

UTILITIES DIVISION[199]

Notice of Intended Action

**Proposing rule making related to electric lines
and providing an opportunity for public comment**

The Utilities Board (Board) hereby proposes to rescind Chapter 11, “Electric Lines,” Iowa Administrative Code, and to adopt a new Chapter 11 with the same title.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapter 478.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 478.

Purpose and Summary

The Board is conducting a comprehensive review of its administrative rules in accordance with Iowa Code section 17A.7(2). Based upon a review of stakeholder comments and the Board’s review of various dockets, the Board has concluded that the best course for addressing the rules for electric lines is for the Board to rescind the current rules in Chapter 11 and replace them with new rules. The new Chapter 11 proposed in this Notice contains reorganized content, retains necessary provisions, and introduces new provisions to address issues that have arisen in the electric transmission line franchising process.

On October 30, 2019, the Board issued an order commencing rule making. The order is available on the Board’s electronic filing system, efs.iowa.gov, under Docket No. RMU-2019-0011.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to rule 199—1.3(17A,474,476).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on December 10, 2019. Comments should be directed to:

Iowa Utilities Board
Electronic Filing System (EFS) efs.iowa.gov
Phone: 515.725.7337
Email: efshelpdesk@iub.iowa.gov

Public Hearing

An oral presentation at which persons may present their views orally or in writing will be held as follows:

January 14, 2020
1 to 3 p.m.

Board Hearing Room
1375 East Court Avenue
Des Moines, Iowa

Persons who wish to make oral comments at the oral presentation may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the oral presentation and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Rescind 199—Chapter 11 and adopt the following **new** chapter in lieu thereof:

CHAPTER 11 ELECTRIC LINES

199—11.1(478) General information.

11.1(1) Purpose and authority. The purpose of this chapter is to implement the requirements in Iowa Code chapter 478 and to establish procedures for electric franchise proceedings before the Iowa utilities board. This chapter shall apply to any person engaged in the construction, operation, and maintenance of electric transmission lines in Iowa.

11.1(2) Iowa electrical safety code. Overhead and underground electric line minimum safety requirements to be applied in installation, operation, and maintenance are found in 199—Chapter 25, Iowa electrical safety code.

11.1(3) Date of filing. A petition for franchise, and all other filings, shall be considered filed when accepted for filing by the board pursuant to 199—Chapter 14.

11.1(4) Franchise, when required. An electric franchise shall be required for the construction, operation, and maintenance of any electric line capable of operating at 69,000 volts (69 kV) or more outside of cities, except that a franchise is not required for electric lines located entirely within the boundaries of property owned by an electric company or an end user.

199—11.2(478) Definitions. For the administration and interpretation of this chapter, the following words and terms, when used in these rules, shall have the meanings indicated below:

“Affected person” means any person with a recorded legal right or interest in the property, including but not limited to a contract purchaser of record, a tenant occupying the property under a recorded lease, a record lienholder, and a record encumbrancer of the property.

“Board” means the utilities board within the utilities division of the department of commerce.

“Capable of operating” means the standard voltage rating at which the electric line, wire, or cable can be operated consistent with the level of the insulators and the conductors used in construction of the electric line, wire, or cable based on manufacturer's specifications, industry practice, and applicable industry standards.

“*Electric company*” means any person that proposes to construct, erect, maintain, or operate an electric line, wire, or cable in Iowa.

“*Person*” means individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity as defined in Iowa Code section 4.1(20).

“*Termini*” means the electrically functional end points of an electric line, without which it could not serve a public use. Examples of termini include generating stations, substations, or other electric lines.

“*Transmission line*” means any electric line, wire, or cable capable of operating at 69 kilovolts or more.

199—11.3(478) Route selection. The planning for a route that is the subject of a petition for franchise shall begin with routes that are near and parallel to roads, railroad rights-of-way, or division lines of land, according to the government survey, consistent with the provisions of Iowa Code section 478.18(2).

11.3(1) *Where deviations allowed.* When a route near and parallel to the features described in this rule has segments where transmission line construction is not practicable and reasonable, deviations may be proposed for those segments, when the proposed deviations are accompanied by a proper evidentiary showing, generally for engineering reasons, that the initial route or routes examined did not meet the practicable and reasonable standard pursuant to Iowa Code section 478.18(2). Although deviations based on landowner preference or minimizing interference with land use may be permissible, the electric company shall demonstrate that route planning began with a route or routes near and parallel to roads, railroad rights-of-way, or division lines of land.

11.3(2) *Location of buildings.* No transmission line shall be constructed outside of cities, except by agreement, within 100 feet of any dwelling, house or other building, except where the transmission line crosses or passes along a public highway or is located alongside or parallel with the right-of-way of any railroad company, consistent with the provisions of Iowa Code section 478.20. Construction of a new building within 100 feet of the center line of an existing transmission line shall be construed as “agreement” within the meaning of Iowa Code section 478.20.

11.3(3) *Railroad crossings.* The electric company shall file an affidavit and supporting documents showing that the requirements in rule 199—42.3(476) have been met for each railroad crossing over which the transmission line will be constructed.

199—11.4(478) Informational meetings. Not less than 30 days or more than two years prior to filing a petition or related petitions requesting a franchise for a new transmission line, with one or more miles of the total proposed route across privately owned real estate, the electric company shall hold an informational meeting in each county in which real property or real property rights will be affected. An informational meeting is required to be held in each county where property rights will be affected regardless of the length of the portion of the proposed transmission line in a county. The length of easements required for conductor and crossarm overhang of private property, even if no supporting structures are located on that property, shall be included in determining whether an informational meeting is required pursuant to Iowa Code section 478.2.

11.4(1) *Facilities.* Electric companies filing a petition for franchise shall be responsible for all negotiations and compensation for a suitable facility to be used for each informational meeting, including but not limited to a building or facility which is in substantial compliance with any applicable requirements of the Americans with Disabilities Act (ADA) Standards for Accessible Design, including both Title III regulations at 28 CFR Part 36, Subpart D, and the 2004 ADA Accessibility Guidelines (ADAAG) at 36 CFR Part 1191, Appendices B and D (as amended through [the effective date of these rules]), where such a building or facility is reasonably available.

11.4(2) *Location.* The informational meeting location shall be reasonably accessible to all persons who may be affected by the granting of a franchise in that county or who have an interest in the proposed transmission line.

11.4(3) *Personnel.* At the informational meeting, qualified personnel representing the electric company shall make a presentation that includes the following information:

- a. Utility service requirements and planning which have resulted in the proposed construction.
- b. When the transmission line will be constructed.
- c. In general terms, the physical construction, appearance and typical location of poles and conductors with respect to property lines.
- d. In general terms, the rights which the electric company shall seek to acquire by easements.
- e. Procedures to be followed in contacting affected persons with whom the electric company may seek specific negotiations in acquiring voluntary easements.
- f. Methods and factors used in arriving at an offered price for voluntary easements including the range of cash amount of each component. An example of an offer sheet shall be included as part of the presentation.
- g. The manner in which voluntary easement, payments are made, including discussion of conditional easements, signing fees, and time of payment.
- h. Other factors or damages which are not included in the easement but for which compensation is made, including features of interest to affected persons but not limited to computation of amounts and manner of payment.
- i. If the undertaking is a joint effort by more than one electric company, all of the electric companies involved in the project shall be represented at the informational meeting by qualified personnel able to speak on the matters required by this subrule.

11.4(4) Board approval. An electric company proposing to schedule an informational meeting shall file a request with the board to schedule the informational meeting and shall include a proposed date and time for the informational meeting, an alternate date and time, a description of the proposed project and route, and a map of the proposed route. The electric company shall be notified within ten days from the filing of the request whether the request is approved or alternate dates and times are required. Once a date and time for the informational meeting have been approved, the electric company shall file the location of the informational meeting and a copy of the informational meeting presentation with the board.

11.4(5) Notice of informational meeting. Notice of each informational meeting shall be provided by certified mail, return receipt requested, to those persons listed on the tax assessment rolls as responsible for payment of real estate taxes on the property and persons in possession of or residing on the property within the corridor where the proposed transmission line will be located. The notice shall be deposited in the U.S. mail not less than 30 days prior to the date of the meeting.

- a. The notice shall include the following:
 - (1) The name of the electric company;
 - (2) The electric company's principal place of business;
 - (3) The general description and purpose of the proposed project;
 - (4) The general nature of the right-of-way desired;
 - (5) The possibility that the right-of-way may be acquired by condemnation if approved by the board;
 - (6) A map showing the route of the proposed project;
 - (7) A description of the process used by the board in making a decision on whether to approve a franchise, including the right to take property by eminent domain;
 - (8) A statement that affected persons have a right to be present at the informational meeting and to file objections with the board;
 - (9) Designation of the time and place of the meeting;
 - (10) The following statement: Persons with disabilities requiring assistive services or devices to observe or participate should contact the Utilities Board at (515)725-7300 in advance of the scheduled date to request accommodations; and
 - (11) A copy of the statement of damages as described in subrule 11.9(5).

- b. The electric company shall cause the meeting notice, including the map, to be published once in a newspaper of general circulation in each county where the proposed line is to be located. The notice shall be published at least one week and not more than three weeks prior to the date of the meeting. Publication shall be considered notice to landowners and persons in possession of or residing on the property whose addresses are not known.

c. The electric company shall file prior to the informational meeting an affidavit that describes the good-faith effort the electric company undertook to locate the addresses of persons listed on the tax assessment rolls as responsible for payment of real estate taxes imposed on the property within the corridor where the proposed transmission line is to be located and those persons in possession of or residing on the property.

199—11.5(478) Petition for a new franchise. A single docket will be assigned to a proposed transmission line even if the transmission line will be located in more than one county. The electric company may request one franchise for the entire transmission line or may request separate franchises in each county where the proposed transmission line is to be located.

11.5(1) Petition and exhibits. A petition for a new franchise shall be filed on forms prescribed by the board, shall be notarized, and shall have all required exhibits attached. Exhibits in addition to those required by this rule may be attached when appropriate. The petition shall be attested to by an officer, official, or attorney with authority to represent the electric company. The following exhibits shall be filed with the petition:

a. *Exhibit A.* A legal description of the route. The description shall include the name of the county, the maximum and nominal voltages, the beginning point and endpoint of the transmission line, and whether the route is on public, private, or railroad right-of-way. In the case of multicounty projects, the description shall identify all counties involved in the total project and the termini located in other counties. When the route is in or adjacent to the right-of-way of a named road or a railroad, the exhibit shall specifically identify the road or railroad by name.

b. *Exhibit B.* A map showing the route of the transmission line drawn with reasonable accuracy considering the scale. The map may be to any scale appropriate for the level of detail to be shown but may not be smaller than one inch to the mile and shall be legible when printed on paper no larger than 11 by 17 inches. The following minimum information shall be provided:

(1) The route of the transmission line which is the subject of the petition, including beginning point and endpoint and, when the transmission line is parallel to a road or railroad, which side the line is on. Line sections with double-circuit construction or underbuild shall be designated. The nominal voltage and ownership of other circuits or underbuild shall be indicated. The nominal voltage of other circuits or underbuild shall be the voltage at which the electric line is capable of operating.

(2) The name of the county, county and section lines, section numbers, and township and range numbers.

(3) The location and identity of roads, named streams and bodies of water, and any other pertinent natural or man-made features or landmarks influencing the route.

(4) The names and corporate limits of cities.

(5) The names and boundaries of any public lands or parks, recreational areas, preserves or wildlife refuges.

(6) All electric lines, including lines owned by the electric company, within six-tenths of a mile of the route, including the nominal voltage of the lines, whether the lines are overhead or buried, and the names and addresses of the owners. Any electric lines to be removed or relocated shall be designated.

(7) The location of railroad rights-of-way, including the names and addresses of the owners.

(8) The location of airports or landing strips within one mile of the route, along with the names and addresses of the owners.

(9) The location of pipelines used for the transportation of any solid, liquid, or gaseous substance, except water, within six-tenths of a mile of the route, along with the names and addresses of the owners.

(10) The names and addresses of the owners of telephone, communication, or cable television lines within six-tenths of a mile of the route. The location of these lines need not be shown.

(11) The names and addresses of the owners of rural water districts organized pursuant to Iowa Code chapter 357A that have facilities within six-tenths of a mile of the route. The location of these facilities need not be shown.

(12) A map of the entire route if the route is located in more than one county or there is more than one map for a county.

c. Exhibit C. Technical information and engineering specifications describing typical materials, equipment and assembly methods as specified on forms provided by the board.

d. Exhibit D. The exhibit shall consist of a written text containing the following:

(1) An affidavit with an allegation and supporting information that the 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. Additional substantiated allegations as may be required by Iowa Code section 478.3(2) shall also be included.

(2) If the route or any portion thereof is not near and parallel to roads or railroad rights-of-way, or along division lines of the lands, according to government surveys, an explanation of why such parallel routing is not practicable or reasonable.

(3) A statement regarding the availability of routes on an existing electric line right-of-way and an explanation of why this line was not selected.

(4) If the route and manner of construction would result in separate pole lines for two or more electric supply lines occupying the same road right-of-way in a manner not in compliance with subrule 11.11(1), a request that the board authorize separate pole lines and justification for the authorization.

(5) Any other information or explanation in support of the petition.

(6) If a new franchise must be sought for an existing transmission line, historical information regarding the prior franchise.

(7) A copy of any route study that was performed in determining the location of the proposed transmission line.

e. Exhibit E. This exhibit is required only if the petition requests the right of eminent domain. This exhibit shall be in its final form prior to issuance of the official notice by the board and approval of the eminent domain notice required by Iowa Code section 478.6(2). The exhibit shall consist of a map of the route showing the location of each property for which the right of eminent domain is sought, and for each property:

(1) The legal description of the property.

(2) The legal description of the desired easement.

(3) A specific description of the easement rights being sought.

(4) The names and addresses of all affected persons and of all tenants.

(5) A map drawn to an appropriate scale showing the boundaries of the property, the boundaries and dimensions of the proposed easement, the location of all electric lines and supports within the proposed easement, the location of and distance to any building within 100 feet of the proposed transmission line, and any other features pertinent to the location of the transmission line and its supports or to the rights being sought.

(6) An affidavit affirming that the electric company has undertaken a review of land records to identify all affected persons for all parcels over which the transmission line is proposed to be located before easements were signed or eminent domain requested.

f. Exhibit F. The showing of notice to all persons identified in subparagraphs 11.5(1)“b”(6) through 11.5(1)“b”(11) and to the Iowa department of transportation. One copy of each letter of notification or one copy of the letter accompanied by a written statement listing all persons that were sent the notice, the date of mailing, and a copy of the map sent with the letters shall accompany the petition when it is filed with the board.

g. Exhibit G. The affidavit required by Iowa Code section 478.3(2)“c” on the holding of an informational meeting. Copies of the mailed notice letter and the published notice(s) of each informational meeting shall be attached to the affidavit. This exhibit is required only if an informational meeting was conducted.

h. Other exhibits. The board may require filing of additional exhibits if further information on a particular project is deemed necessary.

11.5(2) Notice of franchise petition.

a. Whenever a petition for a new franchise is filed with the board, the board shall prepare a notice addressed to the citizens of each county through which the transmission line or lines extend. The electric company shall cause this notice to be published in a newspaper of general circulation in each county

for two consecutive weeks. Proof of publication shall be filed with the board. This published notice shall constitute sufficient notice to all persons of the proceeding, except owners of record and persons in possession of land to be crossed for which voluntary easements have not been obtained at the time of the first publication of the notice.

b. The electric company shall, in addition to publishing notice, serve notice in writing of the filing of the petition on the affected persons and the persons in possession of the lands over which easements have not been obtained. The served notices shall be by ordinary mail, addressed to the last-known address, mailed not later than the first day of publication of the official notice. One copy of each letter of notification, or one copy of the letter accompanied by a written statement listing all persons to which it was mailed and the date of mailing, shall be filed with the board not later than five days after the date of second publication of the official notice. The electric company shall file a statement describing the action taken to ensure that the company has identified the names and addresses of all affected persons and persons in possession of property over which voluntary easements have not been obtained.

c. Published notices of petitions for franchise shall include provisions whereby interested persons can examine a map of the route. When the petition is filed, the electric company shall state whether a map is to be published with the notice or whether the notice is to include a telephone number and an address through which persons may request a map from the electric company at no cost. The map required by this paragraph need not be as detailed as the Exhibit B map but shall include at minimum the proposed route, section lines, section and township numbers, roads and railroads, city boundaries, and rivers and named bodies of water. A copy of this map shall be filed with the petition.

11.5(3) Notice to other persons. The electric company shall give written notice, by ordinary mail, mailed at the time the petition is filed with the board and accompanied by a map showing the route of the proposed electric transmission line, to the persons identified in subparagraphs 11.5(1) “b”(6) through 11.5(1) “b”(11) and to the Iowa department of transportation. One copy of each letter of notification or one copy of the letter accompanied by a written statement listing all persons that were sent the notice, the date of mailing, and a copy of the map sent with the letters shall accompany the petition when it is filed with the board.

11.5(4) Eminent domain notice. If an electric company is requesting the right of eminent domain over property as part of a petition for a new franchise, notice shall be provided pursuant to subrule 11.10(1).

199—11.6(478) Petition for an amendment to a franchise. A petition for an amendment of a franchise shall include the same exhibits and information required for a new franchise as described in rule 199—11.5(478).

11.6(1) When a petition for amendment is required. A petition for amendment of a franchise shall be filed with the board for approval when the electric company is:

a. Increasing the operating voltage of any electric line, the level to which it is capable of operating, or to a voltage greater than that specified in the existing franchise.

b. Constructing an additional circuit which is capable of operating at a nominal voltage of 69 kV or more on a previously franchised line, where an additional circuit at such voltage is not authorized by the existing franchise.

c. Relocating a franchised line to a route different from that authorized by an existing franchise which requires that new or additional interests in property be obtained, or that new or additional authorization be obtained from highway or railroad authorities, or for relocations of less than one mile if the right of eminent domain is sought.

11.6(2) When a new transmission line is proposed in a county where the electric company has a countywide franchise for all of the electric company’s transmission lines in a county, the new transmission line will be included in the countywide franchise as an amendment to the countywide franchise.

11.6(3) When an existing franchise in a county is proposed to be combined with another existing franchise in a county, a petition for an amendment of the franchise with the latest expiration date shall be filed to combine the transmission lines into one of the existing franchises.

11.6(4) An amendment to a franchise shall not be required for a voltage increase, additional circuit, or electric line relocation where such activity takes place entirely within the boundaries of property owned by an electric company or an end user.

11.6(5) Notice of a petition for franchise amendment. Notice of a petition for an amendment to a franchise shall be the same notice that is required for a petition for a new franchise as described in rule 199—11.5(478).

11.6(6) Eminent domain notice. If an electric company is requesting the right of eminent domain over property as part of a petition for amendment of a franchise, notice shall be provided pursuant to subrule 11.10(1).

199—11.7(478) Petition for the abbreviated franchise process.

11.7(1) *Eligibility for abbreviated franchise process.* Petitions for an electric franchise or an amendment to a franchise may be filed pursuant to the abbreviated franchise process set forth in Iowa Code section 478.1(5) if the following requirements are met:

a. The project consists of the conversion, upgrading, or reconstruction of an existing electric line operating at 34.5 kV to a line capable of operating at 69 kV.

b. The project will be on substantially the same right-of-way as an existing 34.5 kV line. For purposes of this subrule, “substantially the same right-of-way” means that the new or additional interests in private property right-of-way will be required for less than one mile of the proposed project length. Easements required for conductor and crossarm overhang of private property or for anchor easements shall not be considered when determining the length of additional interests in private property right-of-way.

c. The project will have substantially the same effect on the underlying properties as the existing 34.5 kV line.

d. The completed transmission line will comply with the Iowa electrical safety code found in 199—Chapter 25.

e. The electric company does not request the power of eminent domain.

f. The electric company agrees to pay all costs and expenses of the franchise proceeding.

11.7(2) *Petition using abbreviated process.* A petition for a new franchise or an amendment to a franchise filed pursuant to the abbreviated franchise process set forth in Iowa Code section 478.1(5) shall be made on forms prescribed by the board, shall be notarized, and shall have all required exhibits attached. Exhibits in addition to those required by this subrule may be attached when appropriate. The exhibits required to be attached are as follows:

a. Exhibit A. A legal description of the route. The description shall include the name of the county, the maximum and nominal voltages, the beginning point and endpoint of the transmission line, and whether the route is on public, private, or railroad right-of-way. When the route is in or adjacent to the right-of-way of a named road or a railroad, the exhibit shall specifically identify the road or railroad by name. The description shall identify any termini located in other counties.

b. Exhibit B. A map showing the route of the transmission line drawn with reasonable accuracy considering the scale. The map may be to any scale appropriate for the level of detail to be shown but may not be smaller than one inch to the mile and must be legible when printed on paper no larger than 11 by 17 inches. The following minimum information shall be provided:

(1) The route of the transmission line which is the subject of the petition, including the beginning point and endpoint and, when the transmission line is parallel to a road or railroad, the side on which the line is located. Line sections with double-circuit construction or underbuild shall be designated. The nominal voltage and ownership of other circuits or underbuild shall be indicated. The nominal voltage of other circuits or underbuild shall be the voltage at which the electric line is capable of operating.

(2) The name of the county, county and section lines, section numbers, and township and range numbers.

(3) The location and identity of roads, railroads, named streams and bodies of water, and any other pertinent natural or man-made features or landmarks influencing the route.

(4) The names and corporate limits of cities.

(5) If any deviation from the existing route is proposed, the original and proposed routes shall be shown and identified.

c. Exhibit C. Technical information and engineering specifications describing typical materials, equipment, and assembly methods as specified on forms provided by the board.

d. Exhibit D. The exhibit shall consist of written text containing the following:

(1) A listing of any existing franchises that would be terminated or amended in whole or in part by this petition, including the docket number, franchise number, date of issue, county of location, and to whom the franchise is granted.

(2) An allegation, with supporting testimony, that the project is eligible for the abbreviated franchise process.

(3) An allegation, with supporting testimony, that the project is necessary to serve a public use and represents a reasonable relationship to an overall plan of transmitting electricity in the public interest.

(4) An explanation for any deviations from the existing transmission line route.

(5) A statement regarding the availability of routes on an existing electric line right-of-way and an explanation of why this line was not selected.

e. Exhibit E. A statement that the right of eminent domain is not being requested.

f. Exhibit F. The exhibit shall consist of a showing of notice to other electric, pipeline, telephone, communication, cable television, rural water district, and railroad companies that have facilities which are crossed by or in shared right-of-way with the proposed transmission line.

g. Exhibit G. The exhibit shall consist of the form of notice to be mailed in accordance with subrule 11.7(3) to owners of and persons residing on property where construction shall occur.

11.7(3) Notice of franchise or amendment to franchise under abbreviated franchise process.

a. One month prior to commencement of construction, an electric company shall provide written notice concerning the anticipated construction to the last-known address of the owners of record of the property where construction will occur and to persons residing on such property. Notices may be served by ordinary mail, addressed to the last-known address of the owners of record of the property and to persons residing on such property. The electric company shall make a good-faith effort to identify and notify all owners of record and persons residing on the property.

b. The notice shall include the following information:

(1) A description of the purpose of the project and the nature of the work to be performed.

(2) A copy of the Exhibit B map.

(3) The estimated dates the construction or reconstruction will commence and end.

(4) The name, address, telephone number, and email address of a representative of the electric company who can respond to inquiries concerning the anticipated construction.

c. For the purposes of this rule, “construction” means physical entry onto private property by personnel or equipment for the purpose of rebuilding or reconstructing the transmission line.

199—11.8(478) Petition for extension of franchise.

11.8(1) Petition and exhibits. A petition for an extension of a franchise shall be made on forms prescribed by the board; shall be attested to by an officer, official, or attorney with authority to represent the electric company; and shall have all required exhibits attached. Exhibits in addition to those required by this rule may be attached when appropriate. For a transmission line that extends into more than one county, the electric company may file a petition to combine the separate county franchises into one franchise for the entire transmission line.

a. Exhibit A. A legal description of the route. The description shall include the name of the county, the maximum and nominal voltages, the beginning point and endpoint of the transmission line, and whether the route is on public, private, or railroad right-of-way. When the route is in or adjacent to the right-of-way of a named road or a railroad, the exhibit shall specifically identify the road or railroad by name. The description shall identify any termini located in other counties.

b. Exhibit B. A map showing the route of the transmission line drawn with reasonable accuracy considering the scale. The map may be to any scale appropriate for the level of detail to be shown but

may not be smaller than one inch to the mile and must be legible when printed on paper no larger than 11 by 17 inches. The following minimum information shall be provided:

(1) The route of the transmission line which is the subject of the petition, including beginning point and endpoint and, when the transmission line is parallel to a road or railroad, which side the line is on. Line sections with double-circuit construction or underbuild shall be designated. The nominal voltage and ownership of other circuits or underbuild shall be indicated. The nominal voltage of other circuits or underbuild shall be the voltage at which the electric line is capable of operating.

(2) The name of the county, county and section lines, section numbers, and township and range numbers.

(3) The location and identity of roads, railroads, named streams and bodies of water, and any other pertinent natural or man-made features or landmarks influencing the route.

(4) The names and corporate limits of cities.

c. Exhibit C. Technical information and engineering specifications describing typical materials, equipment and assembly methods as specified on forms provided by the board.

d. Exhibit D. The exhibit shall consist of a written text containing the following:

(1) A listing of all existing franchises for which extension in whole or in part is sought, including the docket number, franchise number, date of issue, county of location, and to whom granted.

(2) A listing of all amendments to the franchises listed in subparagraph 11.8(1)“d”(1), including the docket number, amendment number, date of issue, and purpose of the amendment.

(3) A description of any substantial rebuilds, reconstructions, alterations, relocations, or changes in operation not included in a prior franchise or amendment proceeding.

(4) A description of any changes in ownership or operating and maintenance responsibility.

(5) An allegation, with supporting testimony, that the transmission line remains necessary to serve a public use and represents a reasonable relationship to an overall plan of transmitting electricity in the public interest.

(6) Any other information or explanation in support of the petition.

11.8(2) *Date for filing petition for extension.* A petition for an extension of a franchise shall be filed at least one year prior to expiration of the franchise. This requirement is not applicable to extensions of franchises that expire within one year of [the effective date of these rules]. Extensions of existing countywide franchises are permitted; however, petitions to extend the franchises of separate transmission lines within a county by combining those transmission lines into a countywide franchise are not permitted using the franchise extension process.

11.8(3) *When petition for extension unnecessary.* An extension of franchise is unnecessary for an electric line which is capable of operating at 69 kV or more when the electric line has been permanently retired from operation and the board has been notified of the retirement. The notice to the board shall include the franchise number and issue date, the docket number, and, if the entire franchised line is not retired, a map showing the location of the portion retired.

11.8(4) *Petition for extension of countywide franchise.* A petition for an extension of a countywide franchise, which includes all of the franchised lines owned by the electric company and within one county, shall include a statement of whether the published notice will contain a legal description of the route or will include a telephone number and an address through which persons may request a map from the electric company at no cost. The map shall comply with the requirements in subrule 11.8(6). A copy of this map shall be filed with the petition.

11.8(5) *Notice of petition for extension.* Whenever a petition for an extension of a franchise is filed with the board, the board shall prepare a notice addressed to the citizens of each county through which the transmission line or lines extend. The electric company shall cause this notice to be published for two consecutive weeks in a newspaper of general circulation in each county where the proposed line is to be located. Proof of publication shall be filed with the board. This published notice shall constitute sufficient notice to all affected persons and persons in possession of property where the existing line is located.

11.8(6) *Maps in published notice.* Published notices of petitions for franchise shall include provisions whereby interested persons can examine a map of the route. When the petition is filed, the

electric company shall state whether a map is to be published with the notice or whether the notice is to include a telephone number and an address through which persons may request a map from the electric company at no cost. The map required by this subrule need not be as detailed as the Exhibit B map but shall include at minimum the proposed route, section lines, section and township numbers, roads and railroads, city boundaries, and rivers and named bodies of water. A copy of this map shall be filed with the petition.

11.8(7) Notice to other persons. The electric company shall give written notice, by ordinary mail, mailed at the time the petition is filed with the board, accompanied by a map showing the route of the proposed transmission line, to the persons identified in subparagraphs 11.5(1)“b”(6) through 11.5(1)“b”(11) and to the Iowa department of transportation. One copy of each letter of notification or one copy of the letter accompanied by a written statement listing all persons that were sent the notice, the date of mailing, and a copy of the map sent with the letters shall accompany the petition when it is filed with the board.

199—11.9(478) Additional requirements.

11.9(1) Forms. An electric company shall use the appropriate form or forms available on the board’s website when filing a petition, an amendment to an existing franchise, or an extension of an existing franchise. All filings shall be filed electronically in compliance with the board’s electronic filing system requirements in 199—Chapter 14 and shall be considered filed when accepted for filing into the board’s electronic filing system pursuant to 199—Chapter 14.

11.9(2) Segmental ownership.

a. Petitions covering transmission line routes, having segments of the total transmission line with different owners, shall establish that the entire 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.

b. Petitions covering transmission line routes, having segments of the total transmission line with different owners, shall include documentation showing that the different owners have agreed to the construction being proposed in the petition.

11.9(3) Compliance with Iowa electrical safety code. If review of Exhibit C, or inspection of an existing electric line which is the subject of a franchise petition, finds noncompliance with 199—Chapter 25, the Iowa electrical safety code, no final action shall be taken by the board on the petition without a satisfactory showing by the electric company that the areas of noncompliance have been or will be corrected. Any disputed safety code compliance issues will be resolved by the board.

11.9(4) Statement of damage claims.

a. A petition proposing transmission line construction shall not be acted upon by the board if the electric company does not file with the board a written statement as to how damages resulting from the construction of the transmission line shall be determined and paid.

b. The statement shall contain the following information: the type of damages which will be compensated for, how the amount of damages will be determined, the procedures by which disputes may be resolved, the manner of payment, and the procedures that the affected persons are required to follow to obtain a determination of damages.

c. The statement shall be amended as necessary to reflect changes in the law, company policy, or the needs of a specific project.

d. A copy of this statement shall be mailed with the notice of informational meeting as provided for in Iowa Code section 478.2(3). Where no informational meeting is required, a copy shall be provided to each affected person prior to entering into negotiations for payment of damages.

e. Nothing in this rule shall prevent a person from negotiating with the electric company for terms which are different from, more specific than, or in addition to those in the statement filed with the board.

199—11.10(478) Notices.

11.10(1) Notice of eminent domain proceedings. If a petition for a franchise or amendment of franchise seeks the right of eminent domain, the electric company shall, in addition to publishing a notice of hearing, serve the written notice required by Iowa Code section 478.6(2) on the landowners,

any affected person as defined in rule 199—11.2(478), and persons in possession of lands over which eminent domain is sought. The eminent domain notice shall be filed with the board for approval. Service shall be by certified U.S. mail, return receipt requested, and addressed to the person's last-known address. This notice shall be mailed no later than the first day of publication of the official notice of hearing concerning the petition.

a. The notice of eminent domain proceedings shall include the following:

(1) A copy of the Exhibit E filed with the board for the affected property.

(2) The proposed route of the electric transmission line.

(3) The eminent domain rights being sought over the property.

(4) The date, time and location of the hearing and a description of the hearing procedures. The description of the hearing procedures shall include the website address for the board's electronic filing system and contact information of the board's customer service section.

(5) The statement of individual rights required pursuant to Iowa Code section 6B.2A(1).

b. Not less than five days prior to the date of hearing, the electric company shall file with the board the return receipt for the certified notice. The ordinary mail notice is not required to persons for which statutory written notice is served in accordance with this subrule.

11.10(2) *Notice of franchised line construction.*

a. Within 90 days after completion of a transmission line construction or reconstruction project authorized by a franchise or amendment to franchise, the holder of the franchise shall notify the board in writing of the completion. The notice shall include the franchise and docket numbers and the date the franchise was issued.

b. If the project is not completed within two years after the date of issuance of the franchise or amendment to franchise, the electric company shall file a progress report regarding construction of the transmission line.

c. If construction of the transmission line authorized by a franchise has not commenced within two years of the date the franchise is granted, or within two years after final disposition of judicial review of a franchise order or of condemnation proceedings, the franchise shall be forfeited unless the electric company petitions the board for an extension of time to commence construction. The board may grant the extension if good cause is shown for the failure to commence construction.

11.10(3) *Notice of transfer or assignment of franchise.* The holder of a franchise shall notify the board in writing, when transferring any franchise or portion of a franchise, stating the applicable franchise number and docket number which are affected and a description of the route of the transmission line when less than the total franchised line is affected, together with the name of the transferee and date of transfer, not more than 30 days after the effective date of the transfer.

11.10(4) *Notice of relocations not requiring an amendment to franchise.* Whenever a transmission line under franchise is relocated in a manner that does not require an amendment to franchise, the holder of the franchise shall notify the board in writing of the relocation, stating the franchise and docket numbers and date of franchise issuance for the affected transmission line, and providing revised Exhibits A and B that reflect the changes in the route.

11.10(5) *Notice of transmission line reconstruction not requiring an amendment to franchise.* Whenever a transmission line is reconstructed with different materials or specifications than those that appear on the most recent Exhibit C and an amendment to franchise is not required, the holder of the franchise shall notify the board in writing of the reconstruction, stating the franchise and docket numbers and date of franchise issuance for the affected transmission line, and providing a revised Exhibit C that reflects the changes in the manner of construction.

199—11.11(478) Common and joint use.

11.11(1) *Common use construction.* Whenever an overhead electric line capable of operating at 69 kV or more is built or rebuilt on public road rights-of-way located outside of cities, all parallel overhead electric supply circuits on the same road right-of-way shall be attached to the same or common line of structures unless the board authorizes, for good cause shown, the construction of separate pole lines.

A request for the construction of separate pole lines shall be filed separately from the petition for the electric transmission line franchise.

11.11(2) *Relocating lines.* When a transmission line is to be constructed in a location occupied by an electric line or a communication line, the expense of relocating the existing line shall be borne by the electric company proposing the new transmission line. The electric company proposing the new transmission line shall not be required to pay any part of the used life of the existing line, but shall pay only the nonbetterment expense of relocating the existing line.

199—11.12(478) Termination of franchise petition proceedings.

11.12(1) *Termination of docket.* Upon notice to the board by an electric company that a franchise petition or petition for amendment of a franchise is withdrawn, the docket shall be closed by board order.

11.12(2) *Failure to respond.* If an electric company fails to respond to written notification by the board, to correct an incomplete or deficient franchise petition, or to publish the official notice within 90 days after the form of notice is provided by the board, the board may dismiss the petition as abandoned. If dismissal would cause an existing transmission line to be without a franchise, the board may also pursue imposition of civil penalties.

199—11.13(478) Fees and expenses. The electric company shall pay the actual cost incurred by the board attributable to the processing, investigation, and inspection related to a petition requesting an electric franchise, an amendment to an electric franchise, or an extension of an electric franchise.

These rules are intended to implement Iowa Code chapter 478.