EMF issues is addressed in a separate section of the order below.

Schmitts

Clement, Paul, and William Schmitt hold title to two parcels where ITC is requesting the right of eminent domain, Parcels E-3 and E-4, which are described in the petition, Exhibit 23. ITC is requesting eminent domain for the west 75 feet of the parcels. According to the Board staff engineers' May 19, 2010, report, both of these parcels have buildings and Parcel E-4 has a farm residence on it. On Parcel E-3, the closest building is approximately 800 feet from the proposed route and the closest building on Parcel E-4 is 950 feet. Parcel E-4 is about 50 percent tree covered and some of the trees will need to be removed if the line is constructed as proposed. In their objection filed June 24, 2010, the Schmitts request full and fair compensation for the current and future values of the trees that would be affected by the proposed transmission line.

Board Decision

The Board finds that the location of the proposed route on the Schmitts two parcels will not create undue interference with the use of the land. The area where the line will be located is wooded and not being used for a purpose that would require the route to be modified and there is no evidence that the proposed line will unreasonably limit the Schmitts use of their property or cause undue interference to the Schmitts. The Schmitts did not show that the removal of the trees would unnecessarily interfere with their use of the land and their primary issue appeared to

be the value of the trees that will be removed. There is also no evidence that the construction of the transmission line on the Schmitts' property will cause interference disproportionate to the normal or typical interference experienced by others affected by the same or similar projects. In other words, there is nothing unique or unusual about the Schmitts' property, so if the line was moved to a route crossing different parcels of land, the same issues would probably exist for farm operations on that land. In addition, the Board has determined that the proposed transmission line is in the public interest, and that the proposed route is reasonable.

The issue of the value of the trees that will need to be removed is left to the county compensation commission. The Board does not have jurisdiction over the value of the property condemned. Race v. Iowa Electric Light and Power Company, 134 N.W.2d 335, 338 (Iowa 1965).

Compensation for property condemned through eminent domain is to be determined pursuant to the provisions of a county compensation commission which is selected pursuant to Iowa Code § 6B.4. This statute also establishes the procedures for the county compensation commission to determine the amount of damages for the condemned property.

Even though the Board has found that the proposed line will not cause undue interference with the use of the Schmitts' property, there is an issue concerning the width of the right-of-way to be granted for the Schmitts' two parcels. The issue of the width of the right-of-way over the eminent domain parcels is addressed in a later section where a waiver of the right-of-way limitations in Iowa Code § 478.15 filed by ITC is considered.

Richard Reuter

Richard Reuter is the owner of Parcel E-10, which is described in the petition, Exhibit 23. Richard Reuter testified he owns 800 acres and has a dairy livestock operation. Richard Reuter testified that he is upset with the process for taking his property without his permission. He has spent his life building the operation and objects to ITC wanting to place power lines across the west side of the farm and then turn left and come across the south side of his farm. He testifies there is already a power line easement on his farm and none of the proposed routes use the existing easement.

Richard Reuter testified that power lines are detrimental to the health of dairy cows. He is also concerned about the effect of the power line on two natural gas lines that cross his property. He does not believe the testimony of ITC witnesses that there is no adverse health effect from the power lines on dairy livestock. He testified that there is no guarantee that the power line is safe. He threatens legal action if the line is approved and if his farming operation is damaged.

Richard Reuter testified that the process of establishing the route could have been fairer. He testified that the Monastery objected and the line was relocated. He testified that he objected and was ignored. He testified that the evaluation of the various routes was inaccurate and was designed to allow ITC to justify the route selected. Richard Reuter testified that the criteria for route selection are ridiculous and the values are misleading and lead the power line down the wrong route.

For example, in the Northern Route, the inventory lists no "Woody Wetlands" yet gives a normalized score of 5 to that category. Cultivated crops have an

inventory of 505.2 acres and are given a score of 2. He points out that the study therefore values non-existent woody wetlands 2.5 times higher than 505.2 acres of cropland. This shows a bias against farm operations.

Richard Reuter testified that the selection process places too high of a value on dwelling houses and buildings along roads. He argues that the Iowa Code allows transmission lines along roads even if there is a house or building within 100 feet of the line. He testified that it appears ITC failed to consider routes along Route 20 or Monastery Road because of houses and buildings. He testified that in ITC's exhibits the company admits that the shortest route would be to follow the existing easement but the proposal does not do so for reasons that do not make sense.

Richard Reuter testified that ITC justifies not using existing easements because development along the current easement will deter expansion of the easement to the size needed to handle the additional kV proposed for this line. Richard Reuter testified that this makes no sense and that ITC refuses to expand the easements from 100 to 150 feet because of the development along existing easements while ITC is willing to carve up his farm operation by running the transmission line down the middle of a field. In addition, Richard Reuter testified that ITC supports the use of double circuit along certain parts of the line for structural support; however, ITC uses the fact that double circuit would be required in other parts of the line as an excuse not to follow the existing easement. Finally, Richard Reuter testified that the MISO report states that the actual usage does not meet the standards for the additional line. He testified that the line is based upon pure

speculation and faulty methods and he suggested that the simulation used to justify the route was very likely flawed.

At the hearing, Richard Reuter testified that he met with ITC representatives twice. He told the representatives the first time he was not interested in negotiations because of health reasons associated with EMF. He testified he told the ITC representatives the line runs on two sides of his property and he was not interested in having the line close to his dairy operations. ITC representatives came back with a higher offer. Richard Reuter testified that he told them again that he did not want the line for health concerns for his livestock and family. He testified that he agreed to meet with ITC witness Dr. Mercer but canceled when he learned he would have to sign a non-disclosure agreement. Richard Reuter testified that there were no discussions about accommodating his concerns about his property.

Richard Reuter testified that he also rents Knight's property which the line is proposed to cross and he was not offered a \$10,000 bonus for the easement over the Knight property as was offered to other landowners and tenants.

Richard Reuter testified that he already has two natural gas pipelines going across his farm. The pipelines were there when he bought the property. He has not had any difficulties with the pipelines, except when he wanted to build a barn in the area. He and Northern Natural Gas Company agreed as to where he could build and whether he could raise the ground. Richard Reuter testified that he was concerned with the power line being near the gas pipeline because of stray voltage.

Board Decision

The Board has addressed the routing issues raised by Richard Reuter in the sections above where the Board has found that the proposed route meets the statutory requirements. The Board also addressed the outcome of the route evaluation process used by Black & Veatch and the Board has found the outcome was reasonable. The objections raised by Richard Reuter about farming operations do not show that his farming operations would be unnecessarily interfered with by the construction of the proposed line. The poles will be placed along the fence line and are designed with single pole construction to limit interference with land use. The evidence does not show that the proposed line is located in an area that will interfere with Richard Reuter's dairy operations or that there is anything unique about the area of his property where the line will be located that would unreasonably prevent him from continuing his farming operations in the manner similar to his current operations. Finally, there is also no evidence that the construction of the transmission line on the Richard Reuter property will cause interference disproportionate to the normal or typical interference experienced by others affected by the same or similar projects. In other words, there is nothing unique or unusual about the Richard Reuter property, so if the line was moved to a route crossing different parcels of land, the same issues would probably exist for farm operations on that land.

In addition, the Board has determined that the proposed transmission line is in the public interest and that the proposed route is reasonable. Since Richard Reuter has not shown that the route will cause undue injury to his farming operations, the Board will not require ITC to modify the route to some other property.

The evidence of the Board staff engineers and ITC witness Silva is that transmission lines do not have stray voltage issues, since transmission lines do not have neutral grounds. (Tr. 150, 191). The issue raised by Richard Reuter concerning EMF health effects are addressed in the following section. Finally, Richard Reuter raised issues regarding the adequacy of the compensation offered by ITC. Compensation issues are not within the Board's jurisdiction. Based upon the discussion of the issues raised by Richard Reuter, the Board finds that the proposed route will not be modified to avoid the Richard Reuter property.

Knight Realty, LLC

Richard Knight, who owns Knight Realty, LLC, testified on behalf of Knight Realty, LLC. The Knight property is Parcel E-10 which is described in the petition, Exhibit 23. Knight objects to the proposed line because of the effect it will have on his investment in the farmland he proposes to develop for houses. He testified that Peosta is growing and the high-voltage line will be detrimental to the health of people and animals. He is concerned about the effect of construction on the productivity of his farmland. Knight also testified that the compensation offered for the damage to the land is not sufficient.

Knight testified that there are alternative routes available. He testified that the study performed by Black & Veatch disregarded the existing line right-of-way in Dubuque County because ITC claimed it would need a 150 foot easement that is not available in developed areas. Knight questioned why the route does not run along the existing route down Highway 20 and then turn south down Y21 following the existing easement lines and states that the potential use of this route is not properly

explained. He testified that the line should avoid the property of Richard Reuter, Steve Kalb, and his own.

At the hearing, Knight testified that when he first learned of the proposed line, it intersected Deutmeyer's property and cut through White's property, Kalb's property, Dimmer's property, and right through his property. Then, after ITC's meeting with Deutmeyer the line was moved to the fence line along his property, which is a section line.

Knight testified even though the buildings on his property are located a full section from the proposed transmission line, he does not want the line on his property regardless of the location. He testified that this is due to health concerns, since he is not a farmer. He purchased his land for development and does not want the line anywhere near Peosta.

Board Decision

The Knight land is currently zoned agricultural and even though Knight testified that he purchased the land for development, there appears to be no current plan to develop the property. Knight's objections based upon potential future use of the property do not provide unique circumstances that would require a modification of the route. Many property owners consider their land subject to some kind of future development and a restriction of a route for future land use, without some unique circumstance, would make the finding of a route almost impossible.

The Knight property has no houses on the section where the proposed line is to be constructed and the Board does not consider the transmission line an impediment to residential development of the property that rises to the level of undue

interference. The proposed line was moved to the fence line of the property to reduce any interference with the use of the land. There is also no evidence that the construction of the transmission line on the Knight property will cause interference disproportionate to the normal or typical interference experienced by others affected by the same or similar projects. In other words, there is nothing unique or unusual about the Knight property, so if the line was moved to a route crossing different parcels of land, the same issues would probably exist for farm operations on that land. In addition, the Board has determined that the proposed transmission line is in the public interest and that the proposed route is reasonable.

Knight expressed concern that he would not receive adequate compensation for the loss of productivity of the farmland. As with the other landowners, the primary objection to the proposed line is that it is not wanted on the Knight property and the other objection is that the compensation offered by ITC is not adequate. If the Knight land indeed has potential future development value that will be reduced by this line, or if there will be a loss of productivity, the county compensation commission is the appropriate body to determine the extent to which the potential future land value has been reduced and to determine fair compensation for that loss.

Knight proposed use of Highway 20 and the right-of-way along Sundown Road. However, use of the right-of-way along Highway 20 would have required the line to be constructed through population centers, which is rarely a preferred alternative. Board engineers stated that they saw no advantages in any of the three alternatives proposed by Knight compared to the route selected by ITC. (Board Staff Engineers' May 19, 2010, report, p. 24).

ITC has demonstrated a willingness to accommodate Knight by moving the route to the fence line so the line does not bisect the Knight property. Based upon the above discussion, the Board finds that the proposed route does not create undue interference with the use of the Knight property, especially since the line was moved from bisecting his property to the fence line.

Clarence Turnis

The Turnis property is Parcel E-11 (P-1 and P-2) and is described in the petition, Exhibit 23. Clarence Turnis owns P-1 and his wife Mary Beth Turnis owns P-2. Clarence Turnis raised the issue of a pole being placed too close to his house at the corner where the proposed line turns westward from its North-South direction along the 69 kV right-of-way. Turnis also testified that his main concern is that the proposed transmission line will be constructed 130 feet from his house and adjacent to a lane used for entry into the farm. He suggested that the proposed pole location could cause damage to the house if the pole was knocked down by a storm or accident. He also objects to the removal of three trees on the northern side of the lane.

Turnis testified that he farms over 3,000 acres and there is a lot of traffic around, into, and out of the farm all day along the lane where the pole will be located. He testifies that the probable placement of the pole will impact the safety of vehicles and machinery entering the driveway from Sundown Road. He is also concerned that the proposed line will affect the health of his dairy livestock. He testifies that ITC witnesses testified there are no health issues but he does not want to accept that risk.

Turnis testified that the line will make it difficult for him to spray his field by airplane which will increase his cost of operation. Further, he will not have access to his fields from all areas because of the line. Turnis also testified that ITC is not compensating him for the intrusion into his property.

Turnis testified that there are other easements on his property. He testified that the pipeline on his property heaved one past winter which caused him additional expense for which he has not been compensated. He testified that the proposed transmission line will cause more work to farm around the poles.- He is also concerned that the 345 kV line will be upgraded to a 760 kV line and he will not receive any notice of that upgrade.

Turnis testified that he has heard that this type of transmission line will affect GPS and satellite signals and wonders what will be done to address those problems. Finally, Turnis testified that he is worried EMF will affect the health of his family and the health of a relative with a pacemaker. Turnis testified that there are several routes that historically have been used for utility easements to the south of his farm that would be feasible to locate the line.

At the hearing, Turnis testified that he met with ITC representatives to discuss concerns with the proposed line. He testified that ITC said it could move a pole that was to be placed by the lane to his house to another location further from his house and the lane. Turnis testified he does not want the line on any of his property. Turnis testified that he had met with ITC representatives twice and had been offered \$5,500, then \$6,000, and then a bonus of \$10,000 to sign a voluntary easement.

Board Decision

Turnis' primary concern appears to be with the effect that the proposed transmission line will have on his ability to farm his property and the amount that ITC has offered him for the easement. Certainly shifting the route off of the Turnis property would eliminate any interference with that particular farm operation, but given the beginning and end points of this proposed line, the impact would simply be shifted to a different set of landowners. Without evidence that would support shifting this line to a different route, the Board does not consider it reasonable to shift the route to other property owners since the line would probably have the same effect on the farming operations along a different route than it would have along the proposed route. There is also no evidence that the construction of the transmission line on the property will cause interference disproportionate to the normal or typical interference experienced by others affected by the same or similar projects. In other words, there is nothing unique or unusual about the Turnis' property, so if the line was moved to a route crossing different parcels of land, the same issues would probably exist for farm operations on that land.

In addition, the Board has determined that the proposed transmission line is in the public interest and that the proposed route is reasonable. Any remaining concerns about fair compensation are issues over which the Board has no jurisdiction; they must be left to the county compensation commission.

Turnis did raise one issue that the Board will specifically address. That issue is the location of the pole where the proposed transmission line turns west in the 69 kV right-of-way on the east side of Sundown Road. The location of the pole would be

very near the lane that gives access to the Turnis house and would be within 130 feet of the house. There are also three trees that would have to be removed to meet the easement requirements offered by ITC. Turnis testified that ITC stated it would move the pole further from his lane and the house if he would sign an easement.

ITC witness Cackoski testified that ITC had some flexibility with regards to pole placement and would work with Turnis to resolve the problems. Cackoski testified that ITC told Turnis that the transmission line could be angled away from the Turnis residence in a southeasterly direction and this would increase the distance from the residence as well as improve visibility and highway access. In addition, there would be no need to remove the three trees. (Tr. 387).

The Board considers the testimony of Cackoski to be a commitment by ITC to attempt to make the necessary accommodations regarding the placement of the corner pole on the Turnis property. The Board does not consider the pole placement to rise to the level of undue interference with land use; however, the Board will require ITC to make a good faith effort to place the poles on the Turnis property in a manner that does not unreasonably interfere with the Turnis lane or trees. The Board further requires ITC to update the Board on its efforts to negotiate a satisfactory resolution on this issue.

Steve Kalb

The Kalb property is Parcel E-12 and is described in the petition, Exhibit 23. Kalb testified that he runs a calving operation and raises steers. He testified that there is a shallow gas and oil pipeline that crosses the path of the proposed transmission line. He worried that stray voltage will follow the pipelines into the barn

and yard and put his livestock at risk. He testified that because he is at the end of the line for the easement, this increases his chances of having stray voltage problems. He testified that the route should go south and avoid his farm.

At the hearing, Kalb repeated his concern about the proposed transmission line crossing the gas and oil pipeline on his property. Kalb testified that he met with ITC representatives at Knight's house to discuss the proposed line. He was not invited by ITC, but by Knight. Much later, he received a phone call from an ITC representative during which he was promised veterinarian information concerning EMF, which he testified he never received. He testified that there was another phone call in which he told the ITC representative his questions had still not been answered. He then met with an ITC representative a couple of days later. At this meeting, ITC brought a veterinarian and another representative.

Kalb testified he talked with an engineer from the pipeline company about the pipeline on his property and was told there was not a problem with stray voltage. He then talked with an employee of IPL and was told there were problems when the transmission line was double-circuited with a distribution line. He had the impression that IPL personnel did not like combining the two lines.

Kalb testified that he did not discuss accommodations with ITC since he had learned at the Knight meeting that the line could be run down the fence line. He supported Knight on the request to move the line to the fence line on the north of his property. Kalb testified that because of the pipeline and the IPL distribution line, he does not want the transmission line on his property. He testified that his buildings would be about one-quarter mile from the transmission line. He testified that the

distribution line and the proposed transmission line would parallel each other down Sundown Road.

Board Decision

It appears that Kalb's primary concern is the location of the proposed electric transmission line in relation to the existing gas and oil pipeline. He stated that he was concerned about danger created by stray voltage. The evidence in the record from the ITC witness Silva is that transmission lines do not have stray voltage problems. ITC moved the proposed line from the original location on the south of Kalb's property to the north of the Kalb property along a fence line as the same accommodation offered by ITC to Knight. There is also no evidence that the construction of the transmission line on the property will cause interference disproportionate to the normal or typical interference experienced by others affected by the same or similar projects. In other words, there is nothing unique or unusual about the property, so if the line was moved to a route crossing different parcels of land, the same issues would probably exist for farm operations on that land. In addition, the Board has determined that the proposed transmission line is in the public interest and that the proposed route is reasonable.

Finally, as discussed in previous sections, the issue of compensation for any losses in the cattle business or farming are issues for the county compensation commission. The Board finds that the proposed route does not create undue interference with the Kalb property and there does not need to be any further accommodation to address Kalb's concerns.

McCulloughs

The McCulloughs' property is Parcel E-15 and is described in the petition, Exhibit 23. In their brief, the McCulloughs state that the proposed route for the transmission line will cross their property through the middle of a corn field. This will cause problems with operating the farm, since the field currently is wide open and free of obstruction. The McCulloughs state that they currently use aerial spraying and they will not be able to continue using aerial spraying once the transmission line is constructed. This change, the McCulloughs argue, will reduce their yields by 50 percent. The McCulloughs then argue that they should receive more compensation than offered by ITC.

The McCulloughs' brief cites several cases to support the position that they should receive greater compensation. The cases cited are from decisions in compensation cases and stand for the proposition that a landowner is entitled to present evidence regarding the highest and best use of the property and any evidence that would impress a willing buyer.

In its reply brief, ITC argues that the Board cannot grant the relief requested by the McCulloughs in their initial brief. ITC points out that Iowa Code § 478.15 provides that the Board only determine whether there is a need for the Salem-Hazleton transmission line to serve a public use and the issue of just compensation to be paid for easements obtained through eminent domain is not within the Board's jurisdiction. The issue of just compensation is determined by a county compensation commission as set forth in Iowa Code chapter 6B.

ITC states that the alternate request by the McCulloughs that the transmission line be located along an existing fence line would not be practicable or reasonable. ITC points out that its witness Cackoski testified that the McCulloughs' fence line does not follow division lines of land and would require overhanging another landowner's property. ITC states that relocation to the west side of the McCulloughs' property would add an additional one-half mile to the length of the line and four additional corner structures. This, ITC argues, would unreasonably increase the cost of the line. ITC states Iowa Code § 478.53(2) recognizes cost is an important factor to be considered in development of electric transmission facilities. ITC argues that it would not be practicable or reasonable from engineering and cost perspectives to follow either fence line along the McCullough property. ITC argues that it offered the McCulloughs a reasonable accommodation by offering to place poles for the line in drainage areas in a field to minimize interference with McCullough's farming operations and the McCulloughs rejected this accommodation.

Board Decision

The primary concern of the McCulloughs appears to be compensation, an issue the Board does not have jurisdiction to address. There is also the issue of the location of the poles across the McCullough property. ITC witness Cackoski testified that ITC considered moving the route to the property line of the McCullough property, but this was impracticable and unreasonable since one fence line runs along a creek and is not straight and the other fence line would require four additional corner structures and increase the length of the line by one-half mile. Cackoski testified that the proposed route is in line with easements on each end of the McCullough property

and that the property can be easily spanned by placing poles in the non-farmed drainage areas so to not affect cropland.

Even though the proposed route across the McCullough's property may be reasonable, ITC's proposal to place the poles in non-farmed areas and thus span across the tillable farmland appears to be a superior alternative that would reduce the chances that the line will interfere with the McCullough's use of their property. With the condition that the poles be placed on the McCullough property as described by ITC witness Cackoski, the Board finds that the proposed route does not create undue interference with the use of the McCullough's property. In addition, the Board has determined that the proposed transmission line is in the public interest and that the proposed route is reasonable.

Roger Kunde

The Kunde property is Parcel E-23 and is described in the petition, Exhibit 23. Kunde testified that he operates a crop farm and other businesses in Dubuque. He testified that he does not want the line on his property. He testified that the easement presented by ITC is worthless since it allows free access to the property or other parts of his property that are not part of the easement. He testified that his understanding of the easement is that ITC could access his property at any time of year and this could affect his farming operations.

Kunde testified that the easement is not specific to what type of crops or vegetation would be allowed within the easement area and adjacent to the easement. He testified the line would prohibit him from planting corn or beans. He testified that there is no indication where the poles will be located. If the poles do not go along the

fence line, then the ability to farm the ground will be affected and that will result in annual loss of income. He objected to the three-year limit on damages that is provided for in the easement and testified that the value placed on the land was not sufficient.

Kunde testified that most people have taken the ITC offer and ITC should work with those people rather than go through his farm. He testified that other landowners objected and the line was moved but there has been no attempt by ITC to address his objections and move the proposed line off of his property. In his opinion, ITC should work out a solution with the landowners who are willing to have the transmission line on their land. He testified that the line will affect the value of his property if he decides to sell.

At the hearing, Kunde testified that he met with ITC representatives at his business twice. He testified that with his past experience with high-voltage companies, he did not want to work with them because the companies would not fulfill the agreements after they were signed. He was offered \$5,500 an acre and the poles could be on the fence line or 30 feet from the fence line. He testified ITC wanted 75 feet minimum easement. He was later offered \$6,500 per acre for his property. Kunde testified that he met with ITC representatives and he was told that the pole location would not be known until the survey was completed. Kunde testified that his property has no buildings on it.

Using Exhibit 30, Kunde showed where ITC wanted the easement. He testified that ITC also wanted the right to cross his property, including his other parcel. Kunde testified that he did not think ITC representatives were honest

because they told his neighbor not to worry about the poles and paid the neighbor \$6,500 per acre and a \$10,000 bonus. He testified that he farms with very large equipment and this is not taken into consideration. The pole issue does not bother him as much as the people he had to negotiate with.

Board Decision

Kunde testified that most of his unwillingness to negotiate with ITC was based on his feeling that they were not negotiating in good faith and that ITC would not fulfill the commitments made to him. Kunde seemed to be satisfied, however, with moving the proposed line and pole location to the fence line and the compensation offered by ITC seemed to be the major problem. Kunde's unwillingness to negotiate with ITC is not an issue that the Board can resolve. It appears that ITC attempted to negotiate with Kunde and address his concerns about the location of the poles. The proposed location of the line on the fence line of his property appears reasonable.

The Board finds that the location of the route on the Kunde property does not create undue interference with use of the property since Kunde did not present any specific evidence concerning how the proposed line would affect his farm operations. There is also no evidence that the construction of the transmission line on the property will cause interference disproportionate to the normal or typical interference experienced by others affected by the same or similar projects. In other words, there is nothing unique or unusual about the Kunde's property, so if the line was moved to a route crossing different parcels of land, the same issues would probably exist for farm operations on that land.

In addition, the Board has determined that the proposed transmission line is in the public interest and that the proposed route is reasonable. The compensation issues raised by Kunde are not within the Board's jurisdiction and Kunde can raise them with the county compensation commission.

Daniel Reuter

The Daniel Reuter property is Parcel E-28 and is described in the petition, Exhibit 23. Daniel Reuter testified that he has a great concern about the location of the proposed transmission line. He believes EMF from the line will adversely affect his livestock, especially his dairy cows. Daniel Reuter testified that there are alternate routes that ITC could use where landowners would not object to the line. He testified he is also concerned about stray voltage because the line comes close to two shallow gas lines and very close to his farm buildings. Daniel Reuter testified, mistakenly, that the proposed line touches his property on two sides. Daniel Reuter argued that the proposed line should use existing easements.

Daniel Reuter testified that he entertains visitors from other states and countries on his farm and hosts local school children. He testified that if the proposed line is built across his farm, he will cease farm tours for all visitors due to possible ill effects from EMF the line may have on visitors.

At the hearing, Daniel Reuter testified that he had purchased property near the proposed line during the course of this proceeding. He testified he paid \$7,200 per acre for the 40 acres he purchased. He testified that he is within a mile of Peosta and he bought the property because it is close to his dairy operations. Daniel Reuter testified that before he purchased the property he met with ITC representatives along

with his father, Richard Reuter. He testified that after he purchased the property, he received a phone call from ITC representatives but was not interested in discussing the proposals, since he had already heard them earlier with his father. Daniel Reuter testified that he did not have discussions with ITC about possible accommodations.

Daniel Reuter testified that there are no buildings on the property he purchased. He currently lives in the town of Epworth and would like to build a house on the land in the future. Daniel Reuter testified that he did not want the line on his property because of how close it would be to the dairy operations. He testified that he and his father had heard bad stories about the effect of high-voltage lines on dairy production.

Board Decision

The Board finds that the proposed transmission line will not create undue interference with the Daniel Reuter property. There are no buildings on the Daniel Reuter property and there is no evidence that the construction of the transmission line will create a problem with the building of a residence on this property. The issue concerning adverse health effects from the line is addressed in the next section of this order. Finally, the proposed route is located only on one side of the Daniel Reuter property.

Although Daniel Reuter stated that there are alternate routes that ITC could use where landowners would not object to the line, he did not submit any evidence as to the actual location of these alternatives or the affected landowners' willingness to have the line run across their properties. Finally, Board staff engineers and ITC witnesses Silva and Dr. Mercer testified that transmission lines do not have stray

voltage issues, since transmission lines do not have neutral grounds. (Tr. 150, 191). There is also no evidence that the construction of the transmission line on the Daniel Reuter property will cause interference disproportionate to the normal or typical interference experienced by others affected by the same or similar projects. In other words, there is nothing unique or unusual about the property, so if the line was moved to a route crossing different parcels of land, the same issues would probably exist for farm operations on that land. In addition, the Board has determined that the proposed transmission line is in the public interest and that the proposed route is reasonable.

VIII. ELECTRIC AND MAGNETIC FIELDS

One of the primary objections to the proposed transmission line raised by the landowners of parcels where ITC is requesting the right of eminent domain and by other objectors is the potential effect of EMFs generated by the proposed transmission line on livestock and people. By way of background, electric fields are produced by voltage and increase in strength as the voltage increases. The electric field strength is measured in units of volts per meter (V/m). Magnetic fields result from the flow of current through wires or electrical devices and increase in strength as the current increases. Magnetic fields are measured in units of gauss (G) or tesla (t). Gauss is the unit most commonly used in the United States. Tesla is the internationally accepted scientific term. Since environmental EMF exposures involve magnetic field intensities, which are only a fraction of a gauss, these are commonly measured in units of milligauss (mG). An mG is 1/1000 of a gauss.

Most electrical equipment has to be turned on, i.e., current must be flowing, for a magnetic field to be produced. Electric fields, however, are present even when the equipment is switched off, as long as it remains connected to the source of electric power. Electric fields are shielded or weakened by materials that conduct electricity (including trees, buildings, and human skin). Magnetic fields pass through most materials and are therefore difficult to shield. However, both electric and magnetic fields decrease as the distance from the source increases. Even though both electric and magnetic fields are present around electrical equipment and power lines, most recent research has focused on potential health effects of magnetic fields.

ITC Position

ITC presented the testimony of three expert witnesses on the issue of whether the proposed 345 kV transmission line would cause health problems in either animals or humans. Michael Silva, a professional engineer with many years of experience in EMF exposure assessment, testified concerning the amount of exposure that results from a 345 kV transmission line, and specifically the amount of exposure that would occur from construction of the Salem-Hazleton transmission line. Dr. Nancy C. Lee, a board-certified medical doctor, public health specialist, and epidemiologist, testified concerning the effects of EMFs on human health. Dr. Dwight Mercer, a licensed Veterinarian and board-certified Veterinary Toxicologist, testified concerning on the effects of EMFs on animals.

Silva testified that EMF occurs where there is a flow of electricity. The EMF associated with alternating current electric power transmission lines in the United States is known as power frequency or 60 Hertz (Hz) fields. The 60 Hz electric field

is the field associated with the voltage on the conductors (energized wires) of an electric power line or electrical device. Common sources of EMF include wiring in homes and businesses, lighting, home appliances, power tools, and electrical equipment in offices and medical or industrial facilities, as well as power lines.

ITC states that measurements in supermarkets, libraries, restaurants, and stores show that magnetic fields range from 1 mG to over 1,000 mG. ITC states that the field measurements show that exposure to magnetic fields result from a variety of situations and sources routinely encountered in everyday life and there are no state or federal standards for public exposure to EMF. The Institute of Electrical and Electronic Engineers (IEEE) in 2003 recommended that public exposure to 60 Hz magnetic fields not exceed 9,040 mG.

ITC points out that Silva calculated the EMF levels from the proposed transmission line on and along the right-of-way. ITC states that Silva calculated that under peak, non-contingency loading conditions (the amount of current on the line), magnetic field levels for the proposed transmission line will be a maximum of 98.8 mG on the right-of-way, 32.2 mG at one edge of the right-of-way, and 10.9 mG at the other edge. ITC states that based upon his training, education, and experience, Silva concluded that there is nothing unusual about the EMF from the proposed Salem-Hazleton line. ITC points out that the EMF levels from the proposed transmission line will be far below the 9,040 mG standard and are within the range of everyday EMF exposure. ITC points out that the first 345 kV line was installed over 50 years ago and there are now 80,000 miles of 345 kV or higher voltage lines in operation in the United States.

Dr. Lee evaluated the epidemiology research that has been conducted on EMF and childhood leukemia, as well as studies on adult cancer and neurodegenerative diseases. ITC states that Dr. Lee used the same methodologies in reviewing the research for this case as she used throughout her professional career. ITC states that Dr. Lee found that the studies she reviewed found no consistent statistically significant increased risks in childhood leukemia associated with measured fields, estimates of EMF exposure based on wire codes, or calculations of past exposures. ITC states that Dr. Lee found that, taken as a whole, the epidemiologic research does not provide a scientific basis to conclude exposure to magnetic fields is associated with an increased risk of childhood leukemia. In addition, ITC points out that Dr. Lee concluded that the animal studies and other laboratory research on EMF do not provide any consistent or compelling evidence that exposure to EMF is involved in the development of cancer or other illnesses.

ITC points out that Dr. Lee's findings are consistent with the findings the National Institute of Environmental Health Services (NIEHS) report on EMF made to Congress in 1999. The NIEHS report found that laboratory research did not support the weak association found in some research between EMF and childhood leukemia. The NIEHS concluded that it would not rank EMF exposure as "reasonably anticipated" to be a cause of cancer. ITC points out that the NIEHS conclusion is consistent with a report of the World Health Organization (WHO). In 2007, the WHO issued a report that found that there was inadequate evidence to conclude that EMF causes or contributes to almost all of the health endpoints examined. The WHO report concludes that "[b]ased on a recent in-depth review of the scientific literature,

the WHO concluded that current evidence does not confirm the existence of any health consequences from exposure to low level electromagnetic fields."

ITC states that for this proceeding, Dr. Mercer conducted a systematic and detailed review of the scientific research on EMF and animal health, including studies of farm animals. ITC points out that Dr. Mercer reviewed multi-generational studies that allow researchers to observe whether there are any subtle genetic effects passed from parents to offspring. ITC states that Dr. Mercer found no reliable scientific basis to conclude that exposure to EMF causes adverse effects on animal reproduction, growth, or development.

ITC states that Dr. Mercer also reviewed studies involving dairy cattle. Based upon a two-year study of dairy cows kept under a 765 kV transmission line, Dr. Mercer indicates the study found no adverse effects on grow-out rates, feed conversion, milk production, or other measures of performance in the exposed animals. ITC states that Dr. Mercer concluded that the scientific research on EMF and animals does not provide a reliable scientific basis to conclude that exposure to EMF causes or contributes to adverse health in animals, including any adverse effects on dairy cow milk production.

ITC states that the Landowner Group expert witness Dr. Michael Behr premised his conclusions about economic damages that would be caused by the proposed transmission line on a single study from Slovakia, the Broucek paper. ITC points out that Dr. Behr did not identify the body of research on dairy cows and EMF, and his testimony did not address the relevant studies discussed by Dr. Mercer. ITC argues that the reliance on the Broucek paper is misplaced because the research did

not involve animals exposed to power frequency EMF. Instead, ITC points out that the Broucek study investigated possible effects from "geopathogenic zones" in the earth's natural magnetic fields. ITC explains that Dr. Mercer testified that the Broucek research involved cows exposed to static or direct current magnetic fields, rather than alternating current power frequency EMF from transmission lines. Since the power current frequency EMFs are completely different from the earth's static field, the results of the Broucek are not relevant to the proposed transmission line.

ITC points out that the Broucek paper is not a peer reviewed article and, without peer review, the research was not subject to independent expert scrutiny of the study's methodology and reported results. ITC points out that the Broucek results have not been replicated by other studies and the results are not consistent with the results of many other studies on dairy cows exposed to power frequency EMF.

ITC states that the Landowner Group expert witness Hynek Burda is neither a veterinarian nor a comparative toxicologist, as is Dr. Mercer. ITC points out that Burda conducted a study of the body orientation of what appeared to be cattle and deer near transmission lines based on images from Google Earth. Burda interpreted the images to be evidence that cattle in Europe pastured near transmission lines did not appear to adopt a consistent North-South geographical alignment, and hypothesized that this apparent change in alignment was caused by EMF interference with the cattle's ability to detect the earth's magnetic field. ITC pointed out that Burda's interpretation is speculative. ITC states that Burda admits that he can only speculate about the physiological mechanisms of the magnetic alignment of ruminants.

ITC states that Dr. Mercer testified that the results of the Burda study had not been replicated. Dr. Mercer also testified that the observations from the Burda study are contrary to Dr. Mercer's own experience with cattle. ITC points out that Dr. Mercer testified that more work would have to be done before the observations could be taken as scientifically reliable.

ITC states that Silva testified that power frequency EMF from the proposed transmission line would not interfere with the operation of cellular telephones, GPS devices, pacemakers, or pipelines near transmission lines. ITC points out that Silva has conducted a research project to evaluate whether a GPS device is adversely affected by EMF from power lines. ITC points out that the results of the Silva research project showed that the 60 Hz transmission lines do not produce any significant level of "noise" at the much higher frequency of the GPS satellite signals.

ITC points out that Silva found from his project that the transmission wires could not block signals because of the small electrical size of power conductors and the height above the ground of the conductors. Silva's project also found that cellular phones use signals at much higher frequencies than the 60 Hz from power lines. Finally, Silva testified that it is relatively common for transmission lines to cross natural gas or other pipelines and the design of the transmission line satisfies the relevant grounding requirements of the National Electrical Safety Code. ITC points out that Silva testified there is no stray voltage from transmission lines since the lines do not have neutral wires.

ITC states that Silva testified that the major pacemaker manufacturers design their devices to incorporate shielding from the different types of EMF in daily

environments. Silva testified that leading manufacturers have identified levels of EMF which they consider compatible with the pacemakers and at 130 feet from the transmission line the levels of EMF will be far below the levels identified by the manufacturers.

Landowner Group Reply Brief

The Landowner Group states in its reply brief that Dr. Behr examined the milk production records of the Reuters and concluded that the proposed transmission line would cause an annual loss of 6.9 percent in production. This would result in a conservative loss of \$181,503 on an annual basis. The losses are based upon on a 2003 study conducted by Jan Broucek entitled "Effects of Magnetic Field during Gestation on Dairy Cows and Their Calves." The Landowner Group argues that ITC failed to explain how the distinction between the magnetic fields studied by Broucek and those emitted from the proposed transmission line would limit the effects on nearby dairy cows. The Landowner Group argues that ITC insults the result of the Broucek study because it is not peer reviewed. The Landowner Group points out that the Broucek paper was published in conjunction with the ASAE-sponsored Fifth International Dairy Housing Proceedings.

The Landowner Group argues that ITC failed to offer any credible explanation for what Dr. Mercer cited as a few studies conducted in which animals did show adverse effects when exposed to EMFs. Assuming there is a drop in milk production similar to that suggested by the Broucek paper, then there would be no dispute that there would be significant economic losses.

The Landowner Group states that Dr. Mercer relied on dated field studies in criticizing the research of Hynek Burda. The Landowner Group states that the Burda study is significant because the behavioral reactions noted with respect to cattle disorientation near power lines provide strong evidence of potentially adverse effects on EMFs at the cellular and molecular level. The Landowner Group argues that ITC is asking the Board to ignore the disturbing implications of the Broucek and Burda Research at great cost to the landowners affected by the proposed transmission line.

Board Decision

In Cedar Falls Utilities, Docket No. E-21847, "Order Affirming Proposed Order, Addressing Motions, and Granting Permission to Appear" issued September 21, 2005, the Board determined that without probative scientific or medical evidence or precedent from a court decision, the Board had no basis on which to find that power lines cause adverse health conditions in humans, thereby warranting further investigation or denial of the franchise. The Board's findings in Cedar Falls were consistent with two prior Board decisions in which the Board addressed whether there was evidence that EMF fields caused adverse health conditions in humans that would require modification of the route. Waverly Municipal Electric Utility, Docket No. E-20990, "Proposed Decision and Order Granting Franchise" issued September 27, 1990 (affirmed without comment March 8, 1991); Midwest Power, a Division of Midwest Power Systems, Inc., Docket Nos. E-21043, E-21044, E-21045 (consolidated), "Decision and Order Granting Franchise" issued March 9, 1993.

The Board finds that there is not sufficient evidence presented by the Landowner Group that supports a change from the previous decisions. The evidence

from the Burda study about the orientation of cattle along transmission lines has not been duplicated and, as Dr. Mercer testified and Burda admits, the effect of EMF on the physiological mechanisms of the magnetic alignment of ruminants is speculative. Furthermore, even if Burda's hypothesis about the impact of EMF on cattle alignment is correct, there was no evidence in this docket that such a change in alignment would be associated with any negative impact on the cattle or their production, or even any theories presented as to why such alignment changes might be reason for concern. In fact, Dr. Mercer testified that there were other factors that would cause cattle to change their alignment without causing any known changes in animal health or dairy production.

As for Dr. Behr's testimony, it is based primarily on the Broucek study which has not been replicated, peer reviewed, or corroborated by other evidence. In addition, as pointed out by Dr. Mercer the Broucek research investigated the effects of "geopathogenic zones" in the earth's natural magnetic fields and not the effect of power frequency EMF. The Broucek research involved cows exposed to static or direct current magnetic fields and not alternating current power frequency EMF from transmission lines. The Broucek research by itself is not sufficiently probative for the Board to find that the proposed transmission line should be relocated to areas where there are no dairy farm operations.

Issues concerning the effect of EMFs from the proposed transmission line on the operation of cellular telephones, GPS devices, pacemakers, or natural gas pipelines were addressed by ITC witness Silva. Silva testified that research he conducted showed that the 60 Hz transmission lines do not produce any significant

level of "noise" at the much higher frequency of the GPS satellite signals. Silva testified that his research showed that transmission wires could not block signals because of the small electrical size of power conductors and the height above the ground of the conductors. Silva's project also found that cellular phones use signals at much higher frequencies than the 60 Hz from power lines. Finally, Silva testified that it is relatively common for transmission lines to cross natural gas or other pipelines and the design of the transmission line satisfies the relevant grounding requirements of the National Electrical Safety Code. Silva also testified that pacemaker manufacturers have identified levels of EMF that are compatible with pacemakers and the Turnis residence is far enough away from the proposed line so that the levels of EMF are below the levels identified by the manufacturers. Finally, the Silva and Mercer testified that transmission lines do not create stray voltage since the lines do not have neutral wires.

The Board finds that ITC witness Silva's testimony on the effect of EMFs on cellular telephones, GPS devices, pacemakers, or natural gas pipelines is the only evidence in the record regarding these issues. Landowners raised the issues but did not present any evidence to support their concerns. Based upon Silva's testimony, there is no evidence that EMFs from the proposed transmission line will create any undue interference with these devices and a modification of the proposed line is not required to address these concerns.

IX. WAIVER OF IOWA CODE § 478.15 RIGHT-OF-WAY LIMIT

Iowa Code § 478.15 provides in pertinent part that any company having secured a franchise as provided in chapter 478 shall thereupon be vested with the right of eminent domain to such extent as the Board may approve, prescribe and find necessary for public use, not exceeding one hundred feet in width for right-of-way. The company may, where it is constructing a line of 200 kV or higher, apply to the Board for a wider right-of-way not to exceed 200 feet, and the Board can extend the right-of-way for good cause. The burden of proving the necessity for public use shall be on the company seeking the franchise.

On March 1, 2010, ITC filed an application for wider right-of-way of 150 feet for several parcels where ITC was requesting the right of eminent domain. ITC stated that the 150-foot right-of-way is necessary to ensure compliance with ITC's Vegetation Management Program; the 150-foot right-of-way takes into account the high voltage of the line, structure framing, and span lengths; and the 150-foot right-of-way allows adequate access to the line for maintenance purposes.

On March 16, 2010, ITC filed a conditional amendment to the application for wider right-of-way. In the conditional amendment, ITC stated that it interpreted Iowa Code § 478.15 to only apply to the width of the portion of the right-of-way where ITC is seeking to obtain by eminent domain for an individual parcel. ITC states that another interpretation would apply the 100-foot limit to the total width of required right-of-way where any portion of that right-of-way (regardless of width) is to be obtained by eminent domain. Under this latter interpretation, ITC states that it would be necessary for it to apply for a wider right-of-way with respect to all of the

properties where it is requesting the right of eminent domain. ITC stated that if the Board considers the second interpretation to be the more reasonable, it is amending the application to apply to all of the parcels over which it is seeking the right of eminent domain.

In its initial brief, ITC states that it is only requesting the right of eminent domain on one parcel (E-15, the McCullough's property) in which 150 feet of right-of-way is needed. ITC states that the 150-foot right-of-way is needed to ensure safe operation of the transmission line and is typical of a right-of-way for a 345 kV transmission line in Iowa and Minnesota. According to ITC, the 150-foot right-of-way will allow ITC to protect the safety of the public and comply with all clearances of the National Electric Safety Code, the Iowa Electric Safety Code, and the North American Reliability Corporation reliability standards.

Board Decision

The Board does not consider ITC's interpretation of the right-of-way limitation in Iowa Code § 478.15 to be the correct interpretation. Iowa law does not favor the taking of property by eminent domain for public use and if the amount of property sought to be condemned is in excess of that necessary for the improvement, the appropriation of the excess is not for the public use. Vittetoe at 880. Based upon the statutory language and the Vittetoe decision, the limitation on the right-of-way that can be taken should be strictly construed.

Adopting the 100-foot limitation proposed by ITC would allow a landowner who granted ITC a voluntary easement to affect the rights of an adjacent landowner who objects and forces ITC to seek eminent domain. By interpreting the 100-foot

limitation to apply to the total width of the easement, persons seeking the right of eminent domain must be prepared to demonstrate good cause for taking any property over a 50-foot easement on each side of the proposed transmission line, unless a voluntary easement is obtained. The Board considers this interpretation to be consistent with the intent of the requirement of a public use for the taking of private property by eminent domain.

The evidence in these dockets shows that the primary reason put forth by ITC in support of good cause for a 75 feet right-of-way on either side is the ITC vegetation management program. ITC also argued that not providing a 75-foot easement would place the transmission line in jeopardy if trees 50 feet tall or taller were located next to the right-of-way.

However, ITC did not present evidence that there were trees of any kind on any of the parcels, except one, where eminent domain is being requested, and the land use maps show that most of the parcels are open cropland. In addition, on Exhibit 30, a land use map showing the 69 kV right-of-way along Sundown Road, there are two parcels where ITC is not requiring a 75-foot easement. On the property owned by Martin Vaske, the notation on the map states "Will use existing 50' easement unless Vaske signs 75' easement with no restrictions." On the other parcel owned by Ivadell Bhrem, the notation on the map states "Using 50 foot easement."

This evidence shows that a 75-foot easement may not be as necessary as claimed by ITC and weighs against the credibility of the evidence presented by ITC for the need for the 75-foot easements.

This evidence does not support good cause for the granting of a 75-foot easement over the eminent domain parcels, except for the two parcels owned by the Schmitts. The Schmitts' two parcels are covered by woods and the presence of woods in the right-of-way is good cause to grant ITC a 75-foot easement over those two parcels.

X. OBJECTORS

Iowa Code § 478.5 provides in part that 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 20 days after the date of last publication and shall state the grounds therefore. The Board may allow objections to be filed later, in which event the applicant must be given reasonable time to meet such late objections.

Several of the objections cite a concern regarding property devaluation. As stated before in this order, the Board does not have jurisdiction over the value of property to be taken by eminent domain. The role of the objector is to attack the petition and the petitioner's allegations and evidence, not to raise issues regarding the value of the land. Race at 338. Property valuation is an issue before the county compensation commission.

Objections were filed by members of the Landowner Group and these objections mirrored the issues raised regarding the request for eminent domain. The

Board will not address the objections of those landowners in this section since the objections have already been addressed.

Anne and Mary Clare Sweeney

Anne and Mary Clare Sweeney filed objections to location of the proposed transmission line because of the potential hazard to farmers and the productivity of animals. Anne and Mary Clare Sweeney contend that the transmission line would lower the farms' value and farm income. Additionally, they argue that the poles and wires will create problems for farmers and equipment operators doing farming operations. They propose that the line be put underground.

The Board staff engineers' report states that the route presented by ITC at the informational meeting crossed the northern end of the property owned by Anne and Mary Clare Sweeney; however, the route was modified so that the proposed route is not on or immediately adjacent to their property. The transmission line along the proposed route, at the closest, is approximately 400 feet east of this property. With regard to potential hazards, the Board staff engineers state that the proposed construction is steel poles without guy wires and the proposed route is along fence rows that should minimize interference with farming operations. Finally, the Board staff engineers state that putting a transmission line of over 80 miles underground is not economically feasible.

Based upon the Board staff engineers' report and the fact that the proposed transmission line is at least 400 feet from the property of Anne and Mary Clare Sweeney, the Board finds that no modification to the location of the proposed route is warranted to address these objections.

James A. Sweeney

James Sweeney is a member of the Landowner Group but ITC is not requesting eminent domain authority for his property since the proposed route does not place the line on the James Sweeney property.

James Sweeney testified that the line will not be located on his property; however, the proposed line will run close to his property and will affect his ability to construct buildings on his property. His property is only 2.18 acres and is not conducive to farming. According to James Sweeney, the proposed line would prevent him from developing the property as a home, work area, or a kennel. He testified that based upon his reading over the years, he believes there is proof that high-voltage lines are detrimental to people's health. He would not build close to the line for these reasons.

James Sweeney testified that the route should be built near abandoned railroad beds, near current rail lines, or current highway right-of-way, or built underground. He testified that his property was originally 160 acres but the Iowa Department of Transportation cut it into three parcels. This ruined the farm operation.

In supplemental direct testimony, James Sweeney described the history of his farm. He testified that his dream is to establish a model home for the disabled on the property and to build a kennel for the care of pets using disabled workers. He testified that his farm is a good location for this project because of the access to the highway and airport. He testified that his plans would be destroyed if the proposed transmission line is built because he would not be able to build the home or kennel

because of concerns for the health effects of the high-voltage lines. James Sweeney also testified that he would not be able to build wind turbines in the area.

James Sweeney testified that the proposed line does not meet the requirements of Iowa Code § 478.18 since it is not constructed near and parallel to roads, to the right-of-way of the railways of the state, or along division lines of the land, wherever this is practicable and reasonable. He testified that ITC's proposed construction interferes with the use of the land by him which is contrary to the law. He is also worried that ITC will increase the voltage on the line from 345 kV to 765 kV and then build wind turbines that will increase rates to local customers. James Sweeney offered several exhibits to support his testimony. The exhibits include newspaper articles, family photographs, articles on wind power, articles on farmland, and articles on planning and development.

At the hearing, James Sweeney testified that he has not discussed with ITC accommodations for the location of the proposed transmission line. He testified that he does not currently have any buildings on the property. James Sweeney testified that the proposed line is on the east border of his property and that the line would need to be 457 meters from his property to be acceptable to him.

Board Decision

The Board staff engineers' report states that the James Sweeney property lies to the south and west of the proposed route. The parcel is a 2.15 acre irregular plot in the corner of Highway 151 and Callahan Road. The proposed route of the transmission line parallels the east property line, but the easement is on the neighboring property.

Even though Sweeney still has objections to the proposed route because it brings the transmission line close to his property, ITC accommodated Sweeney by moving the line around the Sweeney property. The Board has addressed the EMF issue above and has found that the evidence does not support modification to the route because of potential health effects on people. In addition, there is no evidence in the record that ITC has plans to upgrade the 345 kV line to a 765 kV line for transmission of wind generation and, if ITC did propose such an upgrade, it would have to file another petition for Board approval, which would allow for objections. The Board finds that no modification to the route or proposed line are warranted to address the objections raised by James Sweeney.

John F. and William H. Sweeney (Sweeney Farm Trust)

John Sweeney and William Sweeney filed objections representing the Sweeney Farm Trust. As with the other Sweeneys, John and William Sweeney raise the issue of the adverse effect on the Sweeney property when it was dissected by Highway 151 in the 1960s. John and William object to the proposed transmission line based upon the effect the electric lines would have on the health of people and animals. They suggest moving the route to a road right-of-way.

The Board staff engineers' report states that at the informational meeting the noticed route ran along the southern part of the Sweeney Farm Trust property; however, the proposed route is not on or immediately adjacent to the Trust property. The Board staff engineers state that locating the transmission line in the road right-of-way would likely result in the line passing in close proximity to more residential and farm buildings than a route crossing open agricultural land along fence lines.

The Board finds that no modification to the proposed route is warranted based upon the objections raised by John and William Sweeney. The proposed route was moved to accommodate their objections and is no longer on or adjacent to the Sweeney Trust property.

Richard C. and Margaret Weydert

The Weyderts objected to the location of the original route because their property was in the corridor of the route noticed at the informational meeting. Richard Weydert appeared at the hearing but did not testify. The Board finds that the objections of the Weyderts were satisfied when the proposed route was not located on the Weydert property.

XI. FINDINGS OF FACT

1. The Board finds that the proposed Salem-Hazleton 345 kV transmission line is necessary for a public use.
2. The Board finds that the proposed Salem-Hazleton 345 kV transmission line represents a reasonable relationship to an overall plan of transmitting electricity in the public interest.
3. The Board finds that the proposed Salem-Hazleton 345 kV transmission line should be modified as to terms, conditions, restrictions, and the location of the proposed transmission line on the McCullough property as described in this order and that ITC should make a good faith effort to accommodate the location of the pole on the Turnis property as discussed in this order.

4. The Board finds that the Salem-Hazleton 345 kV transmission line will be constructed near and parallel to roads, to the right-of-way of railroads, or along the division lines of lands as determined to be practicable and reasonable and does not 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.

5. The Board finds that ITC shall be granted the right of eminent domain over the parcels requested, limited to a 100-foot easement on the McCulloughs' parcel and a 50-foot easement on the other parcels where eminent domain is requested, except for the two parcels owned by the Schmitts where there is good cause to grant a 75-foot easement.

6. The Board finds that the Salem-Hazleton 345 kV transmission line will be constructed in compliance with applicable Board safety and engineering regulations.

XII. CONCLUSIONS OF LAW

1. The Board has jurisdiction over the petitions for electric franchise in Docket Nos. E-21948, E-21949, E-21950, E-21951 pursuant to the provisions of Iowa Code chapter 478.

2. The Board has made the findings required by Iowa Code § 476.4 and concludes that the Salem-Hazleton 345 kV transmission line meets all statutory requirements with the modifications and limitations found reasonable by the Board.

XIII. ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. The petition for limited intervention filed by Midwest Municipal Transmission Group on April 8, 2011, is denied.
2. Exhibits 107 and 300 are admitted into the record.
3. The petition in Docket No. E-21948, as revised, filed on November 23, 2009, by ITC Midwest LLC for a franchise to construct, maintain, and operate a 345 kV transmission line in Dubuque County, Iowa, is granted with terms and conditions described in this order.
4. The petition in Docket No. E-21949, as revised, filed on September 3, 2009, by ITC Midwest LLC for a franchise to construct, maintain, and operate a 345 kV transmission line in Delaware County, Iowa, is granted.
5. The petition in Docket No. E-21950, as revised, filed on November 23, 2009, by ITC Midwest LLC for a franchise to construct, maintain, and operate a 345 kV transmission line in Jackson County, Iowa, is granted.
6. The petition in Docket No. E-21951, as revised, filed on September 3, 2009, by ITC Midwest LLC for a franchise to construct, maintain, and operate a 345 kV transmission line in Buchanan County, Iowa, is granted.
7. ITC Midwest LLC is granted the right of eminent domain over the parcels in Dubuque County, Iowa, as described in this order, conditioned upon ITC Midwest LLC filing revised Exhibit E's as described in this order.
8. ITC Midwest LLC shall file an updated Exhibit E in compliance with this order for all of the parcels where it has been granted the right of eminent domain,

except for Parcels E-3 and E-4, which are attached to this order and incorporated herein by reference.

UTILITIES BOARD

/s/ Darrell Hanson

ATTEST:

/s/ Joan Conrad
Executive Secretary

/s/ Robert B. Berntsen

Dated at Des Moines, Iowa, this 1st day of June 2011.

CONDEMNATION PARCEL
EXHIBIT E-3

PARCEL	P-1
TITLEHOLDER(s)	WILLIAM C. SCHMITT, A SINGLE PERSON, AND PAUL N. SCHMITT, A SINGLE PERSON, AS JOINT TENANTS WITH FULL RIGHTS OF SURVIVORSHIP, AND NOT AS TENANTS IN COMMON.
MAILING ADDRESS	12587 LATTVILLE LANE DURANGO, IOWA 52039
MORTGAGE	NONE
LIENS	NONE
EASEMENT HOLDER(s)	QWEST COMMUNICATIONS CORPORATION ATTN: CHRIS LOTSPEICH 1600 JOHN F. KENNEDY ROAD DUBUQUE, IA 52001 DUBUQUE AND NORTHWESTERN RAILWAY COMPANY
TENANT(s)	NONE KNOWN

RECEIVED
July 30, 2010
E-21948

RECEIVED
April 6, 2010
E-21948

June 11, 2010

IOWA UTILITIES BOARD

E-21948

EXHIBIT E-3

1. Legal Description of the Property: Lot 3 of the North Half of the Northeast Quarter in Section 31, Township 89 North, Range 1 East of the 5th Principal Meridian, Dubuque County, Iowa, according to the recorded plat thereof, except a portion described in Deed For Right Of Way, Book XX, Page 637, records of Dubuque County, Iowa.
2. Legal Description of the Easement sought to be Condemned: The west 75 feet of Lot 3 of the North Half of the Northeast Quarter of Section 31, Township 89 North, Range 1 East of the 5th Principal Meridian, Dubuque County, Iowa, except a portion described in Deed For Right Of Way, Book XX, Page 637, records of Dubuque County, Iowa. This easement parcel contains approximately 1.83 acres, more or less.
3. Specific Description of the Easement Rights Being Sought:

A perpetual easement from Grantor(s) ("Grantor") to Grantee, its successors and assignees (collectively, "Grantee") with the right, privilege and authority to construct, reconstruct, maintain, operate, repair, patrol and remove an electric and telecommunications line or lines, consisting of poles, towers, crossarms, insulators, wires, and other necessary fixtures, and equipment for the purpose of transmitting electricity at a nominal voltage of 345,000 volts and communications needed for transmission operations (collectively, the "Line"), together with the power to extend to Grantee's successors, assignees, contractors and agents all rights, privileges and authority conferred by this easement, upon, under, over and across the described lands (the "Easement Area"), together with all the rights and privileges for the full enjoyment or use thereof for the aforesaid purpose (the "Easement").

The Easement includes Grantee's immediate right of ingress and egress to the Easement Area, the Line, and over/under lands now owned by Grantor, including but not limited to adjoining lands owned by Grantor, for the purpose of: making surveys and associated investigations, including but not limited to soil boring and testing; installing gates to said Easement Area in the fences; and removing from the Easement Area any obstructions, including buildings and other structures.

Grantor also conveys the immediate right and privilege to Grantee to trim, cut down, control the growth of, and remove any trees, crops, and other vegetation on or adjacent to the Easement Area that, in the judgment of Grantee, may interfere with construction, reconstruction, maintenance, operation, repair, or use of the Line, or which might endanger the Line.

Grantee agrees to pay to Grantor or its tenants all damages done to the lands, fences, livestock, or crops of the Grantor or its tenants, by the Grantee while constructing, reconstructing, patrolling or repairing the Line. For the purposes of

RECEIVED
July 30, 2010

E-21948

this Easement, the cutting and trimming of trees or other vegetation on or adjacent to the Easement area is excepted and not considered damages to the Grantor or its tenants.

To avoid a violation of the minimum clearance requirements of the National Electric Safety Code as adopted by the Iowa Utilities Board or other interference with the operation and maintenance of the Line, Grantor agrees that no buildings, structures, plants or other obstructions shall be constructed nor shall any changes be made in the ground elevation within the Easement Area without written permission from Grantee indicating that said construction and/or ground elevation changes will not interfere with Grantee's rights to operate and maintain its facilities.

4. Map drawn to Appropriate Scale:

See attached map for boundaries of property and dimension of the proposed easements. There will be approximately 1 pole placed on the west line of the property approximately near the center of the parcel as shown on the attached map.

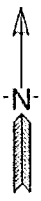
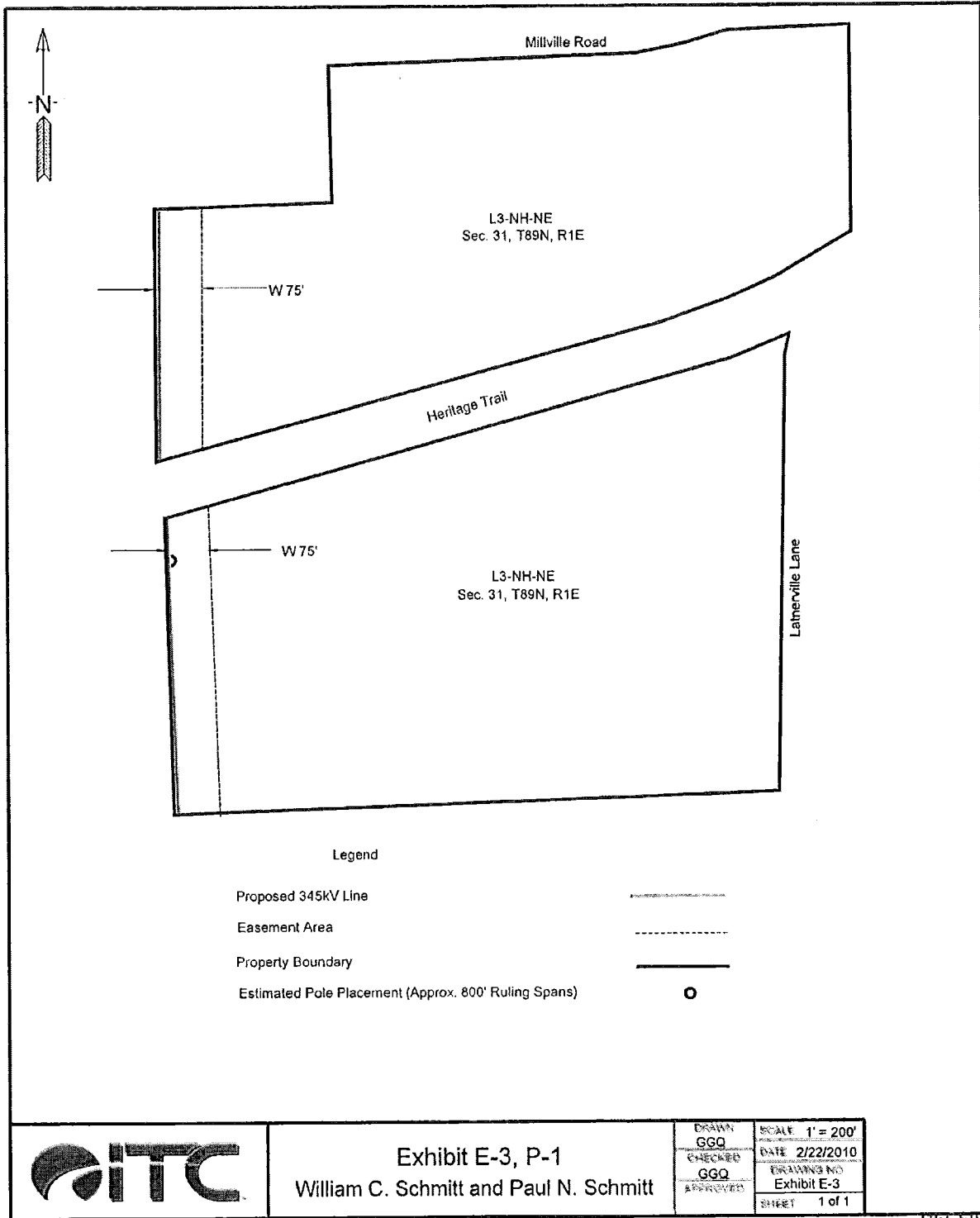
No dwellings or other buildings on the described property are located within one hundred (100) feet of the proposed transmission line or the easement area.

RECEIVED
July 30, 2010

E-21948

RECEIVED
May 4, 2010

E-21948



Legend

- Proposed 345kV Line
- Easement Area
- Property Boundary
- Estimated Pole Placement (Approx. 800' Ruling Spans) ○



Exhibit E-3, P-1
 William C. Schmitt and Paul N. Schmitt

DRAWN GGQ	SCALE 1" = 200'
CHECKED GGQ	DATE 2/22/2010
APPROVED	DRAWING NO Exhibit E-3
	SHEET 1 of 1

RECEIVED
 July 30, 2010
 E-21948

RECEIVED
 February 26, 2010

E-21948

CONDEMNATION PARCEL
EXHIBIT E-4

PARCEL	P-1
TITLEHOLDER(s)	CLEMENT N. SCHMITT, A WIDOWER, WILLIAM C. SCHMITT, A SINGLE PERSON, PAUL N. SCHMITT, A SINGLE PERSON, AS JOINT TENANTS WITH RIGHTS OF SURVIVORSHIP AND NOT AS TENANTS IN COMMON
MAILING ADDRESS	12587 LATTNERVILLE LANE DURANGO, IOWA 52039
MORTGAGE	NONE
LIENS	NONE
EASEMENT HOLDER(s)	MAQUOKETA VALLEY RURAL ELECTRIC COOPERATIVE
TENANT(s)	NONE KNOWN

RECEIVED
July 30, 2010
E-21948

RECEIVED
February 26, 2010
E-21948

EXHIBIT E-4

1. Legal Description of the Property: Lots 1 and 2 of the subdivision of the Southwest Quarter of the Northeast Quarter, AND the North 10 acres of Lot 1 of the subdivision of the Northwest Quarter of the Southeast Quarter, AND the South 15 acres of Lot 1 of the Northwest Quarter of the Southeast Quarter, all in Section 31, Township 89 North, Range 1 East of the 5th Principal Meridian, Dubuque County, Iowa, according to the United States Government Survey thereof and the recorded plats thereof, together with all improvements thereon and appurtenances thereto belonging, subject to easement dated January 18, 1942, to Maquoketa Valley Rural Electric Cooperative, a Corporation, filed February 6, 1942, in Book of Lands 32, on page 472 of the Dubuque County, Iowa, records.
2. Legal Description of the Easement sought to be Condemned: The west 75 feet of Lots 1 and 2 of the Southwest Quarter of the Northeast Quarter and the west 75 feet of Lot 1 of the Northwest Quarter of the Southeast Quarter of Section 31, Township 89 North, Range 1 East of the 5th Principal Meridian, Dubuque County, Iowa, containing 3.69 acres, more or less.
3. Specific Description of the Easement Rights Being Sought:

A perpetual easement from Grantor(s) ("Grantor") to Grantee, its successors and assignees (collectively, "Grantee") with the right, privilege and authority to construct, reconstruct, maintain, operate, repair, patrol and remove an electric and telecommunications line or lines, consisting of poles, towers, crossarms, insulators, wires, and other necessary fixtures, and equipment for the purpose of transmitting electricity at a nominal voltage of 345,000 volts and communications needed for transmission operations (collectively, the "Line"), together with the power to extend to Grantee's successors, assignees, contractors and agents all rights, privileges and authority conferred by this easement, upon, under, over and across the described lands (the "Easement Area"), together with all the rights and privileges for the full enjoyment or use thereof for the aforesaid purpose (the "Easement").

The Easement includes Grantee's immediate right of ingress and egress to the Easement Area, the Line, and over/under lands now owned by Grantor, including but not limited to adjoining lands owned by Grantor, for the purpose of: making surveys and associated investigations, including but not limited to soil boring and testing; installing gates to said Easement Area in the fences; and removing from the Easement Area any obstructions, including buildings and other structures.

Grantor also conveys the immediate right and privilege to Grantee to trim, cut down, control the growth of, and remove any trees, crops, and other vegetation on or adjacent to the Easement Area that, in the judgment of Grantee, may

RECEIVED
July 30, 2010

E-21948

RECEIVED
April 13, 2010

E-21948

interfere with construction, reconstruction, maintenance, operation, repair, or use of the Line, or which might endanger the Line.

Grantee agrees to pay to Grantor or its tenants all damages done to the lands, fences, livestock, or crops of the Grantor or its tenants, by the Grantee while constructing, reconstructing, patrolling or repairing the Line. For the purposes of this Easement, the cutting and trimming of trees or other vegetation on or adjacent to the Easement area is excepted and not considered damages to the Grantor or its tenants.

To avoid a violation of the minimum clearance requirements of the National Electric Safety Code as adopted by the Iowa Utilities Board or other interference with the operation and maintenance of the Line, Grantor agrees that no buildings, structures, plants or other obstructions shall be constructed nor shall any changes be made in the ground elevation within the Easement Area without written permission from Grantee indicating that said construction and/or ground elevation changes will not interfere with Grantee's rights to operate and maintain its facilities.

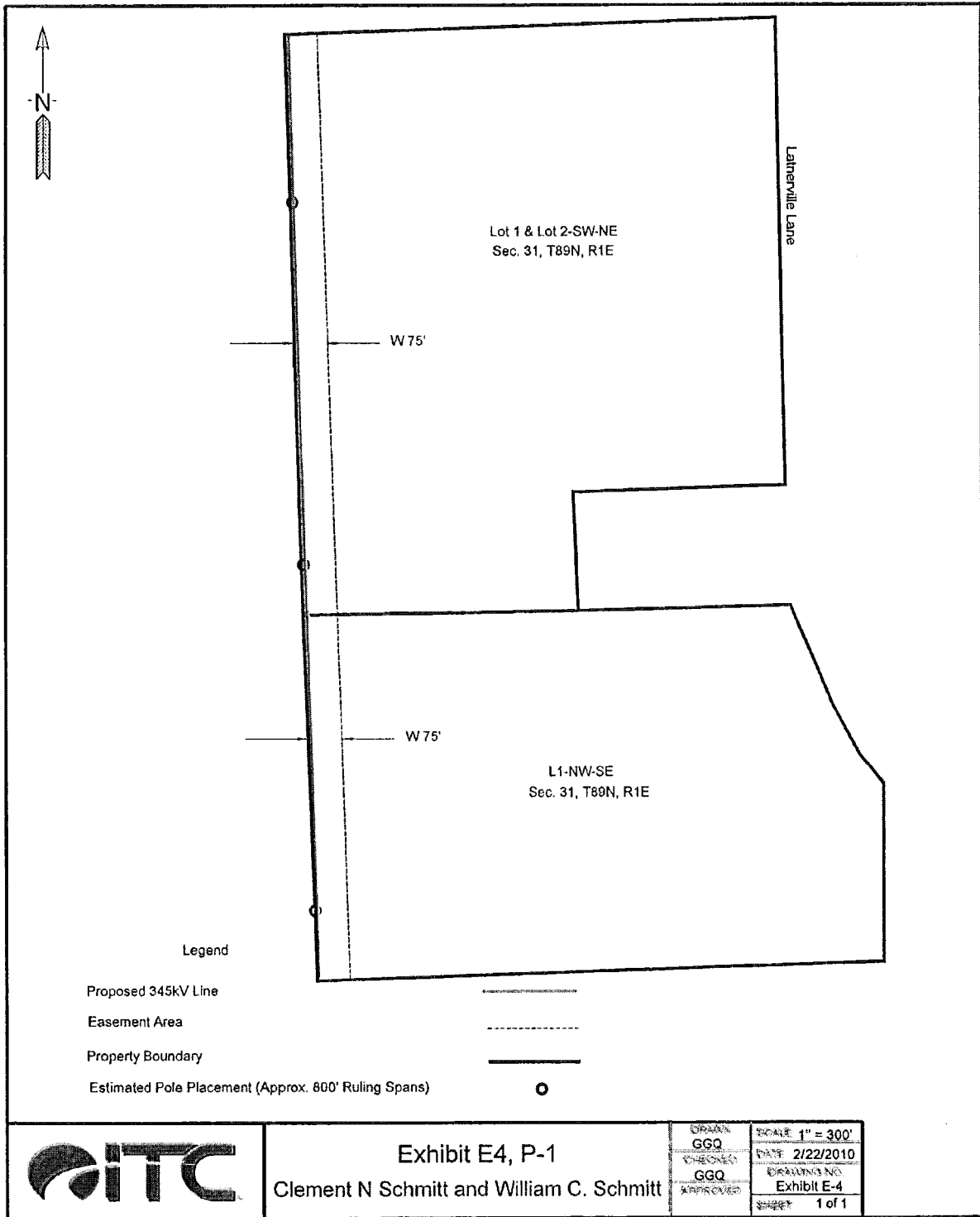
4. Map drawn to Appropriate Scale:

See attached map for boundaries of property and dimension of the proposed easements. There will be approximately 3 poles placed along the west boundary between the north and south boundaries, as shown on the attached map.

No dwellings or other buildings on the described property are located within one hundred (100) feet of the proposed transmission line or the easement area.

RECEIVED
July 30, 2010
E-21948

RECEIVED
April 13, 2010
E-21948



RECEIVED
July 30, 2010
E-21948

RECEIVED
February 26, 2010
E-21948

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Christopher	Anderson	canderson@allete.com	Minnesota Power	30 W Superior St Duluth, MN 558022191	Electronic Service	No	OFF_SL_7-540_1
Julia	Anderson	Julia.Anderson@ag.state.mn.us	Office of the Attorney General-DOC	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	No	OFF_SL_7-540_1
Rebecca J.	Baldwin		Spiegel & McDiarmid	1333 New Hampshire Avenue NW Washington, DC 20036	Paper Service	No	OFF_SL_7-540_1
Kathryn J.	Bergstrom		Gray Plant Mooty	500 IDS Center 80 South Eighth Street Minneapolis, MN 550423796	Paper Service	No	OFF_SL_7-540_1
James J.	Bertrand	james.bertrand@leonard.com	Leonard Street & Deinard	Suite 2300 150 South Fifth Street Minneapolis, MN 55402	Paper Service	No	OFF_SL_7-540_1
William	Black	bblack@mmua.org	MMUA	Suite 400 3025 Harbor Lane North Plymouth, MN 554475142	Paper Service	No	OFF_SL_7-540_1
Michael	Bradley	bradley@moss-barnett.com	Moss & Barnett	4800 Wells Fargo Cir 90 S 7th St Minneapolis, MN 55402-4129	Electronic Service	No	OFF_SL_7-540_1
B. Andrew	Brown	brown.andrew@dorsey.com	Dorsey & Whitney LLP	Suite 1500 50 South Sixth Street Minneapolis, MN 554021498	Paper Service	No	OFF_SL_7-540_1
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 500 Saint Paul, MN 551012198	Electronic Service	Yes	OFF_SL_7-540_1
Doug	Franzen	djf@franzen-mn.com	Franzen & Associates, LLC	1675 Highland Pkwy St. Paul, MN 55116	Paper Service	No	OFF_SL_7-540_1

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Bruce	Gerhardson	bgerhardson@otpco.com	Oter Tail Corporation	PO Box 496 215 S Cascade St Fergus Falls, MN 565380496	Electronic Service	No	OFF_SL_7-540_1
Ronald	Gileck	ron.gileck@ag.state.mn.us	Office of the Attorney General-RUD	Antitrust and Utilities Division 445 Minnesota Street, BRM Tower St. Paul, MN 55101	Electronic Service 1400	No	OFF_SL_7-540_1
Burl W.	Haar	burl.haar@state.mn.us	Public Utilities Commission	Suite 350 121 7th Place East St. Paul, MN 551012147	Electronic Service	Yes	OFF_SL_7-540_1
Karen Finslad	Hammel	Karen.Hamme@ag.state.mn.us	Office of the Attorney General-DOC	1400 BRM Tower 445 Minnesota Street St. Paul, MN 551012131	Electronic Service	No	OFF_SL_7-540_1
Annete	Henkel	mui@mnutilityinvestors.org	Minnesota Utility Investors	413 Wacouta Street #230 St. Paul, MN 55101	Paper Service	No	OFF_SL_7-540_1
Richard J.	Hettwer	rj.hettwer@smmpa.org	SMMPA	500 First Avenue, SW Rochester, MN 559023303	Paper Service	No	OFF_SL_7-540_1
Arshia	Javaherian	arshiajavaherian@alliantenergy.com	Interstate Power and Light.	PO Box 351 Cedar Rapids, IA 524060351	Paper Service	No	OFF_SL_7-540_1
Linda S.	Jensen	linda.s.jensen@ag.state.mn.us	Office of the Attorney General-DOC	1400 BRM Tower 445 Minnesota Street St. Paul, MN 551012131	Electronic Service	No	OFF_SL_7-540_1
Richard	Johnson	johnsonr@moss-barnett.com	Moss & Barnett	4800 Wells Fargo Center90 South Seventh Street Minneapolis, MN 55402	Electronic Service	No	OFF_SL_7-540_1

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Jim	Krueger	jkrueger@fmcs.coop	Freeborn-Mower Cooperative Services	Box 611 Albert Lea, MN 56007	Electronic Service	No	OFF_SL_7-540_1
Jeffrey L.	Landsman	jlandsman@wheelerlaw.com	Wheeler, Van Sickle & Anderson, S.C.	Suite 801 25 West Main Street Madison, WI 537033398	Electronic Service	No	OFF_SL_7-540_1
John	Lindell	agorud.ecf@ag.state.mn.us	Office of the Attorney General/RUD	900 BRM Tower 445 Minnesota St St. Paul, MN 551012130	Electronic Service	No	OFF_SL_7-540_1
Brian	Meloy	brian.meloy@leonard.com	Leonard, Street & Deinard	150 S 5th St Ste 2300 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_7-540_1
Gregory R.	Merz	gregory.merz@gpmlaw.com	Gray, Plant, Mooty	80 S 8th St Ste 500 Minneapolis, MN 55402-5383	Electronic Service	No	OFF_SL_7-540_1
Adam M.	Nathe		Gray Plant Mooty	500 IDS Center 80 South Eighth Street Minneapolis, MN 55402	Paper Service	No	OFF_SL_7-540_1
Priti R.	Patel	priti.r.patel@xcelenergy.com	Xcel Energy	414 Nicollet Mall MP 800 Minneapolis, MN 55401	Paper Service	No	OFF_SL_7-540_1
David E.	Pomper		Spiegel & McDiarmid	1333 New Hampshire Avenue NW Washington, DC 20036	Paper Service	No	OFF_SL_7-540_1
Benjamin L.	Porath		Dairyland Power Cooperative	3200 East Avenue South PO Box 817 La Crosse, WI 546020817	Paper Service	No	OFF_SL_7-540_1
Dan L.	Sanford		American Transmission Company LLC	N19 W23993 Ridgeview Parkway West PO Box 47 Waukesha, WI 531870047	Paper Service	No	OFF_SL_7-540_1

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Kevin	Saville	kevin.saville@frontiercorp.com	Citizens/Frontier Communications	2378 Wilshire Blvd. Mound, MN 55364	Paper Service	No	OFF_SL_7-540_1
Janet	Shaddix Eiling	jshaddix@janetshaddix.com	Shaddix And Associates	Ste 122 9100 W Bloomington Bloomington, MN 55431	Paper Service Fwy	No	OFF_SL_7-540_1
Sarah	Sorenson	kerbeshian.sarah@dorsey.com	Dorsey Whitney	50 South Sixth Street, Suite 1500 Minneapolis, MN 554021498	Paper Service	No	OFF_SL_7-540_1
Ron	Spangler, Jr.	rspangler@otpco.com	Otter Tail Power Company	215 So. Cascade St. PO Box 496 Fergus Falls, MN 565380496	Electronic Service	No	OFF_SL_7-540_1
Donna	Stephenson	dstephenson@grenergy.com	Great River Energy	12300 Elm Creek Boulevard Maple Grove, MN 55369	Electronic Service	No	OFF_SL_7-540_1
SaGonna	Thompson	Regulatory Records@xcelenergy.com	Xcel Energy	414 Nicollet Mall FL 7 Minneapolis, MN 554011983	Electronic Service	No	OFF_SL_7-540_1
JoAnn	Thompson	jthompson@otpco.com	Otter Tail Power Company	P.O. Box 496 215 South Cascade Street Fergus Falls, MN 565380496	Paper Service	No	OFF_SL_7-540_1
Stephen J.	Videto		ITC Holding Corp.	27175 Energy Way, Fifth Floor Novi, MI 48377	Paper Service	No	OFF_SL_7-540_1
Denis R.	Vogel	vmele@wheelerlaw.com	Wheeler, Van Sickle & Anderson, S.C.	25 W. Main Street Suite 801 Madison, WI 53703	Electronic Service	No	OFF_SL_7-540_1

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Robyn	Woeste	robynwoeste@alliantenerg y.com	Interstate Power and Light Company	P.O. Box 351 200 First St SE Cedar Rapids, IA 524060351	Paper Service	No	OFF_SL_7-540_1