

199—42.3(476) General notice and specification exhibit requirements and payment of fee.

42.3(1) Notice and exhibit. Anytime a public utility intends to construct a crossing across railroad right-of-way, the utility shall submit to the railroad a notification of intent to construct, along with a specification exhibit that shows the location of the crossing and the railroad's property, tracks, and wires that the public utility's facilities will cross. The notice and exhibit shall be submitted to the railroad by certified mail, return receipt requested. The one-time standard crossing fee of \$750, unless otherwise agreed to by the railroad and public utility, shall accompany the notice and exhibit. The public utility shall use its best efforts to submit the specification exhibit on a form provided or approved by the railroad. The specification exhibit constitutes the public utility's warranty that the public utility facilities that are the subject of the exhibit will be constructed and installed as shown on the exhibit. By August 1, 2003, each railroad, either individually or jointly, shall submit for board review and approval proposed specification exhibits for use with notifications of intent to construct. The board must also approve any subsequent revisions or amendments to the forms.

42.3(2) Exhibit—overhead wireline crossings. For overhead wireline crossings, the specification exhibit shall contain, at a minimum, the location of the poles supporting the crossing span and adjoining spans on each side of the crossing span on the proposed facilities; the number, kind, and size of wires; and the clearance between the facilities and any existing railroad tracks, wires, or fiberoptic lines.

42.3(3) Exhibit—underground crossings. For underground crossings, the specification exhibit shall contain, at a minimum, the number, kind, and size of wires, pipes, and conduit and casing to be used, the commodity conveyed, and the depth to which the public utility facilities will be placed below the base of the rail track and at other locations on the right-of-way. Multiple wires to be contained within a single conduit may be combined on a single exhibit and notice of intent to construct. Both cased and uncased natural gas pipeline crossings shall be provided for on the specification exhibit form or forms.

42.3(4) Authorization to commence construction. After 35 days from the mailing of the notice, specification exhibit, and fee, the public utility, absent a claim of special circumstances or objection from the railroad that the information contained in the specification exhibit is inadequate or incomplete, shall be deemed to have authorization to commence construction of the facilities that are the subject of the specification exhibit. In the event the public utility does not commence construction within 120 days from the mailing of the notice or any changes to the specification exhibit, whichever is later, the notice shall expire and the fee may be retained by the railroad. If the public utility subsequently desires to proceed with construction of the facilities subject to the notice, the public utility must again comply with the notice, specification exhibit, and fee requirements of these rules.

42.3(5) Crossing notice and payment of flagging costs. In addition to any other required notice, a public utility, except for emergency repair or maintenance, shall provide the railroad written notice at least ten days prior to commencing any construction, maintenance, or repair of facilities within the railroad's right-of-way. Such notice is to enable the railroad to make any appropriate flagging arrangements. The public utility shall reimburse the railroad for actual flagging expenses within 30 days of receipt of a bill for flagging services.

42.3(6) Securing damages—special circumstances. Pending a board resolution of a claim of special circumstances raised in a petition filed by the railroad pursuant to Iowa Code section 476.27(4) and subrule 42.18(2), a public utility may, upon compliance with these rules and securing the payment of an amount sufficient for the removal of any facilities constructed by the public utility in a manner approved by the board, proceed with construction unless the board intervenes to prevent construction pursuant to Iowa Code section 476.27(6).

42.3(7) Inductive interference study. If the railroad reasonably determines through its initial review of the specification exhibit and engineering analysis that a proposed public utility facility has a material possibility of posing an induction problem with railroad property, the public utility, if it wishes to proceed with the facility, shall cause a formal inductive interference study to be performed by a qualified engineer approved by the railroad. The public utility shall make and pay for any modifications to the proposed facility, or to the railroad's property, that are necessary to ensure safe and reliable operations of the railroad's property that are recommended by the qualified engineer. No public utility facility that has undergone an inductive interference study pursuant to this subrule shall be energized until the railroad

has had an opportunity to conduct any appropriate tests to ensure that, after the facility is energized, there will not be any interference with the operation of the railroad's property. Any appropriate tests shall be conducted by the railroad within 30 days after receipt of a notice from the public utility that the facility is ready to be energized.