

IOWA UTILITIES BOARD

IN RE: INDIANOLA MUNICIPAL UTILITIES	DOCKET NOS. E-22521, E-22522
---	---------------------------------

ORDER GRANTING ELECTRIC TRANSMISSION LINE FRANCHISE AND ASSESSING CIVIL PENALTY

PROCEDURAL BACKGROUND

On June 28, 2022, Indianola Municipal Utilities (Indianola) filed a petition with the Iowa Utilities Board (Board) in Docket No. E-22521 for a franchise of a 4.39-mile, 69 kV nominal voltage (72.5 kV maximum operating voltage) electric transmission line in Madison County, Iowa. Indianola states the line is an existing line that was previously franchised under Docket No. E-20892, Franchise No. 16917. The expiration date of Franchise No. 16917 was June 28, 2016. Also, on June 28, 2022, Indianola filed a petition with the Board in Docket No. E-22522 for a franchise of a 12.39-mile, 69 kV nominal voltage (72.5 kV maximum operating voltage) electric transmission line in Warren County, Iowa. Indianola states the line is an existing line that was previously franchised under Docket No. E-20893, Franchise No. 16918. The expiration date of Franchise No. 16918 also was June 28, 2016.

On September 8, 2021, Indianola received a notification from the Board regarding the expiration of the franchises in Docket Nos. E-20892 and E-20893. Indianola filed responses to Staff's notification letters on March 18, 2022, in both dockets. In its response, Indianola asserts it did not file for extension prior to the lines' 2016 expiration due to "many technological, personal, and clerical changes" within the company, which caused Indianola to overlook the expiration dates of both franchises.

DOCKET NOS. E-22521, E-22522

PAGE 2

On June 28, 2022, Indianola filed its petitions to create new franchises for the existing electric transmission lines.

Because the two franchises are for electric transmission lines located in contiguous counties, the Board will combine the franchises in Docket Nos. E-22521 and E-22522 to create one new franchise for the lines in Madison and Warren counties.

The original franchise in Docket No. E-22521 was granted on June 28, 1991, for 4.8 miles of 69 kV electric transmission line; however, the current distance to be franchised is 4.39 miles of 69 kV electric transmission line. The reduction in distance to be franchised is due to a partial reconstruction of the line in 2014 and changes in the corporate limits of Bevington and Patterson, Iowa.

The electric transmission line in E-22521 consists of two separate line segments, labeled Segment 1 and Segment 2.

The 0.26-mile electric transmission line labeled Segment 1 begins at its western endpoint and terminus at a point of electrical connection within MidAmerican's Patterson Substation, located in Madison County. The electric transmission line ends at its eastern endpoint at a point of electrical connection at the north corporate limit line of Patterson. The electric transmission line's eastern terminus is at a point of electrical connection within Indianola Municipal Utilities' Westside substation, located in Warren County.

The 4.13-mile electric transmission line labeled Segment 2 begins at its western endpoint at the east corporate limits of Patterson. The electric transmission line ends at the west corporate limits of Bevington, Iowa. The electric transmission line's western terminus is at a point of electrical connection within MidAmerican Energy Corporation's (MidAmerican) Patterson substation, located in Madison County. The electric

DOCKET NOS. E-22521, E-22522

PAGE 3

transmission line's eastern terminus is at a point of electrical connection within Indianola's Westside substation, located in Warren County. The electric transmission line is located both on public and private rights-of-way. Indianola indicated in its petition that all necessary easements have been obtained for the existing electric transmission line.

The original franchise in Docket No. E-22522 was granted on June 28, 1991, for 14.59 miles of 69 kV electric transmission line; however, the current distance to be franchised is 12.39 miles of 69 kV electric transmission line. The reduction in distance to be franchised is due to a partial reconstruction of the line in 2014 and changes in the corporate limits of Bevington, Indianola, and Martensdale, Iowa.

The electric transmission line in Docket No. E-22522 consists of five separate sections, the first section is identified as Segments 3,4, and 5; the second section is labeled as Segments 6 through 14; the third section is labeled as Segment 15; the fourth section is labeled as Segment 16; and the fifth section is labeled as Segments 17 through 19.

The 2.35-mile electric transmission line labeled Segments 3, 4, and 5 begins at its western endpoint at the east corporate limits of the town of Bevington. The electric transmission line ends at the west corporate limits of the town of Martensdale. The electric transmission line's western terminus is at a point of electrical connection within MidAmerican's Patterson substation, located in Warren County. The electric transmission line's eastern terminus is at a point of electrical connection within Indianola's Westside substation, located in Warren County.

The 6.97-mile electric transmission line labeled Segments 6 through 14 begins at its western endpoint at the south corporate limits of the town of Martensdale. The

DOCKET NOS. E-22521, E-22522

PAGE 4

electric transmission line ends at the west corporate limits of the city of Indianola, Iowa. The electric transmission line's western terminus is at a point of electrical connection at MidAmerican's Patterson substation, located in Madison County. The electric transmission line's eastern terminus is at a point of electrical connection within Indianola's Westside substation, located in Warren County.

The 0.08-mile electric transmission line, labeled Segment 15, begins at its eastern endpoint and terminus at a point of electrical connection within Indianola's Westside substation, located in Warren County. The electric transmission line ends at its western endpoint at a point of electrical connection at the corporate limit line of Indianola, Iowa. The electric transmission line's western terminus is at a point of electrical connection within MidAmerican's Patterson substation, located in Madison County.

The 0.5-mile electric transmission line, labeled Segment 16, begins at its western endpoint at the corporate limit line of Indianola, Iowa. The electric transmission line ends at its eastern endpoint at the corporate limit line of Indianola, Iowa. The electric transmission line's western terminus is at a point of electrical connection within Indianola's Westside substation, located in Warren County. The electric transmission line's eastern terminus is at a point of electrical connection within Indianola's East Iowa substation, located within the corporate limits of Indianola, Iowa.

The 2.49-mile electric transmission line, labeled Segments 17 through 19, begins at its western endpoint at the corporate limit line of Indianola, Iowa. The electric transmission line ends at its eastern endpoint at the corporate limit line of Indianola, Iowa. The electric transmission line's western terminus is at a point of electrical connection within Indianola's Westside substation, located in Warren County. The

electric transmission line's eastern terminus is at a point of electrical connection within Indianola's East Iowa substation, located within the corporate limits of Indianola, Iowa.

Indianola alleges the existing electric transmission lines are necessary as a part of the electric transmission system in the area because they continue to provide reliable electric utility service to customers. Indianola states the existing electric transmission lines were constructed in accordance with the requirements of the National Electrical Safety Code and the Iowa Electrical Safety Code. Indianola alleges the existing electric transmission lines are necessary to serve a public use and represent a reasonable relationship to an overall plan of transmitting electricity in the public interest.

Pursuant to Iowa Code § 478.3(2), Indianola also states the existing electric transmission lines: (1) are required for the present and future economic development of the area; (2) are part of a comprehensive electric utility planning process to provide electric utility service to customers; (3) have the required capacity to meet the needs of the public presently served and will be available to serve future projections based on population trends; (4) interconnect with the existing electric utility systems in the area and have no existing parallel utility routes; (5) have no specific relationship to any other power system planned for the future; (6) have no alternative routes or methods of supply; (7) are authorized under present land use and zoning ordinances; and (8) are not expected to cause inconvenience or injury to property owners.

Board Safety and Engineering staff (Staff) inspected the route of the proposed electric transmission lines in Docket No. E-22521 and issued a report identifying seven probable violations. Indianola filed responses indicating that all probable violations had been corrected. After review of Indianola's responses, Staff filed a report clearing the probable violations. Staff has identified no other deficiencies in Indianola's petition and

DOCKET NOS. E-22521, E-22522

PAGE 6

petition exhibits. Notice of the petition was published for two consecutive weeks in Madison County, on May 17 and 24, 2023. On July 17, 2023, Staff filed a report identifying no outstanding issues.

Board Safety and Engineering staff (Staff) inspected the route of the existing electric transmission lines in Docket No. E-22522 and issued a report identifying six probable violations. Indianola filed responses indicating that all probable violations had been corrected. After a review of Indianola's responses, Staff filed a report clearing the probable violations. Staff has identified no other deficiencies in Indianola's petition and petition exhibits. Notice of the petition was published for two consecutive weeks in Warren County, on May 30, 2023, and June 6, 2023. On July 17, 2023, Staff filed a report identifying no outstanding issues.

Pursuant to Iowa Code § 478.6, the Board may grant the franchise without a hearing because Indianola is not requesting the right of eminent domain and no objections were filed. The Board has reviewed the information filed by Indianola in the petition and petition exhibits, as revised, and, based upon that information, the Board makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. The petitions and petition exhibits filed by Indianola on June 28, 2022, for electric transmission line franchises in Madison and Warren counties, Iowa, as revised, substantially comply with Board rules in 199 Iowa Administrative Code (IAC) chapters 11 and 25 and Iowa Code chapter 478.

2. Notice of the petitions were published as required by 199 IAC 11.5(2) and Iowa Code § 478.5.

3. The 69 kV electric transmission lines as described in the petitions filed by Indianola on June 28, 2022, as revised, are necessary to serve a public use. The electric transmission lines are necessary to provide adequate electric utility service to Indianola customers.

4. Indianola provided the substantiation required by Iowa Code §§ 478.3(2)(a)(1)-(8). The existing electric transmission lines represent a reasonable relationship to an overall plan of transmitting electricity in the public interest and no evidence has been presented to the contrary.

5. The electric transmission lines meet or exceed the minimum engineering requirements established by Board rules and Iowa Code chapter 478.

6. A hearing is not required because Indianola is not requesting the right of eminent domain and there are no objections to the existing electric transmission lines.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over the parties and subject matter of the petition pursuant to Iowa Code chapter 478 and Board rules at 199 IAC chapter 11.

2. The Board has found, in accordance with Iowa Code § 478.4, that the existing electric transmission lines are necessary to serve a public use and represent a reasonable relationship to an overall plan of transmitting electricity in the public interest and no evidence has been presented to the contrary. The Board, therefore concludes that the existing lines meet the requirements of Iowa Code chapter 478 and that Franchise No. F-22133 should be granted to authorize the franchises requested in Docket Nos. E-22521 and E-22522.

IMPOSITION OF CIVIL PENALTY

Indianola, in its filings, has admitted to maintaining and operating electric transmission lines without valid franchises for more than seven years. Pursuant to Iowa Code § 478.1, “[a] person shall not construct, erect, maintain, or operate a transmission line, wire, or cable that is capable of operating at an electric voltage of sixty-nine kilovolts or more along, over, or across any public highway or grounds outside of cities for the transmission, distribution, or sale of electric current without first procuring from the utilities board within the utilities division of the department of commerce a franchise granting authority as provided in this chapter.” Franchising an electric transmission line is an important responsibility of a utility, supporting safe operation of electric transmission lines for the community, supporting effective emergency responses regarding or near electric transmission lines, and ensuring that customers are not overburdened by paying for unnecessary infrastructure. Operating an electric transmission line without a franchise is a serious issue. Civil penalties may be assessed for operating an electric transmission line without a franchise pursuant to Iowa Code § 478.29. The Board may assess a civil penalty of \$100 per violation or \$1,000 per day for a continuing violation pursuant to Iowa Code § 478.29. Indianola did not file a petition for an extension for its franchises within the 25-year period pursuant to Iowa Code § 478.13.

The Board examines the size of the business, gravity of the violation, and the good faith effort to achieve compliance in order to determine the amount of penalty to assess. Indianola operated the electric transmission lines for approximately seven years without a franchise. In this case, Indianola did not self-report the expirations, and

it was only after the Board's Staff made Indianola aware of such an expiration that it filed the petition, more than six months after notice from Board Staff.

The Board has balanced all the factors in Iowa Code § 478.29 and determined that a civil penalty of \$6,000 shall be assessed against Indianola. Indianola shall pay this penalty within 30 days, unless Indianola seeks further review by the Board pursuant to 199 IAC 7.27, in which case the Board may schedule a hearing to receive testimony and reconsider the matter.

Indianola should examine its processes to ensure that such a substantial failure of maintaining appropriate control and oversight of essential infrastructure does not occur in the future. Indianola also shall file a statement of corrective action describing the steps that will be taken to ensure future compliance with Iowa statutes and Board rules. A future violation by Indianola may result in the imposition of civil penalties.

The Board requires Indianola to submit information in affidavit form, detailing why a timely extension request was not made. The affidavit and any supporting documents shall provide what processes Indianola will implement to ensure that no other electric transmission lines will be allowed to expire. The Board will review the submitted information and determine what additional steps, if any, will be taken.

ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. The petitions for electric transmission line franchises filed by Indianola Municipal Utilities on June 28, 2022, as revised, are granted.
2. Franchise No. F-22133 will be issued to Indianola Municipal Utilities to construct, erect, operate, and maintain an electric transmission line in Madison and

Warren counties as specifically described in the Exhibit A's attached to the franchise issued concurrently with this order.

3. A civil penalty of \$6,000 is assessed against Indianola Municipal Utilities, to be paid within 30 days of this order unless a timely appeal is taken.

4. Indianola Municipal Utilities shall file within 60 days of this order an affidavit describing why a timely franchise extension was not sought and the steps that will be taken to ensure future compliance with Iowa statutes and Utilities Board rules.

5. All future filings related to Franchise No. F-22133 shall be filed in Docket No. E-22521.

6. The Utilities Board retains jurisdiction of the subject matter in this docket pursuant to Iowa Code chapter 478 and may at any time during the period of the franchise make such further orders as may be necessary.

UTILITIES BOARD

Erik M. Helland Date: 2023.08.04
12:27:44 -05'00'

Joshua Byrnes Date: 2023.08.04
10:25:45 -05'00'

ATTEST:

Keetah Horras 2023.08.04
16:46:09 -05'00'

Sarah Martz Date: 2023.08.04
15:04:50 -05'00'

Dated at Des Moines, Iowa, this 4th day of August, 2023.