

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE:	
INTERSTATE POWER AND LIGHT COMPANY	DOCKET NO. GCU-2022-0004

**ORDER GRANTING REQUEST FOR WAIVERS AND APPLICATION FOR A
CERTIFICATE OF PUBLIC CONVENIENCE, USE AND NECESSITY UNDER IOWA
CODE CHAPTER 476A**

BACKGROUND

On July 18, 2022, Interstate Power and Light Company (IPL) filed with the Utilities Board (Board) a request for a public informational meeting, and the Board identified IPL's request as Docket No. GCU-2022-0004. On August 2, 2022, the Board issued a letter scheduling the informational meeting and directing IPL to file certain information prior to the informational meeting, including a copy of its informational meeting presentation materials. IPL filed the identified information on September 15, 2022. IPL caused notice of the informational meeting to be published in the Creston News Advertiser on September 14, 2022.

On September 29, 2022, the informational meeting was held at Southwestern Community College, Room 220, in Creston, Union County, Iowa. The informational meeting checklist was filed on October 6, 2022.

On October 31, 2022, IPL filed an application for a certificate of public convenience, use and necessity pursuant to Iowa Code chapter 476A (Application) for a

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proposed 50 MW solar generating facility and a 25 MW battery energy storage system (BESS) located near Creston, Iowa. With its application, IPL filed a number of exhibits, an appendix, and an application for confidential treatment.

On December 14, 2022, the Board issued an initial review order as required by Iowa Administrative Code (IAC) subrule 199—24.5(1). The Board determined IPL's application to be substantially complete, accepted the application pursuant to subrule 24.5(3), and docketed the matter for investigation. In the December 14, 2022 order, the Board also granted IPL's request for confidential treatment, set an intervention deadline, directed IPL to mail an attached notice to all persons included in its Exhibit M, and tentatively scheduled a hearing for March 21, 2023. On January 5, 2023, IPL filed a proof of mailing in which it averred that on December 22, 2022, it mailed notice to all persons identified in its Exhibit M.

On January 11, 2023, IPL and the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, filed responses to the Board's December 14, 2022 order, stating neither had an objection to the proposed hearing date. Also on January 11, 2023, the Iowa Business Energy Coalition (IBEC) filed a petition to intervene. On February 3, 2023, the Board issued an order establishing a procedural schedule and granting IBEC's intervention request.

On January 26, 2023, IPL filed a request for waiver pursuant to Iowa Code § 476A.15 and rule 24.15. Specifically, IPL requested the Board waive the hearing and associated procedural requirements set forth in Iowa Code §§ 476A.4 and 476A.5 and 199 IAC rules 24.6, 24.8, and 24.9. In its request, IPL stated it intended to mail a copy of its waiver request to all owners of record of real property within the proposed project's

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footprint and within 1,000 feet of the proposed project's boundary. On February 6, 2023, IPL filed a proof of mailing, indicating that its waiver request had been mailed to all persons identified in its Exhibit M.

On February 15, 2023, OCA filed a response to IPL's waiver request in which it asserted it "does not oppose IPL's request for a waiver and certificate" subject to certain conditions that will be discussed in greater detail below. No other person filed a response or objection to IPL's waiver request.

DESCRIPTION OF PROJECT

IPL is an electric and gas public utility operating in Iowa, and is a wholly owned subsidiary of Alliant Energy Corporation. IPL will solely own the proposed project and states that, because of its need for capacity and cost-effective energy, it has not committed to or planned any purchase power agreements concerning the proposed project.

IPL requests a generating certificate for a proposed 50 MW solar energy generation facility and an associated 25 MW BESS adjacent to the city of Creston in Union County. The proposed project area consists of approximately 307 acres, about 97 percent of which is currently being used to farm row crops. The proposed project will consist of a solar array, direct current and alternating current electric cabling systems, inverter and step-up transformer stations, monitoring equipment, access roads, and perimeter fencing. See IPL Application Exhibit D (proposed site development map that shows locations for solar arrays, BESS, perimeter fencing, access roads, inverter stations, underground cables, and planned interconnection station).

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IPL anticipates the project will use approximately 100,000 solar panels mounted to a single-axis tracking system that will automatically adjust the tilt of the solar panels to track the movement of the sun. See IPL Application Exhibit E (solar panel specification sheets that IPL states are representative of technologies that it may use in the project). The panels will be connected to central inverter stations, consisting of centralized inverter equipment and step-up transformers that fit within an approximate footprint of 22 feet by 8 feet. See IPL Application Exhibit F (product specification sheets IPL states are representative of technologies that may be used in the project). Under its conceptual design plan, IPL anticipates using 15 central inverter stations.

IPL anticipates utilizing a 34.5 kV collector circuit system to connect the inverters to the project collector substation, which will be located offsite (approximately 0.25 miles south of the southwestern corner of the project site), and colocated with a planned ITC Midwest LLC (ITC Midwest), substation. IPL's proposed project will connect to the collector substation by underground 34.5 kV collector circuits, and there will be no overhead generation tie-line outside of the ITC Midwest substation area. The proposed project will interconnect to the transmission system at a 69 kV voltage level at the planned ITC Midwest substation.

With respect to the BESS portion of the proposed project, IPL states it anticipates locating the BESS on approximately three acres in the southwestern corner of the project area. The BESS will consist of battery cabinets connected to inverter/transformer skids, which will connect directly to the collector substation. The BESS will use specialized software and control systems to regulate between energy storage and the release of energy to the transmission grid.

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IPL states the primary materials used for the project will be steel, aluminum, copper, silicon, and glass. IPL states that because the fuel source is the sun, no other fuel or raw material will be used by the proposed project in generating electricity. Similarly, IPL asserts the storage batteries will not create any waste product during their charging and discharging cycles. Therefore, over the proposed project's expected 30-year life, IPL does not anticipate the creation of any significant amount of waste.

Subject to receipt of all necessary permits and agency approvals, IPL anticipates final engineering and design plans will conclude during the fourth quarter of 2023, and an in-service date will commence in December 2024.

REQUESTS FOR WAIVER

In its January 26, 2023 filing, IPL requests the Board waive the hearing requirement and associated procedural requirements set forth in Iowa Code §§ 476A.4 and 476A.5. IPL also requests the Board waive the following administrative rules:

- **Rule 24.6:** Rule 24.6 requires the issuance of a procedural schedule, including a hearing, once the Board accepts an application.
- **Rule 24.8:** Rule 24.8 sets forth the hearing procedures.
- **Rule 24.9:** Rule 24.9 provides the option for separate hearings on separate issues.

In support of its waiver request, IPL notes that the Board has granted comparable waiver requests for a number of solar generating facilities in the past several years. Similar to the circumstances involved in those other cases, IPL contends that waiving the hearing requirement and associated procedural schedule will not

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adversely affect the public interest and that, absent the waiver, IPL would suffer undue hardship.

Iowa Code § 476A.15 provides the Board with the authority to waive any of the requirements of Iowa Code chapter 476A “if it determines that the public interest will not be adversely affected” Similarly, rule 24.15 provides that the Board may waive any provision of chapter 24 “if it determines that the public interest would not be adversely affected” In determining whether the waiver would adversely affect the public interest, the Board may consider the purpose and type of facility, whether the facility is for the applicant’s own needs, the facility’s effect on existing transmission systems, and any other relevant factors. *Id.*

A. *OCA Response to Waiver Request.* Prior to evaluating whether IPL sufficiently supported its request to waive the hearing and related procedural requirements, the Board will first address OCA’s response, which was filed on February 15, 2023. OCA states that in Docket No. RPU-2021-0003, the Board is currently reviewing the need and cost-effectiveness of IPL’s proposal to construct 400 MW of solar and 75 MW of BESS.¹ OCA states that as set forth in decisions issued in Docket No. RPU-2021-0003, the Board has determined that IPL may build generation projects and that the cost recovery of those projects may be “presented to the Board in a general rate case where the prudence of IPL’s decisions can be considered in a traditional

¹ On November 2, 2021, IPL filed with the Board an application for advance ratemaking principles, and the proceeding was identified as Docket No. RPU-2021-0003. On November 9, 2022, the Board issued a Final Order finding IPL’s application to be not in compliance with Iowa Code § 476.53(3)(c)(2) and, therefore, denied the same. However, following the filing of an IPL motion to reconsider, on December 29, 2022, the Board granted partial reconsideration, and IPL has filed a petition for judicial review from that decision. As of the date of this order, the proceeding in Docket No. RPU-2021-0003 remains pending.

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review.” *In re: Interstate Power and Light Company*, Docket No. RPU-2021-0003, “*Final Order*,” p. 15 (Nov. 9, 2022).

OCA indicates that it “does not oppose IPL’s request for a waiver and a certificate as long as the Board makes clear in its order that granting the certificate does not constitute a finding that the proposed project is needed or cost-effective, and that IPL’s ability to recover the cost of the project from ratepayers will be decided when IPL seeks to include those costs in rates.” OCA further states that if this matter proceeds to hearing, its participation will be limited because, as noted above, it does not oppose IPL’s request for a waiver or its application for a generating certificate subject to those concerns identified above.

OCA further states that in the context of a generating certificate proceeding, the Board has previously examined the need and cost-effectiveness of a public utility’s proposed electric generation facility. *See In re: Interstate Power and Light Company*, Docket No. GCU-2007-0001, “*Final Decision and Order*” (Aug. 25, 2008). However, the above-captioned docket is perhaps more procedurally similar to the approach taken by IPL with respect to the Marshalltown Generating Station (MGS). In that situation, IPL filed a request pursuant to Iowa Code § 476.53 for advance ratemaking principles that would apply to the MGS, which was identified as Docket No. RPU-2012-0003. Separately, IPL filed for a generating certificate for the MGS, which was identified as Docket No. GCU-2012-0001. While the Board ultimately determined the two proceedings should be consolidated to avoid confusion, the point remains that the cost-recovery and the generating certificate proceedings were separate matters filed in separate dockets. In this situation, IPL filed for advance ratemaking principles nearly

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one year prior to filing its request for a generating certificate in the above-captioned docket, and the potential for confusion that existed in the MGS situation that justified consolidation does not exist here.

Additionally, OCA states that review of IPL's application for a generating certificate reveals no request for the Board to address cost-recovery or to make findings that would carry over or be material to a ratemaking proceeding. OCA points out that IPL presented no evidence or argument concerning the prudence of the proposed generation project, and, through this order, the Board makes no such factual finding or legal conclusion. Similarly, through this order, the Board is not making any finding concerning the need or the cost-effectiveness of the proposed project, at least to the extent those terms have importance and significance in the context of an advance or traditional ratemaking proceeding.

In sum, in this order and in this proceeding, the Board is only rendering a decision on IPL's application for a certificate of public convenience, use and necessity under Iowa Code chapter 476A. Whether this proposed project is prudent, necessary, and cost-effective and, ultimately, whether IPL may recover the costs of the proposed project from ratepayers, are questions that must be resolved in a ratemaking proceeding,² and not in this record that is centered on whether IPL is entitled to a generating certificate for its proposed project.

² On February 13, 2023, and in a filing in Docket No. RPU-2021-0003, IPL "formally identified" the proposed project subject of this proceeding as falling within the scope of that advance ratemaking request.

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In light of its agreement with OCA concerning the scope of this proceeding, the Board understands OCA's response as indicating it does not oppose IPL's request for waiver and application for a generating certificate.

B. Public Interest. With respect to the public interest, rule 24.15 provides several factors the Board may consider when determining whether the issuance of a waiver will adversely affect the public interest, including the purpose of the facility, the type of facility, how the produced energy is used, and the effects of the facility on the existing transmission system. Because the waiver concerns the hearing and related procedural requirements, the Board may consider whether a hearing would assist in its review of whether to issue a generating certificate.

Iowa Code § 476A.6 provides that the Board "shall"³ issue a generating certificate if the Board finds the following elements: (1) the facility's services and operation are consistent with the legislative intent expressed in § 476.53 and the state's economic development policies, and will not be detrimental to the provision of adequate and reliable electric service; (2) the applicant is willing to construct, operate, and maintain the facility pursuant to the provisions that are included in the certificate and Iowa Code chapter 476A, subchapter I; and (3) the construction, operation, and maintenance of the facility will be consistent with reasonable land use and environmental policies. In determining whether the "consistent with reasonable land use and environmental policies" factor is met, the Board may consider whether any

³ According to Iowa Code § 4.1(30)(a), as used in the Iowa Code, the term "shall" imposes a duty. The Iowa Supreme Court has further "interpreted the term 'shall' in a statute to create a mandatory duty, not discretion." *State v. Klawonn*, 609 N.W.2d 515, 521-22 (Iowa 2000).

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adverse impacts caused by the construction, operation, and maintenance of the facility are reduced to a reasonably acceptable level, whether the proposed site represents a reasonable choice, and whether the proposed facility complies with local zoning requirements. 199 IAC 24.10(2)(b). If these elements are established, a generating “certificate ***shall be issued*** to the applicant” Iowa Code § 476A.6 (emphasis added).

Having reviewed the information filed by IPL and the comment filed in opposition to the proposed project, the Board does not consider a hearing to be necessary to assist in its consideration of the § 476A.6 factors. As of the date of this order, the docket contains one comment in opposition to the proposed project. The comment was filed by Klisa Lange on behalf of herself and her husband (collectively, the Langes). According to the address included in the comment, the Langes live within the city of Creston, Iowa, at a location approximately 0.75 miles west from the western edge of the proposed project area. As shown in the KMZ file that IPL included as Exhibit B to its Application, between the Langes’ home and the closest boundary of the proposed project, there are more than 10 residences and a grain elevator complex, which is composed of industrial and agricultural facilities. In their filing, the Langes state that if “the state and county allow this to be pushed through and property values are harmed in any way, I will personally hold those financially, morally, and with questionable disregard, accountable under the law.”

Eminent domain is not implicated in this case; rather, the proposed project is located entirely on land in which voluntary leases and easements have been executed. This is not a situation in which the Board is being asked to condemn private property,

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including property owned by the Langes, and, if that were the case, the Board would schedule a hearing. Further, in the event the Langes believe that the proposed project obstructs the fair use of their property or otherwise unreasonably interferes with their enjoyment of their property, they may have legal remedies available.

The public has been afforded the opportunity to submit comments and objections regarding the proposed project. One objection has been filed, and the Board reviewed and considered the same. OCA, which is statutorily vested with the responsibility of representing the public generally in Board proceedings under § 475A.2(2), does not oppose IPL's waiver request subject to the caveats mentioned above. Therefore, under Iowa Code § 476A.15 and rule 24.15, the Board finds that the public interest will not be adversely affected by waiving the procedural schedule and hearing requirements contained in §§ 476A.4 and 476A.5 and Board rules 24.6, 24.8, and 24.9.

C. *Rule 1.3.* Next, the Board will consider IPL's waiver request under the four criteria enumerated within 1.3. The first criterion requires IPL to establish that application of the rules would impose an undue hardship. IPL states that due to its need to place the project into service by December 2024, and based on the information contained in its detailed application, imposing the hearing and associated procedural requirements could cause IPL undue hardship. IPL states that if its waiver request is denied, IPL's ability to maximize tax benefits could be jeopardized, and its ability to meet the energy and capacity needs of its customers could be impeded. No party has objected to these factual assertions, and the Board will accept them as true for purposes of IPL's waiver request. These circumstances meet the undue hardship

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requirement given no party has objected to the waiver of the hearing and because IPL has acquired all necessary leases and easements for the proposed project.

Next, IPL contends that waiving the hearing and related procedural requirements would not prejudice the substantial legal rights of others. IPL states it mailed information concerning the proposed project to property owners and lessees of record within one mile and/or 1,000 feet of the proposed project boundary. On September 29, 2022, IPL and the Board held an informational meeting at which interested members of the public could obtain information about the proposed project, and IPL filed its informational meeting presentation in the docket for review by the public. Further, IPL notes that the certificate application has been provided to all regulatory agencies. On January 20, 2023, IPL filed information demonstrating that Union County has approved IPL's application for a Utility-Scale Solar Energy System Construction Permit and that IPL and Union County have entered into a Road Use Agreement. Finally, IPL states that all landowners who will be directly affected by the proposed project have already executed voluntary easements and agreements for the land within the proposed project area. Due to the number of opportunities that have been provided for interested persons to learn about these proposed projects and to file comments and other documents in support of or against the proposed project, the Board finds that granting the waiver of the procedural schedule and hearing would not prejudice the substantial legal rights of other persons.

Third, the Board finds the provisions for which waivers are requested are not mandated by law. While Iowa Code §§ 476A.4 and 476A.5 normally require a hearing be scheduled and occur prior to the issuance of a generating certificate, the Legislature

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delegated authority to the Board to waive these requirements. See Iowa Code § 476A.15. The Board has found that the public interest will not be adversely affected by waiver of the scheduling and hearing requirements. This element of rule 1.3 has been met.

Finally, the Board must examine whether the substantially equal protection of public health, safety, and welfare may be afforded by means other than through a hearing. The Board has previously found that the reasons for holding a generating certificate hearing include providing the affected public and regulatory agencies an opportunity to submit information to the Board and allowing the owners of the facility to present information from which the Board may apply the § 476A.6 decision criteria. See *In re: Hawkeye Solar, LLC, and In re: Hatchling Solar, LLC*, Docket Nos. GCU-2021-0006 and GCU-2021-0007, “*Order Granting Requests for Waivers and Applications for Certificates of Public Convenience, Use and Necessity under Iowa Code chapter 476A,*” p. 12 (Oct. 28, 2022); *In re: Holliday Creek Solar, LLC*, Docket No. GCU-2020-0001, “*Order Granting Petition for Intervention, Request for Waivers, and Application for a Certificate of Public Convenience, Use and Necessity under Iowa Code chapter 476A,*” p. 12 (Feb. 3, 2021). Because the Board has provided other opportunities for the public to present information for its consideration, the Board finds that the equal protection of public health, safety, and welfare will be afforded by means other than through a hearing.

As noted above, through the informational meeting and through the public filings in the above-captioned docket, individuals affected by or simply interested in the proposed projects have been afforded the opportunity to receive information regarding

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the proposed project and to file comments and objections with the Board. Further, IPL is not seeking the power of eminent domain. Given the extensive and encompassing material filed by IPL, the parties, and the public, the Board finds the docket contains sufficient information to allow the Board to analyze the proposed projects under the § 476A.6 factors without a hearing.

For these reasons, the Board finds IPL sufficiently supported its waiver request under rules 1.3 and 24.15 to waive the statutory provisions and rules relating to the hearing. Because the Board is waiving the hearing, a procedural schedule is unnecessary and the Board will waive those requirements. Therefore, the Board will grant IPL's requests to waive Iowa Code §§ 476A.4 and 476A.5 and Board rules 24.6, 24.8, and 24.9.

APPLICATION FOR GENERATING CERTIFICATE

Pursuant to § 476A.2(1), a person may not construct an electric power generating plant with a total capacity of 25 MW or more without first obtaining a Board-issued certificate of public convenience, use and necessity. In this matter, IPL requests the Board issue it a generating certificate for a proposed 50 MW solar generation facility and a 25 MW BESS.

The Board's review of IPL's request is governed by Iowa Code § 476A.6, which provides that the Board shall issue a generating certificate if the Board finds all of the following:

- (1) The services and operations resulting from the construction of the facility are consistent with legislative intent as expressed in section 476.53 and the economic development policy of the state as expressed in Title I,

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subtitle 5, and will not be detrimental to the provision of adequate and reliable electric service.

(2) The applicant is willing to construct, maintain, and operate the facility pursuant to the provisions of the certificate and this subchapter.

(3) The construction, maintenance, and operation of the facility will be consistent with reasonable land use and environmental policies and consonant with reasonable utilization of air, land, and water resources, considering available technology and the economics of available alternatives.

Each will be discussed in turn.

1. *Legislative Intent/Economic Development/Adequate and Reliable Service.*

Through Iowa Code § 476.53(1), the Legislature expressed its intent “to attract the development of electric power generating and transmitting facilities within the state in sufficient quantity to ensure reliable electric service to Iowa consumers and provide economic benefits to the state.” Further, Iowa Code § 476.41 provides that “[i]t is the policy of this state to encourage the development of alternative energy production facilities . . . in order to conserve our finite and expensive energy resources and to provide for their most efficient use.” See *Mathis v. Iowa Utilities Bd.*, 934 N.W.2d 423, 429 (Iowa 2019) (stating “it is the official policy of this state to encourage the development of new alternative energy facilities”). Solar facilities fall within the definition of “alternative energy production facilities.” Iowa Code § 476.42(1)(a). With respect to chapter 476A, the Board’s review of intent as stated in § 476.53 is separate and distinct from any review of the proposed project for advance ratemaking treatment under the same statute. A project can be found to both qualify for a generating certificate and not qualify for advance ratemaking principles. IPL’s proposed project is consistent with these expressed state policy objectives.

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IPL also submitted evidence supporting the proposition that the proposed project will provide long-term and short-term benefits to Union County and the state. In support of its application, IPL submitted an economic impact and land use analysis prepared by Dr. David G. Loomis, Bryan Loomis, and Chris Thankan with Strategic Economic Research, LLC. The authors of the analysis opined that during the construction of the project, more than 259 new local jobs will be created for the state of Iowa, including 81 new jobs located in Union County. (IPL Application, Exhibit R, p. 7). The authors expect the following “output”:⁴

- over \$8.3 million in new local output during construction for Union County
- over \$30.4 million in new local output during construction for the state of Iowa
- over \$242,000 in new local long-term annual output for Union County
- over \$332,000 in new local long-term annual output for the state of Iowa

(*Id.*) Over the life of the project, the authors anticipate more than \$1.2 million in total school district revenue, more than \$271,000 in total county property taxes, and more than \$1.9 million in total property taxes for all taxing districts. (*Id.*) Finally, as part of their land-use analysis, the authors conclude that “the land use value of solar leasing far exceeds the value for agricultural use.” (*Id.* at p. 8). On this final point, the authors opined:

- The price of corn would need to rise to \$13.80 per bushel or yields for corn would need to rise to 302.5 bushels per acre⁵ by 2054 for corn farming to generate more income for the landowner and the local community than the solar lease.
- The price of soybeans would need to rise to \$39.32 per bushel or yields for soybeans would need to rise to 102.1 bushels per acre⁶ by the year 2054 for

⁴ As used in the analysis, “output” refers “to economic activity or the value of production,” similar to how “gross domestic product” measures output on a national basis.

⁵ As of the date of the analysis, the authors state that the price of corn was \$4.64 per bushel with a 180.7 bushel-per-acre yield. (*Id.*)

⁶ As of the date of the analysis, the authors state that the price of soybeans was \$11.10 per bushel with a 51.2 bushel-per-acre yield. (*Id.*)

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soybean farming to generate more income for the landowner and the local community than the solar lease.

Finally, IPL states the proposed project will be consistent with standard utility practices and will not degrade the adequacy, reliability, and operating flexibility of the existing transmission system in the area. On June 1, 2022, IPL entered into a Generator Interconnection Agreement (GIA) with ITC Midwest and the Midcontinent Independent System Operator, Inc. (MISO), which indicates the proposed project will have low interconnection costs with no required transmission network upgrades (IPL Application, Exhibit J). The point of interconnection would be a planned ITC Midwest substation. According to IPL,

[t]he planned ITC Midwest substation will be located approximately 50 feet south of ITC Midwest's 69 kV Creston east substation. ITC Midwest will be decommissioning the 69 kV Creston east substation and replacing it with a new 69 kV substation as part of an overall upgrade project for the distribution in Union County. [IPL's proposed project] collector substation will be co-located with the planned ITC Midwest substation.

(IPL Application p. 18). IPL further states that MISO evaluated the proposed project's interconnection and determined that ITC Midwest had adequate interrupting capability to accommodate the interconnection of the proposed project. (*Id.* at p. 19).

Because IPL's proposed project is consistent with legislative intent and the economic development policies of the state, and will not be detrimental to the provision of electric service, the Board finds the first § 476A.6 decision criterion is established.

2. *Construction, Operation, and Maintenance.*

The second § 476A.6 factor requires the Board to examine whether IPL will construct, operate, and maintain the facility pursuant to the provisions of the certificate and Iowa Code chapter 476A. As a condition of the generating certificate, this order will

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require IPL to comply with all provisions of the certificate and of Iowa Code chapter 476A, subchapter I, in the construction, maintenance, and operation of the facility.

Therefore, the Board finds the second § 476A.6 factor is established.

3. *Land Use and Environmental Policies.*

The final factor requires the Board to examine whether the “construction, maintenance, and operation of the facility will be consistent with reasonable land use and environmental policies and consonant with reasonable utilization of air, land, and water resources, considering available technology and the economics of available alternatives.” Iowa Code § 476A.6(3). In considering this factor, the Board also considers whether the adverse impacts of the proposed facility have been reduced to a reasonable level, whether the site represents a reasonable choice among available options, and whether the proposed facility complies with local zoning and other requirements. 199 IAC 24.10(2)(b). The Board finds this factor in § 476A.6 is established.

a. *Adverse Impacts and Decommissioning.*

Pursuant to subparagraph 24.10(2)(b)(1), the Board should consider whether “all adverse impacts attendant the construction, maintenance and operation of the facility have been reduced to a reasonably acceptable level.” IPL asserts it does not anticipate the project will have any permanent negative impacts, while having a number of positive impacts.

First, from a general perspective, IPL notes that photovoltaic solar facilities do not produce emissions, do not create odors, and are designed to absorb, rather than reflect, sunlight. The proposed project will generate electricity through the absorption of

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energy from the sunlight, and, consequently, the proposed project will not use other raw materials or fuels to generate electricity. Similarly, the storage batteries do not produce waste products during the charging and discharging cycles. IPL does not anticipate the proposed product will result in the creation of any significant waste.

IPL further states that the proposed project will not have any permanent adverse impacts to neighboring residential properties. IPL proposes a number of setbacks, including:

- solar panels will be located a minimum of 20 feet from the site perimeter fence and at least five feet from all access roads;
- the perimeter fence setback will be a minimum of 10 feet from property lines;
- proposed project equipment will be a minimum of 50 feet from property lines and a minimum of 300 feet from inhabitable structures absent a waiver;⁷
- other setback requirements contained in the Union County Solar Ordinance.⁸

Concerning potential sound impacts, IPL contracted with a third party to perform a noise impact assessment that, in part, evaluated the noise emissions from the proposed project and provided an opinion on the location of certain facility components to minimize the potential for disruption to nearby landowners. (IPL Application, Exhibit Q). IPL asserts that it intends to follow the recommendations from the third-party contractor to ensure noise emissions do not exceed the ambient noise thresholds at surrounding residences.

⁷ Union County Ordinance #74 (Solar Ordinance) at § 4(2) provides that “[p]articipating and non-participating landowners may sign a waiver consenting to the placement of [Utility Scale Solar Energy Systems] or the [Battery Energy Storage Systems] and/or upgrades closer than” the setback requirements set forth in the ordinance, including the 300 feet from occupied structure setback.

⁸ Other setback requirements contained in Union County Ordinance #74 include: 100 feet from solar panels to any non-participating parcel property line, 75 feet from the road right-of-way for paved roads, 50 feet from the road right-of-way for gravel roads, and 300 feet for substations and BESS (unless the structure is constructed in an area designed as commercial and industrial for taxation).

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Concerning potential visual impacts, IPL does not anticipate the proposed project will result in any significant visual impairment or glare. IPL states the solar panels used in the project will have a low profile with a height no greater than 15 feet and, consequently, IPL contends the visual impact from a street level will be minimal. Regardless, IPL states it will work with participating and adjacent non-participating landowners to implement mitigation efforts to minimize visual impacts from the proposed project. With respect to potential glint and glare, Union County's solar ordinance requires IPL, at the conclusion of the project construction, to prepare or have prepared a glint and glare study. Union County Ordinance #74, § 3(2)(f). IPL commits to implementing any mitigation measures indicated in the study.

As noted above, the only objection filed to IPL's application involved a concern over the potential loss of surrounding property values. As an exhibit to its application, IPL included a Market Impact Analysis conducted by MaRous and Company — a business entity that has been conducting similar market studies for 41 years. (IPL Application, Exhibit P, p. i). The analysis reached the following conclusion:

As a result of the market impact analysis undertaken, **the conclusion made is that there is no market data indicating the project will have a negative impact on either rural residential or agricultural property values in the surrounding area.** Further, market data from Iowa, specifically, also supports the conclusion that the project will not have a negative impact on rural residential or agricultural property values in the surrounding area. For agricultural properties that host photovoltaic panels, the additional income from the solar lease may increase the value and marketability of those properties.

(*Id.* at p. 2). (Emphasis added). The conclusion was based on a number of facts and factors, including a survey of county assessors in seven counties within Iowa in which solar farms are located, which revealed “that there was no market evidence to support a

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negative impact upon residential property values as a result of the development of and the proximity to a solar farm, and that there were no reductions in assessed valuations.” (*Id.* at p. 3). Similar county assessor surveys were undertaken with the same results in other states: 20 counties in Michigan, six counties in Illinois, 11 counties in Wisconsin, nine counties in Indiana, five counties in North Carolina, and 13 counties in Maryland. (*Id.* at pp. 3-4).

IPL asserts the proposed project will have no adverse impact on the agricultural ground on which the project is located. IPL states that approximately 97 percent of the project area is currently being used to farm row crops. During the life of the proposed project, agricultural use of the property will be suspended. IPL prepared a Vegetation Management Plan that sets forth steps to “prepare the site, develop and install prescribed seed mixes, manage invasive species and noxious weeds, and control erosion and sedimentation.” (IPL Application, Exhibit S, p. 4). Per its plan, IPL states that it will plant and maintain perennial ground vegetation within the project site, including under and between rows of solar panels throughout the life of the proposed project. At the completion of the proposed project and following decommissioning, IPL will restore the location to substantially the same condition as existed prior to the development of the project.

IPL also states the proposed project is not expected to have any adverse impacts on wildlife. On this issue, Merjent, Inc., (Merjent) on behalf of IPL, performed a review of federal- and state-protected species that may be present within the footprint of the proposed project site. (IPL Application, Exhibit T, p. 2). With respect to state-protected species, on January 26, 2022, the Iowa Department of Natural Resources (IDNR)

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informed IPL that it “searched for records of rare species and significant natural communities in the project area and found no site-specific records that would be impacted” by the proposed project. (IPL Application, Exhibit T, p. 6). IDNR also provided guidelines for solar energy projects that the department developed, and while not required, IPL states it intends to abide by the guidelines to the extent possible. (*Id.* at pp. 7-8).

With respect to the proposed project’s potential impact on federally listed species, after consulting federal resources, Merjent concluded that while there are no designated critical habitats identified in the project area, there are two listed species that are potentially present in the project area; namely, the Indiana bat and the Northern long-eared bat. (*Id.* at p. 2). The Indiana bats hibernate in caves and in abandoned mines, and Merjent concluded there are no known caves or mines in the proposed project area. (*Id.* at pp. 2-3). Concerning the Northern long-eared bat, Merjent reviewed United States Fish and Wildlife Service information, which revealed no known roost trees or hibernacula in Union County. (*Id.* at p. 3).

Next, IPL contends the proposed project is not forecast to have any significant impact on transportation. IPL states the proposed project will be served by interstate and state highways and county roads. Additionally, on December 27, 2022, IPL entered into a road use agreement with Union County. Pursuant to the terms of the agreement, during the construction of the proposed project, IPL is responsible for maintenance and restoration, subject to Union County’s approval, of the unpaved roads within the boundaries of the project.

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IPL states that it does not anticipate the proposed project will adversely impact cultural resources and landmarks of historic, religious, archaeological, scenic, natural, or other cultural significance. IPL bases its statement on a Cultural Resources Desktop Assessment performed by Merjent, which IPL filed in the docket as an exhibit to its Application. (IPL Application, Exhibit V). However, in the event any previously undocumented cultural resources are discovered during construction, IPL has an Unanticipated Discovery Plan in place. (IPL Application, Exhibit W).

Finally, with respect to decommissioning, IPL states that once the proposed project ceases operation, the facilities will be decommissioned and dismantled, and the project site restored to its pre-construction condition. IPL contracted with a vendor to prepare a draft Decommissioning Plan, which describes the general measures and procedures to decommission the proposed project, restore the project site, and safely dispose of or recycle project materials. (IPL Application, Exhibit X). IPL states that to the extent possible, project equipment will be reconditioned, resourced, or recycled. IPL will dispose of any materials that cannot be recycled at approved locations. Concerning the land, IPL states that once the facility structures are removed, the site area will be restored to a clean, safe, and environmentally stable condition. To facilitate the land's return to agricultural use, IPL intends to reseed disturbed areas with perennial vegetation mixtures.

Additionally, Union County Ordinance #74 requires IPL to enter into a decommissioning agreement with the county prior to the commencement of construction. The agreement must include: (1) a description of the plan for equipment removal and a restoration of the land to its previous use; (2) provisions to restore the

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soil, vegetation, and disturbed earth; (3) an estimate of the decommissioning costs certified by a licensed professional engineer; and (4) a written financial plan to ensure funds will be available for decommissioning and land restoration. The ordinance requires IPL to provide a new decommissioning cost estimate every five years. Finally, the ordinance requires the Union County Board of Supervisors (BOS) to set an amount IPL must hold in a bond, escrow, or other form of liquid assets approved by the BOS that cannot be released until the BOS determines, after inspection, that the decommissioning conditions have been met.

Based on the material filed in the docket, including those reasons discussed above, the Board finds that IPL has demonstrated that any adverse impacts attendant to the construction, maintenance, and operation of the projects have been reduced to a reasonable and acceptable level.

b. Site Selection.

Subparagraph 24.10(2)(b)(2) directs the Board to consider whether the proposed site selected “represents a reasonable choice among available alternatives.”

IPL states that it uses several general site criteria when selecting project sites, including lower cost transmission access, the existence of landowners who are willing to lease or sell land for use with the project, support from local government and authorities having jurisdiction, and site suitability for a particular project. With respect to this proposed solar facility site in particular, IPL states one of the key site selection criteria is the existing transmission and interconnection capacity. As noted above, IPL states that as shown in the GIA, the proposed project will have relatively low interconnection costs and no required transmission network upgrades.

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Further, in selecting the site for the proposed project, IPL states it considered archaeological, cultural, and historical resources and concluded there would be no adverse impact. Finally, IPL states it considered environmental factors, including threatened and endangered species, wetlands, waterways, trees, and critical habitats. According to IPL, the project site exhibits few of these factors and to the extent the factors do exist, IPL asserts it will avoid or minimize any adverse impacts through its proposed infrastructure placement.

The Board finds IPL's proposed site location is based on reasoned and rational grounds and constitutes reasonable choices.

c. Local Zoning.

Finally, 199 IAC 24.10(2)(b)(3) permits the Board to consider whether the proposed projects are compliant with local zoning requirements. As noted above, the BOS has enacted a Union County Solar Ordinance. See <https://unioncountyiowa.gov/wp-content/uploads/2021/12/Solar-Ordinance-74.pdf> (last checked on March 2, 2023). The purpose of the ordinance is to “establish the minimum requirements and regulation of any [applicant] engaged in the construction, erection, placement, location, maintenance, modification, operation, and decommissioning” of a utility scale solar energy system and BESS in the county. (*Id.*) The intent of the ordinance is to facilitate the construction of utility solar energy and BESS facilities in the county “in a manner that preserves and protects the rights, privileges, and property of the County and its residents, that ensures the protection of the health, safety, and welfare of the county’s residents, and provides an opportunity for economic growth and development.” (*Id.*) Under the ordinance, an applicant must first obtain a county-issued

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construction permit for the solar and battery facilities before construction may commence.

On October 14, 2022, IPL submitted an application with the county for a solar and battery facilities construction permit. (IPL Application, Exhibit O). On January 20, 2023, IPL filed proof that Union County had approved its construction permit request under Union County Ordinance #74 and proof that IPL entered into a Road Use Agreement with the county.

In its application, IPL identified other regulatory approvals and permits that may be needed for the proposed project; however, IPL anticipates that based on the final project design, many of the approvals and permits will be unnecessary. The Board finds that IPL has satisfied this requirement.

d. Conclusion.

Based on the above-discussion and review of the information provided by IPL, the Board finds the proposed facilities meets the third Iowa Code § 476A.6 factor subject to additional conditions discussed below.

The Board will grant IPL's application for a certificate of public convenience, use and necessity with the following conditions:

1. The Board will require IPL to file in this docket final design plans as soon as they exist. While IPL does not anticipate the proposed project will impact a floodplain, if any portion of the project is ultimately sited in a floodplain, IPL shall file with the Board a report identifying any additional regulatory permits required, along with copies of any such permits, and a report analyzing flood risks, with a proposed flood mitigation plan. IPL shall not construct in a floodplain until the affected entity has obtained any necessary floodplain permits. As this requirement is established herein by the Board, IPL may not rely on Iowa Code § 476A.8 as to negate the requirement to obtain any required floodplain development permits.

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2. The Board will require IPL to file in this docket a copy of its decommissioning agreement with Union County, once it is executed.
3. The Board will require IPL to obtain all necessary zoning approvals and other permits. IPL shall not begin construction until it has obtained all necessary permits, and IPL shall file all permits obtained in this docket. As this requirement is established herein by the Board, IPL may not rely on Iowa Code § 476A.8 to negate the requirement to obtain authorizations from other state, city, or county regulatory agencies.
4. The Board will require IPL to file status reports in this docket every six months until project completion, with updates on its progress in obtaining the necessary permits and construction progress.
5. If construction of a project is not completed within two years from the date the generation certificate is issued, the certificate will expire, and IPL will need to submit a new application to the Board if it wants to continue to develop the project, or obtain an extension of the two-year requirement from the Board.

Based on the information provided, the Board finds IPL presented sufficient information to establish the third § 476A.6 element. The construction, operation, and maintenance of the projects will be consistent with reasonable land use and environmental policies and consonant with the reasonable use of air, land, and water resources.

CONCLUSION

Having found that the criteria in § 476A.6 are met, the Board will approve IPL's applications for certificate of public convenience, use and necessity, subject to the conditions described above. The certificate will be limited to the 50 MW solar generating facility and the 25 MW BESS proposed by IPL. Any increase to the total generation capacity or the addition of a storage facility will require IPL to file for an

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amendment to the certificate. Additionally, a transfer of the certificate to another entity will require Board approval in accordance with Iowa Code § 476A.7(2).

ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. The January 26, 2023 Request for Waiver filed by Interstate Power and Light Company, regarding portions of Iowa Code §§ 476A.4 and 476A.5 and 199 Iowa Administrative Code rules 24.6, 24.8, and 24.9, is granted.

2. A Certificate of Public Convenience, Use and Necessity for a Solar Generating Facility for Docket No. GCU-2022-0004, attached to this order and incorporated herein, is issued to Interstate Power and Light Company.

3. Prior to starting construction, Interstate Power and Light Company shall file a report describing the project's final design, including whether portions of the project are sited in floodplain areas; identifying the additional regulatory permits obtained due to the floodplain, if any; and analyzing the flood risks to the project with a proposed flood mitigation plan. Interstate Power and Light Company shall also file a copy of its executed decommissioning agreement with Union County, Iowa.

4. Interstate Power and Light Company shall acquire and maintain all necessary zoning and other permits. Interstate Power and Light Company may not rely on the issuance of the attached Certificate of Public Convenience, Use and Necessity and Iowa Code § 476A.8 to obtain authorizations from other state, city, or county regulatory agencies or zoning authorities. Interstate Power and Light Company shall not begin construction until it has obtained all necessary permits. For all permits

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obtained, Interstate Power and Light Company shall file the permits with the Utilities Board in this docket within 10 days of receipt of such permits.

5. Within 180 days of the date of this order, Interstate Power and Light Company shall file a status report in this docket regarding its progress toward completion of the project. Interstate Power and Light Company shall submit additional status reports at least every 180 days thereafter until its project is complete.

6. If construction of either project is not completed within two years of the date of issuance of the certificate, the certificate will expire and Interstate Power and Light Company will be required to submit a new petition with the Utilities Board if it wants to continue to develop its project, unless the two-year period is extended by order of the Utilities Board.

UTILITIES BOARD

Geri Huser Date: 2023.03.15
16:40:17 -05'00'

Richard Lozier Date: 2023.03.15
15:51:01 -05'00'

ATTEST:

Kerrilyn Russ 2023.03.15
17:00:38 -05'00'

Joshua J Byrnes Date: 2023.03.15
15:17:41 -05'00'

Dated at Des Moines, Iowa, this 15th day of March, 2023.

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: INTERSTATE POWER AND LIGHT COMPANY	DOCKET NO. GCU-2022-0004
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**CERTIFICATE OF PUBLIC CONVENIENCE, USE AND NECESSITY
FOR A SOLAR GENERATING FACILITY**

Certificate No. GCU-2022-0004 Docket No. GCU-2022-0004

Date Issued March 15, 2023 Location Union County, Iowa

WHEREAS, on March 15, 2023, the Utilities Board issued an order granting a Certificate of Public Convenience, Use and Necessity to Interstate Power and Light Company for a 50 megawatt solar generating facility and a 25 megawatt battery energy storage system in Union County, Iowa; and

WHEREAS, in the March 15, 2023 order, the Utilities Board granted Interstate Power and Light Company's request to waive certain provisions of Iowa Code §§ 476A.4 and 476A.5 and 199 Iowa Administrative Code rules 24.6, 24.8, and 24.9;

NOW THEREFORE, pursuant to the order of the Utilities Board and the provisions of Iowa Code chapter 476A, this certificate is issued and permission and authority are hereby granted to construct and operate a solar-powered electric generating plant and a battery energy storage system.

This certificate is granted and issued from and after the date of issuance subject to significant alterations as provided by law, and this certificate shall be subject to and

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governed by all the provisions, conditions, and requirements of Iowa Code chapter 476A, and by all the provisions, rules, and regulations of the Utilities Board as they now exist or may hereafter be ordered or required by the Utilities Board, as may be applicable. This certificate shall be valid in perpetuity, except that the certificate must be surrendered in the event Interstate Power and Light Company does not complete construction of the project within two years of the date of the certificate.

Interstate Power and Light Company is required to obtain and maintain all other pre-construction permits, as applicable. Interstate Power and Light Company is required to obtain all other regulatory agency licenses and permits and may not rely on Iowa Code § 476A.8 to obtain authorizations from other regulatory agencies. At the conclusion of operation of the project, Interstate Power and Light Company shall decommission the project in conformance with its decommissioning agreement with Union County, Iowa, and, at the conclusion of the decommissioning, shall notify the Utilities Board and the certificate shall terminate.

IT IS FURTHER PROVIDED AND IS A CONDITION OF THIS CERTIFICATE that the Utilities Board retains jurisdiction and may at any time hereafter and during the period of this certificate, make further orders and regulations as may be necessary.

UTILITIES BOARD

Geri Huser Date: 2023.03.15
16:40:38 -05'00'

Chair

ATTEST:

Kerrilyn Russ 2023.03.15
17:01:22 -05'00'

Dated at Des Moines, Iowa, this 15th day of March, 2023.