

March 23, 1965.
Passed on File.

Senate File 525
By COMMERCE COMMITTEE.

Passed Senate, Date 7/28
Vote: Ayes 54 Nays 0

Passed House, Date 5/3
Vote: Ayes 104 Nays 1

Approved May 13, 1965

A BILL FOR

*passed on file 5/3
substituted for HF 611-5/3*

An Act to amend and revise chapter four hundred eighty-nine (489), Code 1962, as amended by section one (1) of chapter two hundred eighty-five (285), Acts of the Sixtieth General Assembly, relating to electric transmission line franchises, the procedure in obtaining and extending such franchises, the fees to be assessed against the applicant or petitioner therefor, and to provide for the issuance of temporary construction permits for the construction of transmission lines not exceeding one mile in length prior to the granting of a franchise for such lines.

Be It Enacted by the General Assembly of the State of Iowa:

1 Section 1. Section four hundred eighty-nine point three
2 (489.3), Code 1962, is hereby amended by adding the
3 following subsections:

4 "Whether or not the exercise of the right of eminent
5 domain is desired and, if so, a specific reference to the
6 lands described in subsection 4 which are sought to be
7 subject thereto."

8 "An allegation that the proposed construction is necessary
9 to serve a public use and substantiation of such allegation."

1 Sec. 2. Section four hundred eighty-nine point four
2 (489.4), Code 1962, is hereby repealed and the following
3 enacted in lieu thereof:

4 "The board or commission shall consider said petition and
5 any objections filed thereto in the manner hereinafter
6 provided. It may examine the proposed route or cause any

7 engineer selected by it to do so. If a hearing is held on
8 the petition it may hear such testimony as may aid it in
9 determining the propriety of granting such franchise. It
10 may grant such franchise in whole or in part upon such terms,
11 conditions, and restrictions, and with such modifications as
12 to location and route as may seem to it just and proper.
13 Before granting such franchise, the board or commission
14 shall make a finding that the proposed line or lines are
15 necessary to serve a public use. No franchise shall become
16 effective until the petitioners shall pay, or file an
17 agreement to pay, all costs and expenses of the franchise
18 proceeding, whether or not objections are filed, including
19 costs of inspections or examinations of the route, hearing,
20 salaries, publishing of notice, and any other expenses
21 reasonably attributable thereto."

1 Sec. 3. Section four hundred eighty-nine point five
2 (489.5), Code 1962, as amended by section one (1) of chapter
3 two hundred eighty-five (285), Acts of the Sixtieth General
4 Assembly, is hereby repealed and the following enacted in
5 lieu thereof:

6 "Upon the filing of such petition, the board or commission
7 shall cause a notice, addressed to the citizens of each county
8 through which the proposed line or lines will extend, to be
9 published in a newspaper located in each such county for two
10 consecutive weeks. Said notice shall contain a general
11 statement of the contents and purpose of the petition, a
12 general description of the lands and highways to be traversed
13 by the proposed line or lines, and shall state that any

14 objections thereto must be filed in writing with the board
15 or commission not later than twenty days after the date of
16 last publication of the notice. Any person, company, city,
17 town or corporation whose rights may be affected, shall have
18 the right to file written objections to the proposed
19 improvement or to the granting of such franchise; such
20 objections shall be filed with the board or commission not
21 later than twenty days after the date of last publication
22 and shall state the grounds therefor. The board or commission
23 may allow objections to be filed later in which event the
24 applicant must be given reasonable time to meet such late
25 objections."

1 Sec. 4. Insert a new section following section four hundred
2 eighty-nine point five (489.5) as follows:

3 "Upon the filing of such objections or when a petition
4 involves the taking of property under the right of eminent
5 domain the board or commission shall set the matter for
6 hearing and fix a time and place therefor. Said hearing shall
7 be not less than thirty days from the date of last publication
8 and at the offices of the board or commission before which
9 said matter is pending, unless a different place is specified
10 in the notice thereof. Written notice of the time and place
11 of such hearing shall be served by the board or commission,
12 by ordinary mail, on the applicant, and those having filed
13 objections. If no objections are filed as hereinbefore
14 provided and the petition does not involve the taking of
15 property under the right of eminent domain the board or
16 commission may grant a franchise without hearing thereon,

17 however, nothing herein shall be construed as prohibiting
18 the board or commission from conducting a hearing if it
19 deems it necessary.”

1 Sec. 5. Section four hundred eighty-nine point twelve
2 (489.12), Code 1962, is hereby repealed and the following
3 enacted in lieu thereof:

4 “Any person, firm, or corporation owning a franchise
5 granted under this chapter or previously existing law,
6 desiring to acquire extensions of such franchise, may petition
7 the board or commission in the manner provided for the
8 granting of a franchise and the same proceeding shall be had
9 as on an original application, including the assessing of
10 costs provided by section 489.4 except that in the event the
11 extension of franchise is sought for all lines in a given
12 county or counties the published notice need not contain a
13 general description of the lands and highways traversed by
14 the lines, but in lieu thereof the petitioner may have on
15 file at its offices in the county or counties affected a
16 current, accurate map showing the location of the lines for
17 which the franchise extension is sought, said map to be
18 available for examination by any interested party, and the
19 public notice shall advise the citizens of the county or
20 counties affected of the location and availability of such
21 map. If this alternate procedure is not followed then the
22 publication of the description of the lands and highways
23 traversed by the lines shall be done in the manner as in an
24 original application for franchise. In any event an extension
25 under this section will be granted only for a valid, existing

26 franchise and the lands, roads or streams covered thereby
27 over, through or upon which electric transmission lines have
28 in facts been erected or constructed and are in use or operation
29 at the time of the application for extension of franchise.
30 Such petition shall be accompanied by the written consent of
31 the applicant that the provisions of all laws relating to
32 public utilities, franchises, and transmission lines, or to
33 the regulation, supervision, or control thereof which are
34 then in force or which may be thereafter enacted shall apply
35 to its existing line or lines, franchises, and rights with
36 the same force and effect as if such franchise had been
37 granted or such lines had been constructed or rights had
38 been obtained under the provisions of this chapter.

1 Sec. 6. Add at the end of chapter four hundred eighty-nine
2 (489) the following section:

3 "Notwithstanding the provisions of section 489.1 any person,
4 company or corporation proposing to construct an electric
5 transmission line not exceeding one mile in length and which
6 does not involve the taking of property under the right of
7 eminent domain may obtain a temporary construction permit
8 from the state commerce commission by proceeding in the
9 manner hereinafter set forth. Said person, company or
10 corporation shall first file with the state commerce commission
11 a verified petition setting forth all the requirements of
12 section 489.3 with the further allegation that the petitioner
13 is the nearest electric utility to the proposed point of
14 service.

15 The petition shall also state that the filing thereof

16 constitutes an application for a temporary construction permit
17 and shall also have endorsed thereon the approval of the
18 appropriate highway authority or railroad concerned if such
19 line is to be constructed over, across or along a public
20 highway or railroad.

21 Upon receipt of such petition the commission shall
22 consider same and may grant a temporary construction permit
23 in whole or in part or upon such terms, conditions and
24 restrictions, and with such modifications as to location as
25 may seem to it just and proper, however, no finding of public
26 use will be made at the time of the issuance of the permit,
27 such finding to be made, if substantiated by petitioner, at
28 the subsequent consideration of the propriety of granting
29 a franchise for the line subject to the permit. The
30 signature of one commissioner on such permit shall be
31 sufficient. The issuance of such permit shall constitute
32 temporary authority for the permit holder to construct the
33 line for which the permit is granted.

34 Upon the granting of such temporary construction permit
35 the commission shall cause the publication of notice required
36 by section 489.5 and all other requirements shall be compiled
37 with as in the manner provided for the granting of a franchise.
38 If a hearing is required then the petitioner shall make a
39 sufficient and proper showing thereat before a franchise will
40 be issued for the line. Any franchise issued will be subject
41 to all applicable provisions of this chapter.

42 Notwithstanding anything foregoing, if the commission
43 shall determine that a franchise should not be granted, or

44 that further restrictions, conditions or modifications are
45 required, or if the petitioner shall fail to make a sufficient
46 and proper showing of the necessity for the granting of a
47 franchise within six months of the granting of the temporary
48 construction permit, the permit issued hereunder shall
49 become null and void and the permit holder may be required
50 to take such action deemed necessary by the commission to
51 remove, modify or relocate the construction undertaken by
52 virtue of the temporary permit issued hereunder.”