

**Factors:**

- 1) Public interest, convenience and necessity.
- 2) Electric transmission grid available capacity & impacts.
- 3) Access to reliable fuel supply.
- 4) Environmental impacts and compliance with DNR/EPA regs.
- 5) Economic feasibility and impacts to rates.
- 6) Public notice and opportunity for involvement.
- 7) Consideration of land use planning of local authorities.
- 8) Operating noise levels and local sound regulation compliance.
- 9) Nearby population density and residence proximity.
- 10) Dust generation and impacts.
- 11) Visual impacts.
- 12) Conditional approvals on planting trees, subdued lighting, noise barriers, dust suppression.
- 13) Traffic impacts.
- 14) Property value impacts.
- 15) Any sites with existing units with available space for more units.
- 16) Alternate locations and merits and detriments of each.

**FILED**

MAY 11 2006

Missouri Public  
Service Commission

Exhibit No. 115  
Case No(s). EA-2006-0309  
Date 5-3-06 Rptr lt



## Power Plant Siting Q&A

Dairyland Power Cooperative  
November 2003

Following are answers to frequently asked questions regarding the coal plant siting process during this evaluation period.

1. Q - What can a community/county do to encourage power plant siting in their area?

A - Dairyland is looking for community support. So, resolutions from cities, school boards, chambers, the county and economic development councils would be an indication of positive community feedback. Talk with neighbors and friends about the opportunities a project like this presents to your community, such as:

- 400 to 800 construction jobs while the plant is built.
- A permanent workforce of 65 to 80 people.
- Community tax benefits.

2. Q - How soon will Dairyland meet with the public?

A - Dairyland is planning to host public information meetings in early 2004 to share more information about our plans and seek community input. These gatherings will serve as "scoping" meetings in the development of an Environmental Impact Statement (EIS)

3. Q - What kind of economic impact would the power plant potentially have?

A - In addition to the 65-80 permanent jobs and 400-800 construction jobs created, the host community would enjoy significant tax benefits.

Utilities do not pay property tax. They pay 6/100s of a cent per kilowatt hour tax on energy generated. For example, a 400 megawatt power plant running at 80% capacity would generate approximately \$1.7 million dollars annually. Approximately \$700,000 annually would go to the state and approximately \$1 million annually would go to the local units of government, such as the county and school district.

The actual numbers will vary depending on the size of the plant and how much electricity is produced during the course of the year. While these estimates were generated by Dairyland, we anticipate having local jurisdiction confirm the impact.

4. Q - Why is a coal power plant being proposed, instead of a gas or wind generated facility?

A - Fuel is the single largest cost of operating a power plant.

Coal is abundantly available as a domestic fuel source, has historically been lower cost and consistently priced. A baseload plant, such as Dairyland is proposing, runs 24 hours a day, seven days a week, all year long. While a coal plant is more expensive to build than a natural gas plant, it produces electricity more affordably due to the lower fuel costs. Natural gas is better suited for peaking plants, which run when demand for electricity is high.

While Dairyland also purchases wind energy to meet its members' electricity needs, wind cannot meet all energy requirements as it is an inconsistent fuel source. In short, when the wind doesn't blow, power is not generated. Thus, it cannot be the fuel source for a baseload plant, as reliability is key to satisfying consumer energy needs.

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5. Q - What does Dairyland look for in a potential power plant site?

A - The main considerations in siting are access to transmission for energy delivery, access to transportation (rail, other) for fuel delivery, visual sensitivity, ecological sensitivity, land use compatibility and residence proximity.

6. Q - One of the potential sites in Iowa has a cemetery within the proposed footprint. What would happen to that?

A - Dairyland will absolutely respect and protect the integrity of the cemetery and the ability of the community to continue to use it. Dairyland plans to solicit community suggestions regarding landscaping enhancements, etc., for maintaining the serenity and solitude of the cemetery.

7. Q - Will there be a lot of noise associated with the power plant?

A - Power plants operate efficiently and quietly. Dairyland will perform noise studies and demonstrations as part of the permitting process, and to provide information to community members.

8. Q - Will emissions affect livestock and crops?

A - No. A new power plant will be constructed and regulated under rigorous environmental standards. Modern coal-fired plants have far better emissions control technology than plants of yesteryear.

9. Q - How many trains will be bringing coal to the proposed plant?

A - Depending upon the size of the power plant, assuming normal plant and rail operations, two to three trains would bring coal to the plant per week. There are typically 110 cars on a train.

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10. Q - How much stockpiling of coal is expected? How is it stored?

A - It is prudent business to stock some coal. While a power plant that relies on river barges to deliver coal must stockpile much larger quantities in preparation for periods when the river is frozen, trains can deliver coal on a regular basis all year. While the exact stockpile decision has yet to be made, a 45 day supply is typical.

Spare coal is stored in piles that have been strategically located and shaped to minimize environmental impact. Additionally, the pile is compacted and then sprayed with a dust suppressant to seal the coal.

11. Q - What happens if a landowner in the footprint of a potential power plant site refuses to sign a purchasing option with Dairyland Power Cooperative?

A - At this point, Dairyland is pursuing purchase options with willing sellers only.

IF Dairyland chooses that particular site, the utility then must go through a lengthy permitting process. If the state utility board authorizes Dairyland to build a plant, Dairyland would also request state authorization to exercise eminent domain. When contacting landowners, Dairyland representatives discuss under what conditions eminent domain could be utilized.

12. Q - Would Dairyland allow some homeowners to stay in their houses until they are ready to move? For example, if elderly homeowners do not wish to move, could they be able to stay in their home if it does not affect the layout of the plant?

A - If a homeowner wishes to remain in his/her home and the home is not directly impacted by the construction of the power plant, rail lines, etc., Dairyland is certainly open to the possibility of the landowner continuing to live there.

For example, Dairyland could enter into a life estate arrangement with the homeowner which, in general terms, allows the homeowner to sell their property to Dairyland but continue to live in it for the remainder of their life. This would be considered on a case-by-case basis, depending on the location of the home relative to plant construction and site operations.

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# Electric

## Arizona Power Plant and Transmission Line Siting Committee

[Click here to view the Proposed Form for CEC Transfer](#)

[Click here to view the Siting Committee Hearing Calendar](#)

- [What is the Arizona Power Plant and Transmission Line Siting Committee?](#)
- [Who is on the Arizona Power Plant and Transmission Line Siting Committee?](#)
- [Who presides over the Arizona Power Plant and Transmission Line Siting Committee?](#)
- [How long does the Committee have to evaluate a project?](#)
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- [Can members of the public speak out about a particular project?](#)
- [How can I participate if I'm unable to attend the meetings of the Siting Committee?](#)
- [What factors are considered when the Committee reviews an application?](#)
- [Is a unanimous vote required?](#)
- [How does the Arizona Corporation Commission play a role in plant or line siting?](#)
- [Can the Committee impose conditions on a power plant or transmission line approval?](#)
- [After the Committee approves a plant, can the Commission amend the approval?](#)

### What is the Arizona Power Plant and Transmission Line Siting Committee?

In 1971, the Arizona Legislature required that the Commission establish a power plant and line siting committee. The Committee provides a single, independent forum to evaluate applications to build power plants (of 100 megawatts or more) or transmission projects (of 115,000 volts or more) in the state. The Committee holds meetings and hearings that are open to the public.

The Committee was created after the Legislature found that existing law did "not provide adequate opportunity for individuals, groups interested in conservation and the protection of the environment, local governments, and other public bodies to participate in timely fashion the decision to locate a specific major facility at a specific site." (Historical Notes, Laws 1971, Ch. 67, §1)

### **Who is on the Arizona Power Plant and Transmission Line Siting Committee?**

Arizona Revised Statute 40-360.01B dictates who is on the Committee. Its members are:

- ➔ State attorney general or the attorney general's designee. (Chairman of Committee)
- ➔ Director of the Arizona Department of Water Resources or the director's designee.
- ➔ Director of the Arizona Department of Environmental Quality or the director's designee.
- ➔ Director of the energy office of the Arizona Department of Commerce or the director's designee.
- ➔ Chairman of the Arizona Corporation Commission or the chairman's designee.
- ➔ Six members appointed by the Arizona Corporation Commission to serve for a term of two years. Three of the members shall represent the public, one member shall represent incorporated cities and towns, one member shall represent counties and one member shall be actively engaged in agriculture.

### **Who presides over the Arizona Power Plant and Transmission Line Siting Committee?**

The attorney general or his/her designee chairs the Committee. The Chairman directs the flow of the meeting and makes procedural decisions in accordance with Arizona law. However, each member of the Committee, including the Chairman, has a single vote.

### **How long does the Committee have to evaluate a project?**

ARS § 40-360.04 sets forth specific time frames for Committee action. In general, the Committee has 180 days from the date the application is filed to come to a decision.

### **How does the Committee conduct business?**

The procedures for the Committee's activities are set forth in law and administrative

regulations. After an application to build a power plant or transmission line is filed with the Corporation Commission, copies are sent to all members of the Committee. The chairman of the Committee sets a hearing date and provides public notice of the hearing date and location. Any member of the public can attend the hearing. The hearing will include testimony and exhibits from the applicant, and testimony and exhibits from any groups or individuals who are granted party, or intervener, status. There is cross-examination of the witnesses by the parties. The Committee members also ask questions of the witnesses, and may ask for additional information. After all the information is before the Committee, the Committee members will discuss the matter and will take a vote on whether to grant or deny a "Certificate of Environmental Compatibility," which is a formal document that is necessary before the power plant or transmission line can be built. If granted, the Certificate is then forwarded to the Commission for review and action. If denied, the applicant may request that the Commission rehear the matter.

**How can I find out about power plants or transmission projects affecting my community?**

We find that local newspapers and radio stations are a great source of information about utility projects. They usually carry notices of public meetings and attend the proceedings. The Arizona Corporation Commission's website ([www.cc.state.az.us](http://www.cc.state.az.us)) includes a link for information about Arizona Power Plant and Line Siting Committee meetings.

**How can I view the documents pertaining to a specific power plant application?**

As power plant cases move through the process, hundreds of pages of documents, testimony and technical data are filed in the Docket Control Centers at the Arizona Corporation Commission's Phoenix and Tucson offices. The Phoenix Docket Control Center is located at 1200 West Washington and the Tucson office is at 400 West Congress Street.

**Can members of the public speak out about a particular project?**

Yes. The Legislature envisioned the plant and line siting process as a public process that benefits from public input. Time permitting, the Chairman of the Committee will call the meeting to order and allow time for public comment. If there are many people who wish to speak, the Chairman may impose a time limit for each person making public comment.

**How can I participate if I'm unable to attend the meetings of the Siting Committee?**

You can express your views by sending a letter and 25 copies to the Docket Control Center. It will be distributed by mail to all registered parties or interveners. Be sure to include the docket number (case number) to ensure that it is properly catalogued and distributed. Send to:



Docket Control Center  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, AZ 85007

**What factors are considered when the Committee reviews an application?**

Again, the statutes (ARS § 40-360.06) spell out the criteria for issuing a Certificate of Environmental Compatibility. These factors include:

- Existing plans of the state, local government and private entities for other developments at or in the vicinity of the proposed site.
- Fish, wildlife and plant life and associated forms of life upon which they are dependent.
- Noise emission levels and interference with communication signals.
- The proposed availability of the site to the public for recreational purposes, consistent with safety considerations and regulations.
- Existing scenic areas, historic sites and structures or archaeological sites at or in the vicinity of the proposed site.
- The total environment of the area.
- The technical practicability of achieving a proposed objective and the previous experience with equipment and methods available for achieving a proposed objective.
- The estimated cost of the facilities and site as proposed by the applicant and the estimated cost of the facilities and site as recommended by the committee, recognizing that any significant increase in costs represents a potential increase in the cost of electric energy to the customers or the applicant.
- Any additional factors which require consideration under applicable federal and state laws pertaining to any such site.

**Is a unanimous vote required?**

No. The Committee needs only a majority decision of the total Committee to issue or deny a

Certificate of Environmental Compatibility.

**How does the Arizona Corporation Commission play a role in plant or line siting?**

The Commission plays three important roles:

1. The Chairman of the Commission or his/her designee serves on the Committee.
2. The documents pertaining to a particular case are housed in the Commission's Docket Control Center (1200 West Washington in Phoenix) so members of the public can view the case files.
3. The Commission must either confirm, deny or modify the certificate granted by the Committee or if the Committee refused to grant a certificate, the Commission may issue a certificate. The Commission makes its decisions in public Open Meetings with opportunities for additional public comment.

**Can the Committee impose conditions on a power plant or transmission line approval?**

Yes. The Committee has fairly broad discretion and can require that a plant or transmission line conform to certain conditions.

**After the Committee approves a plant, can the Commission amend the approval?**

Within the parameters of the law, the Commission can also amend an application to include conditions it deems necessary for a project to be in the broad public interest.

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Editors & News Directors:

To find out more about the statutes governing the Committee, please go to [www.azleg.state.az.us](http://www.azleg.state.az.us) and enter 40-360 under the section marked Arizona Revised Statutes.

The Rules of Practice and Procedure Before the Power Plant and Transmission Line Siting Committee can be found in R14-3-201 through 219 in the Arizona Administrative Code. To view the Rules, click on [http://www.sosaz.com/public\\_services/Title\\_14/14-03.htm](http://www.sosaz.com/public_services/Title_14/14-03.htm)



**STATE OF NEBRASKA**

**NEBRASKA POWER REVIEW BOARD**

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**REVISED RULES OF PRACTICE  
AND PROCEDURE**

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**1989**

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**C H A P T E R   I**

**RULES AND PROCEDURE**

**FOR**

**EXHIBITS TO SERVICE AREA AGREEMENTS**

Title 285 - NEBRASKA POWER REVIEW BOARD

Chapter 1 - RULES AND PROCEDURE FOR EXHIBITS TO SERVICE AREA AGREEMENT

001 MODIFICATIONS As outlined by statute, any party or both parties to a service area agreement, which has been established or approved by the Nebraska Power Review Board, may apply, singly or jointly, to have their service area boundaries modified. Such application will follow the same form and format as the original service area agreement.

002 GENERAL

002.01 Each supplier of electricity at retail shall submit to the Nebraska Power Review Board two copies of each service area agreement and exhibit. After approval by the Power Review Board, the Board shall retain one copy for its files and return one copy to the electric supplier submitting the same.

002.02 Where the adjoining suppliers are unable to agree upon a service area boundary, each supplier shall file, along with a statement a map or maps showing the service area and, where necessary, the customers served and also the service area boundary as claimed by such supplier.

After the Power Review Board has established the service areas, as set forth by law, the maps showing the service area thus established shall then be prepared by the suppliers and submitted in duplicate to the Power Review Board. After approval the Board shall return one copy to the supplier submitting the same.

002.03 All necessary forms are available and will be mailed to any party upon request.

003 EXHIBITS

003.01 If one exhibit is sufficient to designate the service area, such exhibit shall be designated as exhibit "A". If more than one exhibit is necessary, they shall be numbered consecutively as exhibits "A-1", "A-2", etc.

003.02 Rural area exhibits shall have a scale of not less than one-half inch per mile.

003.03 Urban area exhibits shall have a scale of not less than two inches per mile.

003.04 Urban area exhibits where used shall extend at least one mile beyond the present zoning area of the city.

003.05 The exhibit shall show ownership and location of the electric lines above 700 volts of each supplier outside of the

corporate limits of villages and cities. Lines of 34.5 KV and above shall have their voltage shown.

003.06 Each exhibit shall be blue on white or black on white.

003.07 The service area boundary line shall be located on 1 mile, 1/2 mile, 1/4 mile lines, if possible.

003.08 The location of each distribution line used to determine the service area boundary line shall be accurately shown. Customers served shall be shown where necessary to clearly define the service area boundary.

003.09 There shall be an exhibit or exhibits for each agreement. The number of service areas which may be placed on a print shall not be limited since the same original tracing may also be used with another party and another agreement.

003.10 Each exhibit shall show numbers of sections, townships, and ranges to indicate the legal description. It shall also show roads, highways, railroads, rivers, etc. Corporate and zoning areas of all villages and cities shall be shown as well as airports, military installations, and industrial tracts outside of the corporate limits.

003.11 The exhibits shall be folded to 8 1/2 x 11 inches with title block visible. Maximum size of each sheet shall not exceed 42 x 60 inches.

003.12 The title block shall be as per following sample. Signature and title of the authorized officer of the power supplier shall be affixed to the exhibit in the space provided, as shown on the sample.

003.13 The boundary line between service areas shall be a heavy dashed line so as to be clearly distinguishable from the distribution lines shown.



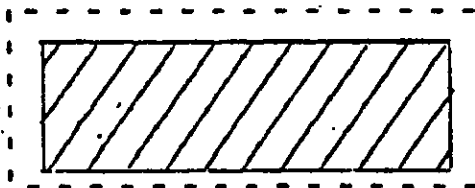
Appendix A: Sample Title Block

DISTRIBUTION LINES (Show ownership other than applicant)

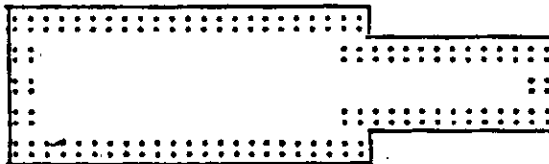
- \_\_\_\_\_ Rural District
- \_\_\_\_\_ Nebraska Public Power District
- \_\_\_\_\_ Municipal (show ownership)
- \_\_\_\_\_ Other (show ownership)
- \_\_\_\_\_ Service Area Boundary

TRANSMISSION LINES--34.5 KV and Above  
 \_\_\_\_\_ Show voltage and ownership

CORPORATE LIMITS AND ZONING AREA



Industrial, Military and Airport Areas



Revisions		SERVICE AREA MAP			
Date	By	Name of Supplier (List counties or portion of counties covered)			
		Drawn	Tcd.	Checked	No.

Submitted by

\_\_\_\_\_ (Supplier)

\_\_\_\_\_ (Address)

By \_\_\_\_\_ (Name)

\_\_\_\_\_ (Title)

Date \_\_\_\_\_

**C H A P T E R   I I**

**RULES AND PROCEDURE  
FOR  
APPLYING FOR AUTHORIZATION FOR  
THE CONSTRUCTION OF ELECTRIC  
GENERATION FACILITIES, ELECTRIC  
TRANSMISSION LINES (in excess of 700 volts)  
AND/OR RELATED FACILITIES, WHEELING,  
OR COMPLAINTS**

Title 285 - NEBRASKA POWER REVIEW BOARD

Chapter 2 - RULES AND PROCEDURE FOR APPLYING FOR AUTHORIZATION FOR THE CONSTRUCTION OR ACQUISITION OF ELECTRIC GENERATION FACILITIES, ELECTRIC TRANSMISSION LINES (in excess of 700 volts) AND/OR RELATED FACILITIES, WHEELING, OR COMPLAINTS

001 Approval for construction or acquisition of electric facilities shall be secured in all cases. (Except as noted in Section 70-1012, R.R.S., 1943, as amended.)

002 Except as provided by law, approval to construct or acquire electric transmission lines carrying more than 700 volts or related facilities shall be obtained from the Nebraska Power Review Board prior to construction or acquisition.

003 Any electric supplier may construct or acquire a line not to exceed one-half mile in length without Board approval; PROVIDED THAT, the supplier obtains written consent of all owners of electric lines located within one-half mile of the proposed extension and files said consents with the Board. (Applications shall be filed with the consents.) If the space provided in the application is not sufficient for the information, additional sheets should be attached and referred to in the appropriate space provided.

004 An original and one copy of each application and exhibits, "A" and "B" shall be filed. (All copies other than thermofax copies are acceptable.) All necessary forms are available and will be furnished to any party upon request. Exhibit "A" shall be a map on a scale of not less than one inch equals one mile, and it shall show all other transmission lines or other distribution lines within one mile of the proposed extension or related facilities; provided, however, when the proposed transmission line exceeds twenty five (25) miles in length, a smaller scale map may be used as long as all other facilities of the same magnitude owned by the party making the application or owned by other suppliers are shown. Exhibit "B" shall be a succinct statement as to how the applicant will provide service at its "low overall cost as possible consistent with sound business practices". Exhibit "B" also shall contain (a) the cost of the construction and; (b) a statement indicating if the construction price will be paid in part by any contribution by any customer; and (c) if there is a contribution, the amount of the contribution and whether it is in addition to the cost submitted on the application.

005 (1) No latter than six months after substantial completion of a Power Review Board approved facility the petitioner shall file a completion statement: substantial completion occurs upon commercial operation of the facility. The completion statement shall include (a) the PRB application number; (b) the estimated total cost and estimated date of completion as stated in the application; and (c) the date of substantial completion/commercial

operation and the actual total cost (as estimated on the date of filing the completion statement). If the completion statement reveals a significant divergence between the estimated total cost and the actual total cost, then the completion statement also shall include a full explanation of the significant divergence. Significant divergence shall mean a cost overrun of \$150,000 on a facility with an estimated total cost of less than \$1,000,000; and shall mean cost overrun of 15% or more on a facility with an estimated total cost of \$1,000,000 or more. The Board may hold a informational hearing on the cost overrun. (2) In the event that a supplier terminates construction or acquisition of an electric generation or transmission facility after receiving approval for the facilities from the Nebraska Power Review Board, the supplier shall file with the Board within 30 days of the action taken to terminate construction or acquisition, a statement of the factors or reasons relied upon by the supplier for taking such action. (3) If a transmission or distribution line project is not completed within the approximate time stated in the application, the supplier shall file with the Board a statement informing the Board why such project has not been completed in the time stated in the application.

Appendix B: Application for authority to construct or acquire an electric transmission line(s) and/or related facilities.

11-89

NEBRASKA POWER REVIEW BOARD

IN THE MATTER OF THE APPLICATION OF )	Application for authority to construct or acquire an electric transmission line(s) and/or related facilities.
) )	
) )	
) )	
) )	
) )	Application No. PRB-_____
) )	Application File No. _____

applies to the Nebraska Power Review Board for an order authorizing it to construct or acquire an electric transmission line(s) and/or related facilities in \_\_\_\_\_ County, Nebraska, as set forth below.

(1) Description of proposed electric transmission line(s):

	Miles	Voltage	Phase
_____	_____	_____	_____
_____	_____	_____	_____

(2) Engineering Specification:

Applicant MAY attach to this application, as an exhibit, the following information if known:

- A. Type of System (Delta, Wye connected)
- B. Poles (Type, number per mile)
- C. Conductors (Size and Type)
- D. Insulators (Size and Type)
- E. Type of Construction (H-Frame, etc.)

(3) Purpose of Construction and Description of related facilities:

\_\_\_\_\_

\_\_\_\_\_

(4) Name, address, and type of customers to be served:

\_\_\_\_\_

\_\_\_\_\_

(5) Attached and designated Exhibit "A" (if more than one exhibit,

number the first "A-1", the second "A-2", etc.) are maps and other related exhibits showing location of proposed transmission line and related facilities, and any other information deemed necessary or useful in the consideration of this application.

(6) Construction or acquisition of the proposed electric transmission facilities, electric transmission line, and/or related facilities is currently estimated to start on or about \_\_\_\_\_, and to be completed on or about \_\_\_\_\_.

(7) The estimated cost of construction is \_\_\_\_\_. Is there any financial contribution by the customer: Yes \_\_\_\_\_ No \_\_\_\_\_. If there is a financial contribution by the customer, how much was the contribution \_\_\_\_\_ and is this contribution included in the estimated construction cost? Yes \_\_\_\_\_ No \_\_\_\_\_.

(8) The owners of electric generation facilities, electric transmission lines, and/or related facilities, and any other persons or organizations known to the applicant whom the applicant believes to be interested in the application are: \_\_\_\_\_

(9) Waivers and consents from the following are attached: \_\_\_\_\_

(10) Safety Standards. The design of the transmission line(s) as set out in the foregoing conforms with the standards set forth in the most recent edition of the National Electrical Safety Code.

(11) The proposed electric transmission line, and/or related facilities will serve the public convenience and necessity, and the applicant can most economically and feasibly supply the electric service resulting from the proposed construction or acquisition without unnecessary duplication of facilities or operations.

Dated \_\_\_\_\_, 19\_\_\_\_.

By \_\_\_\_\_  
Title \_\_\_\_\_  
Address \_\_\_\_\_

Appendix C: Application for authority to construct or acquire an electric generation facility(ies) and/or related facilities.

11-89

NEBRASKA POWER REVIEW BOARD

IN THE MATTER OF \_\_\_\_\_ )  
\_\_\_\_\_ )  
\_\_\_\_\_ )  
\_\_\_\_\_ )  
\_\_\_\_\_ )

Application for authority to construct or acquire an electric generation facility(ies) and/or related facilities.

Application No. PRB- \_\_\_\_\_  
Applicant's File No. \_\_\_\_\_

applies to the Nebraska Power Review Board for an order authorizing it to construct or acquire electric generation facilities and/or related facilities in \_\_\_\_\_ County, Nebraska, as hereinafter set forth below:

(1) Description of proposed electric generation facilities:

- A. Size of Unit: \_\_\_\_\_
- B. Location of alternate locations (Section Number, Township, Range, County): \_\_\_\_\_
- C. Type of unit or alternate types (Nuclear, conventional, hydro): \_\_\_\_\_
- D. If nuclear, type of reactor: \_\_\_\_\_
- E. Have engineering feasibility studies been completed in regard to this facility? \_\_\_\_\_. If so, has a copy of the same been filed with the Nebraska Power Review Board? \_\_\_\_\_
- F. Has a consulting engineer for design and construction management been retained? \_\_\_\_\_

(2) Overall project schedule:

- A. Estimated completion date of all engineering studies: \_\_\_\_\_
- B. Estimated date of commencement of construction: \_\_\_\_\_

C. Estimated date the facility will engage in commercial operation: \_\_\_\_\_

(3) Total Estimated Cost:

A. Total cost of generation station: \_\_\_\_\_

B. Total cost of substations and switch yards or any other related facilities, not including transmission lines: \_\_\_\_\_

C. Total estimated cost: \_\_\_\_\_

D. How is the proposed facility to be financed: \_\_\_\_\_

(4) Description of related facilities: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

(5) The owners of electric generation facilities, electric transmission lines, and/or related facilities, and any other persons or organizations known to the applicant whom the applicant believes to be interested in this application are:

\_\_\_\_\_  
\_\_\_\_\_

(6) Waivers and consents from the following are attached: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

(7) The proposed electric generation facilities and/or related facilities will serve the public convenience and necessity, and the applicant can most economically and feasibly supply the electric service resulting from the proposed construction or acquisition without unnecessary conflict and duplication.

\_\_\_\_\_, 19\_\_.

By \_\_\_\_\_  
Title \_\_\_\_\_  
Address \_\_\_\_\_



Appendix D: Consent and Waiver for Construction or Acquisition

11-89

NEBRASKA POWER REVIEW BOARD

IN THE MATTER OF THE APPLICATION OF )  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)

CONSENT AND WAIVER

Application No. PRB-\_\_\_\_\_

Applicant's File No. \_\_\_\_\_

\_\_\_\_\_ enters its appearance before the Nebraska Power Review Board for the purpose of consenting to the approval, without hearing, of an application by the \_\_\_\_\_ of \_\_\_\_\_, Nebraska, to construct or acquire \_\_\_\_\_

\_\_\_\_\_ stipulates that the proposed construction or acquisition by the applicant will serve the public convenience and necessity and the applicant can most economically and feasibly supply the electric service resulting from the proposed construction or acquisition without unnecessary duplication of facilities or operations.

\_\_\_\_\_ waives any and all notice of this matter.

By \_\_\_\_\_  
Title \_\_\_\_\_  
Address \_\_\_\_\_

Appendix E: Complaint

11-89

NEBRASKA POWER REVIEW BOARD

IN THE MATTER OF \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

COMPLAINT

C-\_\_\_\_\_

\_\_\_\_\_ makes complaint to the Nebraska Power Review Board, pursuant to Rule 8 of the Board's Rules of Practice and Procedure, against the \_\_\_\_\_, whose headquarters are located at \_\_\_\_\_, Nebraska, and in support thereof alleges as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
By \_\_\_\_\_  
Title \_\_\_\_\_  
Address \_\_\_\_\_  
\_\_\_\_\_

Appendix F: Protest to Application

11-89

NEBRASKA POWER REVIEW BOARD

IN THE MATTER OF THE APPLICATION OF )

\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)

PROTEST

PRB- \_\_\_\_\_

\_\_\_\_\_ protests the above captioned application for the following reasons:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dated: \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
By \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_  
\_\_\_\_\_

Appendix G: Reply

11-89

NEBRASKA POWER REVIEW BOARD

IN THE MATTER OF \_\_\_\_\_ )  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)

REPLY

C- \_\_\_\_\_

\_\_\_\_\_ replies to the complaint filed in the above captioned matter, as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

Appendix I: Termination Statement

11-89

NEBRASKA POWER REVIEW BOARD

If you terminate construction or acquisition of electric generation or transmission facilities after receiving approval from the Nebraska Power Review Board, you are required to notify the Nebraska Power Review Board within 30 days of the action to terminate and also the factors or reasons relied upon for such action. (Neb. Rev. Stat. Section 70-1012.01.)

<u>PRB-#</u>	<u>Your Application #</u>	<u>Completion Date</u>	<u>Date of Termination</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Reason for Termination (if necessary, please use additional paper)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Appendix H: Completion Statement

11-89

NEBRASKA POWER REVIEW BOARD

Pursuant to Nebraska Rev. Statutes, Section 70-1003 (4) (e) this statement is filed to certify completion and cost information of the project(s) set forth below.

<u>PRB-#</u>	<u>Your</u>	<u>Estimated</u>	<u>Date</u>	<u>Estimated</u>	<u>Actual</u>
<u>Application #</u>	<u>Date of</u>	<u>Completion</u>	<u>Completed</u>	<u>Application Cost</u>	<u>Cost</u>

If, it appears that there is significant divergence between the estimated cost in the application and the actual completion costs, the Nebraska Power Review Board will contact the electrical supplier for additional information. The Board may hold an informational hearing concerning any significant divergence.

Significant divergence shall mean a cost overrun of \$150,000 on a facility with an estimated total cost of less than \$1,000,000; and shall mean a cost overrun of 15% or more on a facility with an estimated total cost of \$1,000,000 or more.

\_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

**C H A P T E R   I I I**

**RULES OF PRACTICE AND PROCEDURE  
BEFORE THE  
NEBRASKA POWER REVIEW BOARD**

Title 285 - NEBRASKA POWER REVIEW

Chapter 3 - RULES OF PRACTICE AND PROCEDURE BEFORE THE NEBRASKA  
POWER REVIEW BOARD

001 GENERAL These rules govern practice and procedure before the Nebraska Power Review Board unless otherwise amended.

All correspondence and filings shall be addressed or delivered to the Nebraska Power Review Board. Office hours, for the purpose of filing papers, examining public records or transacting any business with the Board or its staff, shall be in accord with the normal business hours of State Government operation. When the filing of a pleading or the doing of any act is required on or before a certain date which falls on any Saturday, Sunday, or legal holiday, the time for filing said pleading or doing said act shall be extended to the next succeeding working day.

All records of the Nebraska Power Review Board are public records and are open for inspection at any time during regular office hours. Meetings shall be held as determined by the Nebraska Power Review Board at Lincoln, Nebraska, or any other place directed by the Board after proper notice. Hearings will be held in Lincoln, Nebraska, or upon motion of the Board, at any city the Board may determine.

002 APPEARANCES BEFORE THE BOARD

002.01 Practice of law before the Nebraska Power Review Board shall be governed by the statutes of the State of Nebraska and the decisions of the Supreme Court. Nothing herein contained shall prevent anyone from transacting his own business before the Board. In the event of an appearance by some person on the behalf of some other party, that person appearing must fulfill one of the two following conditions:

002.01a Be admitted to practice law before the Nebraska Supreme Court, or

002.02b Be admitted to practice law before the supreme court of any state and be associated with a person admitted to practice law before the Nebraska Supreme Court.

003 PARTIES

003.01 Parties appearing before the Board shall be designated as one of the following:

003.01a Applicants: In all proceedings involving applications under Sections 70-1001 to 70-1027, R.R.S., 1943, as amended, or subsequent amendments thereto, the party or parties on whose behalf the application is made are termed applicants.

003.01b Protestants: Party or parties objecting to the



granting of an application are termed protestant or protestants.

003.01c Respondents: Party or parties ordered by the Board to appear in a proceeding, including complaint proceedings, shall be termed respondents.

003.01d Complainants: Any party filing a complaint under the provisions of Sections 70-1001 to 70-1027 R.R.S., 1943, or subsequent amendments thereto, shall be termed complainants.

003.01e Intervenors: Any person or party having an interest in any proceedings before the Board and who does not fall within the classification of the foregoing subsections may intervene and shall be termed as intervenors.

004 PLEADINGS For the purposes of definition, pleadings shall mean any written application or protest thereto; any petition of intervention; any complaint or reply thereto; or any motion.

004.01 Before the Power Review Board approves any application to amend a retail service area agreement or wholesale agreement by electrical suppliers as part of an amalgamation in which one of the parties ceases to exist, the Power Review Board requires financial information from both parties. Such financial information shall include both historical financial statements of the separate suppliers and projected financial statements of the amalgamated suppliers.

005 FORMS OF PLEADINGS Standard forms for applications and consents and waivers as illustrated in Section Two of the Board's rules shall be available upon request from the Board.

006 PROTEST A protest objecting to the granting of any application may be filed by any party and shall set forth the basis and the reasons for the protest. Such protest must be filed within twenty (20) days of the date of mailing of written notice of the application as prescribed under Rule 012 of the Nebraska Power Review Board's Rules of Practice and Procedure.

007 APPLICATIONS Applications shall set forth a concise statement of the facts upon which the application is based, and a request for whatever action is being sought, together with whatever further information shall be required by the Board.

008 COMPLAINTS A complaint, where applicable, may be filed by a person, organization, or corporation. The complaint shall set forth the name of the party complainant, the name of the parties against whom the complaint is made, a concise description of the problem or alleged violation, and any other facts necessary.

Where a complaint is filed with the Board under Section 70-1015 R.R.S., 1943, as amended, requesting that an injunction be

brought in the name of the State of Nebraska, the Board will hold a hearing and thereafter make findings of fact and enter an order in conformity therewith. If the order of the Board determines that a violation has occurred, said order will be forwarded to the office of the Attorney General of the State of Nebraska for appropriate action.

009 REPLY TO COMPLAINTS A reply shall be the term used to refer to the pleading which will be permitted in way of any answer to a complaint, as referred to above. In the event of new material being contained in any reply filed in the latter instance, the complainant or complainants shall be permitted to file responsive pleadings.

010 FILINGS All pleadings filed before the Nebraska Power Review Board shall be stamped "Received" on the date presented or actually received if mailed to the Board.

011 CERTIFICATE OF SERVICE All pleadings, except original applications, shall be accompanied by a certificate by the party or parties, or their attorneys filing the same, showing service of a copy thereof on the other party or parties involved in the matter or their attorney of record. No pleading will be accepted for filing without compliance with this rule.

012 NOTICE BY THE BOARD Upon receipt and filing of any application or complaint, a notice shall be mailed by certified mail by the Executive Director of the Board to all interested parties showing the filing of said application or complaint and fixing the time and place for hearing upon the same. Protestants or respondents shall have twenty (20) days from the date of mailing of said notice in which to file a protest or a reply to the said application or complaint.

013 FINAL ORDERS Upon the close of any hearing, the Board shall render its decision within the time prescribed by statute.

014 WITHDRAWALS Following the filing of any application or pleading, a party shall not be permitted to withdraw said application or pleading without the Board's approval. However, the Board encourages the voluntary settlement of all matters which may come before it.

015 PREHEARING CONFERENCES The Board may, at its discretion and with adequate notice to the parties thereto, order informal prehearing conferences for the purpose of narrowing the issues involved in the dispute and exploring the possibility for a voluntary settlement of the disputed matter between the parties. Any agreement or stipulation entered into by the parties or their attorneys shall be reduced to writing, signed by the parties or their attorneys, and made a part of the record of the disputed matter; PROVIDED THAT, the Board will not be bound by such stipulation or agreement unless the same has been approved by order of the Board.

016 PROCEDURE FOR HEARINGS All hearings shall be conducted by the Board or by a hearing examiner who will, among other things, open the proceedings, enter into the record the notice of hearing, take appearances, hear the evidence, rule on motions and objections, interrogate, if deemed necessary, any witness and close the proceedings. When hearings are held before the Board, no specified number of Board members are required to be present.

017 ORDER OF EVIDENCE

017.01 Evidence will ordinarily be received in the following order:

017.01a Applicants or complainants

017.01b Protestants and respondents

017.01c Intervenors

017.01d Board staff

017.01e Rebuttal

018 OPENING STATEMENTS: ORAL ARGUMENTS: BRIEFS Opening statement and oral argument following the close of presentation of evidence will not be permitted unless specifically requested by the Board or its hearing examiner. Any party wishing to submit a brief of the matter presented at any hearing may do so.

019 MOTIONS FOR CONTINUANCE Any party who desires a continuance shall file a motion in writing with the Board stating the reasons why such continuance is necessary. For good cause shown, the Board may grant a continuance and may at any time order a continuance on its own motion.

020 MAILING OF ORDERS OF THE BOARD All orders of the Board, following the close of any contested hearing shall be transmitted to the parties of record by certified mail. All other orders will be sent by regular course of mail. Motion for rehearing shall be filed within ten (10) days after the date of mailing a copy of the order by the Board to the party appealing and shall comply with Section 75-137 (2), R.R.S., 1943, as amended.

021 APPEALS Any party may appeal from an order of the Board to the Nebraska Supreme Court as provided by law. The party appealing shall file a praecipe with the Board requesting a transcript of pleadings filed in the action from which the appeal is being perfected. The evidence as certified by the Court reporter and the Executive Director of the Board as a true bill of exceptions, accompanied by the pleadings contained in the transcript, shall constitute the complete record. The Executive Director of the Board will indicate on the transcript the appellant and appellee.

The appellant may in the alternative specify in the praecipe

that less than all of such evidence be included in the bill of exceptions; such omission may be made only with the approval of the interested parties. The Executive Director of the Board shall forthwith deliver a copy of the praecipe with the attachments and endorsements thereon to the court reporter and to the Clerk of the Supreme Court.

The parties involved may amend the bill of exceptions by written stipulation which shall be attached to the bill of exceptions at any time prior to the time the matter is submitted to the Nebraska Supreme Court. This must be done in accordance with the existing statutes.

022 CONSOLIDATION Where two or more proceedings are legally or factually related, they may be heard and considered together on a consolidated record, unless any party would be prejudiced thereby. Notice shall be given not less than twenty days prior to hearing.

023 EVIDENCE The Board is not bound to follow the technical common law rules of evidence. Evidence shall be admissible which possesses probative value commonly accepted by reasonable men in the conduct of their affairs. Evidence which is cumulative or repetitious may be excluded by the Board or hearing examiner. Provided, however, the Nebraska Power Review Board shall be governed by the statutes governing the administrative agencies of the State of Nebraska, Chapter 84, Article 9 of the Revised Statutes of the State of Nebraska.

024 EXHIBITS

024.01 When any exhibit consists of three (3) or more pages, each page shall be consecutively numbered at the bottom. Any detailed or complex exhibits consisting of more than three (3) pages or with several distinct parts shall be prefaced with an index.

024.02 Each exhibit shall be consecutively marked and numbered beginning with Applicant's Exhibit Number One or Protestant's Exhibit Number One as this case may be.

024.03 Any party desiring to introduce into evidence any part or parts of the official files shall obtain copies thereof in advance of the hearing.

024.04 Upon demand by the opposing parties, any party proposing to introduce exhibits into evidence in any proceeding before the Board shall furnish copies of exhibits requested to said opposing party. Upon proof of demand to furnish and failure to supply the said exhibit, it will be excluded from the hearing unless good and sufficient reason be shown by the party offering the same for the failure to furnish said exhibit to the party demanding the same.

024.05 Relevant portions of books, papers, or documents, shall be plainly designated and distinguished from all

irrelevant portions before the relevant material may be offered into evidence. Where the irrelevant material in the book, paper or document is voluminous so as to encumber the record, the book, paper or document may be marked for identification and the relevant material read into the record. Upon direction of the Chairman of the Board or the hearing examiner, a true copy of the relevant matter may be received as an exhibit in place of the original, PROVIDED THAT, copies are delivered to all parties of record and such parties are afforded an opportunity to examine the original from which the same may have been taken.

025 SUBPOENAS Subpoenas requiring the attendance of witnesses will be issued by the Board, through the Executive Director of the Board or such person designated by the Board, upon written application of any party, or on order of the Board. Subpoenas for the production of papers, books or documents, unless directed by the Board, will be issued only upon application in writing. The subpoenas shall be served in the manner provided by law. All parties directed to produce such papers, books or documents shall deliver the same at the time and place specified by the Board to the Executive Director or other designated employee or agent of the Board.

026 DEPOSITIONS

026.01 Depositions used in proceedings before the Board are governed by the following rules:

026.01a All depositions within this state shall be taken at least ten (10) days prior to the date of the hearing, and all depositions outside of this state shall be taken at least fifteen (15) days prior to the hearing date except for good cause shown in writing.

026.01b Depositions shall be taken in accordance with the rules of civil procedure.

026.01c The official taking the deposition shall promptly seal the same along with all exhibits in an envelope, endorsed with the title of the proceeding, and send the same by registered mail to the Executive Director of the Board. The deposition shall reach the Board, except for good cause shown, at least three (3) days prior to the date of hearing at which it is to be offered as evidence. The party taking the deposition shall give prompt notice of its filing to all parties of record.

027 INTERROGATORIES

027.01 Written interrogatories may be served by any party to any proceeding before the Board upon any adverse party, with due regard to the time limits as hereinafter set forth, at any

time prior to the hearing. No order of the Board shall be required in such matters. All interrogatives shall be signed by the person making them. In the event that an objection for good cause is offered to any question propounded, the answer shall be deferred until the objection is determined. In propounding written interrogatories, the parties will follow the rules as hereinafter set forth, to wit:

027.01a The original copy of said interrogatories will be filed with the Board, together with an affidavit showing service by certified mail or delivery in person to the party or attorney of record to whom said interrogatories have been propounded. Said affidavit shall show the date of service.

027.01b The party receiving said interrogatories shall reply to the same within ten (10) days after service. The original copy of the answers shall be filed with the Board together with an affidavit of the answering party or attorney of record showing service to said answers upon the party propounding said interrogatories.

027.01c In all cases answers to written interrogatories shall be filed with the Executive Director of the Board at least three (3) days prior to the date of hearing at which the same are to be offered as evidence.

027.01d Upon good cause shown, the time for answering said interrogatories may be extended by the Board.

028 INVESTIGATIONS BY THE BOARD The Board may at any time on its own motion, make a formal or informal investigation into any matter within its jurisdiction, or order any hearing which the Board is authorized, either by law or inherent power, to conduct. In the event of an investigation, the Board may request the attendance of any party. In the event of such request, an order shall go forth asking the party to appear and said order shall set forth the purpose or scope of their appearance, shall state the time and place of the hearing, and shall be served upon the parties in such manner as the Board shall deem advisable. In all investigation proceedings, the Board shall not be bound by any strict rules of procedure except that any party called to appear shall have the right to be heard on any point raised in the investigation.

#### 029 MISCELLANEOUS RULES

029.01 Denial of Application: When any application has been denied in whole or in part a subsequent application covering substantially the same subject matter will not be considered by the Board for a period of ninety (90) days from the date of the order entered, except for good cause shown. This provision shall not be construed to prevent any party from moving for a rehearing in any proceeding.

029.02 Amendments: On or about July 1 and January 1 of each year, the Board shall consider changes, amendments and repeal of rules and regulations adopted and in effect prior to these dates. Any party so desiring may file an application proposing such amendment or repeal of said rules and said application will be considered and acted upon at the following review period in the manner provided by statute.

029.03 Fees: Repealed. Laws 1978, L.B. 773, Section 1

029.04 Costs of any hearing will be borne by the parties thereto in a proportionate share according to such parties' respective contribution to the record, unless otherwise ordered by the Board. If it is necessary for the Board to employ outside expertise to aid them in their determination, the cost of such expertise shall be assessed to the parties as determined by the Board.

029.05 Whenever practicable, in cases where large or cumbersome exhibits are introduced and utilized at a hearing, the party introducing and utilizing the same shall provide the Board with a small reproduction suitable to filing of the same.

029.06 Whenever the rules or regulations as prescribed by the Board, or the statutes governing the Board, do not cover a question or given situation in regard to a procedural question, the Board shall be governed by the Rules governing administrative agencies of the State of Nebraska, Chapter 84, Article 9 of the Revised Statutes of the State of Nebraska.

029.07 During the July meeting of the Power Review Board the Board will vote on the need for a power supply plan and/or conservation report. The Board, consistent with Section 70-1024, will request the Nebraska Power Association or an outside independent source to prepare the reports.

029.08 Any Petition for Creation or any amendment to any Petition for Creation, of a district subject to Chapter 70, Article 6, filed with the Nebraska Power Review Board shall be accompanied by information about each existing and proposed subdivision. This information shall include: (1) the total population of the district, (2) the population of each subdivision, and (3) the percentage of the total population in each subdivision. The percentages of the total population in each subdivision shall be evaluated and stated: (a) as they exist currently, (b) as they are proposed in the petition, (c) as they would exist for the "mathematically ideal" case (the case in which the total population is divided by the number of subdivisions), and (d) as they would exist using forecasted populations for the subdivisions, if the petitioner believes such forecasted populations are relevant. The petitioner shall inform the Board as to whether the petitioner believes that the "substantially equal" language

in Section 70-604 (6) is the relevant language, or the "not to be prejudiced thereby" language in Section 70-612 is the relevant language for evaluating the population divisions in the petition. The petitioner shall inform the Board if the district has exercised its authority to include or exclude areas so as to follow precinct or other boundaries.



**KENTUCKY'S  
ELECTRIC GENERATION &  
TRANSMISSION SITING  
PROCESS**

**A Guide to  
Public  
Participation**



**Kentucky State Board on Electric  
Transmission and Generation Siting**

# ABOUT THE SITING BOARD

The Kentucky State Board on Electric Generation and Transmission Siting (the Siting Board) was created in 2002 by an act of the Kentucky General Assembly. Its purpose is to review applications and, as appropriate, grant certificates for the construction of electric generating facilities and transmission lines that are not regulated by the Kentucky Public Service Commission.

Siting Board review focuses on three areas:

- Environmental matters not covered by permits issued by the Kentucky Department for Environmental Protection. The Department issues permits for air emissions, water withdrawals and discharges and solid waste disposal. (The Department processes are explained briefly later in this guide.) The Siting Board review covers matters such as noise and visual impacts, among others.
- Economic impacts.
- Impact of the proposed facility on Kentucky's electric transmission grid.

The generating facilities reviewed by the Siting Board sell power on the wholesale market and are commonly known as merchant power plants. Siting Board approval is required for merchant plants with a generating capacity of 10 megawatts or more and for non-regulated transmission lines capable of carrying 69,000 volts or more.

The Siting Board is headquartered at the Kentucky Public Service Commission. The PSC staff also serves as staff to the Siting Board. The Siting Board's operations are funded through fees paid by applicants.

All documents submitted to the Siting Board are filed electronically and are available at the board's Web site:

[http://psc.ky.gov/agencies/psc/siting\\_board/merchant.htm](http://psc.ky.gov/agencies/psc/siting_board/merchant.htm).

Siting Board hearings and other proceedings may be viewed live via the Internet.

The Siting Board review of applications is designed to include public participation throughout the process. The Siting Board welcomes and encourages public participation. This guide is intended to explain the siting process and the opportunities for public participation.

The Siting Board may be contacted at:

Kentucky State Board on Electric  
Generation and Transmission Siting

211 Sower Boulevard

P.O. Box 615

Frankfort, KY 40602

502-564-3940

Toll-free 1-800-772-4636

Fax (502) 564-3460

[psc.ky.gov](http://psc.ky.gov)



# MEMBERSHIP OF THE SITING BOARD

The Siting Board has five permanent *ex officio* members and two *ad hoc* members who are appointed by the Governor to review specific applications. The permanent *ex officio* members are:

- The three members of the Kentucky Public Service Commission. The chairperson of the PSC also chairs the Siting Board.
- The secretary of the Kentucky Environmental and Public Protection Cabinet, or his designee
- The secretary of the Kentucky Cabinet for Economic Development, or his designee

The two *ad hoc* members of the board are appointed as follows:

If the facility is located within a single county, the *ad hoc* members shall be:

- The chairperson of the planning commission with jurisdiction over the proposed site. If no planning commission exists for the site, the Governor may name either the county judge/executive or, if the proposed facility is within the limits of a city, the mayor of the city.
- A resident of the county in which the facility is proposed to be located.

If the proposed site for the facility is located in more than one county, the *ad hoc* members shall be:

- The county judge/executive of one of the counties, chosen by a majority vote of the county judge/executives of all the counties in which the facility is proposed.
- A resident of a county in which the facility is proposed to be located.

The *ad hoc* members serve only for the duration of the case for which they were appointed.

# THE SITING APPLICATION PROCESS

## NOTICE OF INTENT

Anyone planning to apply for certification from the Siting Board must submit a Notice of Intent at least 30 days before submitting the application. The notice, which is made public, must include a brief description of the proposed facility and its location, and the identity of any consultants retained to conduct analyses for the applicant. It also must identify the Local Planning and Zoning Authority and provide notice of any requested deviations from state setback

requirements. When a notice is deemed complete, the Siting Board contacts the Governor and the county and city governments where the proposed facility would be located. The *ad hoc* members of the Siting Board are to be appointed during the notice period. The Siting Board also will use the notice period to engage any consultants it may require to assist in evaluating the application.

---

## APPLICATION

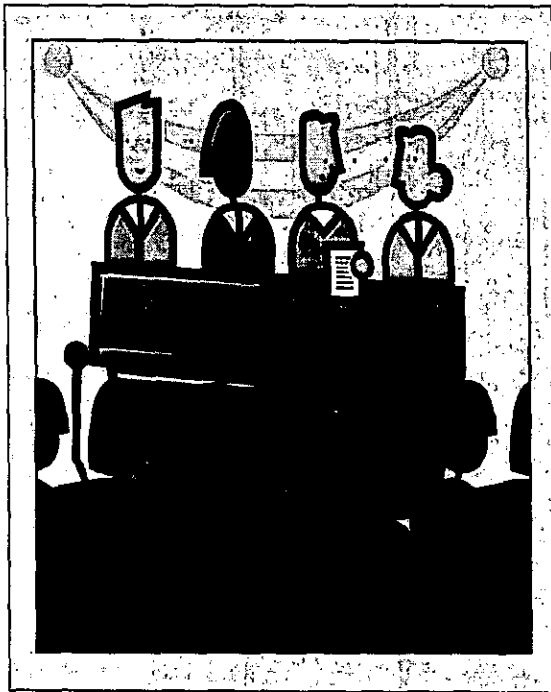
Application for a certificate from the Siting Board may be made 30 days after the filing of a completed Notice of Intent. The application must contain certain information, including:

- Evidence that public notice of the application has been made
- A report on public involvement activities conducted by the applicant
- A site assessment report containing a detailed description of the project and thorough analysis of the impacts to be considered by the Siting Board (visual impacts, traffic, property values, etc.)
- A statement of compliance with any local zoning regulations and noise control ordinances
- An analysis of the effects of the proposed facility on the electric transmission grid
- An analysis of the economic impacts of the proposed facility
- Disclosure of past environmental violations by the applicants

# HEARINGS

## ***Evidentiary hearing***

An evidentiary hearing will be held upon the written request of a party to the case or on the motion of the Siting Board itself. It must be requested within 30 days of the filing of a completed application. The evidentiary hearing is a formal proceeding, with participation limited to the applicants and the parties to the case (intervenors). Testimony is taken under oath. It may be held in the county where the proposed facility would be located or in Frankfort at the Public Service Commission's offices.



## ***Local public hearing***

This is an informal proceeding held to give the general public an opportunity to be heard by the Siting Board. A local public hearing will be held if requested by a local government entity – city, county or planning and zoning authority – or by at least three residents of the city or county in which the proposed facility would be located. Requests must be made in the form of a letter to the Siting Board. The local public hearing must be requested within 30 days of the filing of a completed application. It must be held within 60 days of the filing date, with 20 days' advance notice given to the public of the date, time and location of the hearing. The local public hearing will be held within the county in which the facility is proposed. If the facility spans more than one county, the local public hearing will be held in the most populous county.

## ***How to submit comments***

There is no requirement to sign up in advance to speak at a local public hearing. However, those wishing to speak will be asked to sign up upon arrival at the hearing. The time allocated to each speaker may be limited in order to allow everyone who wishes to comment to be heard.

The most helpful comments are those which:

- Are clear, concise and to the point.
- Address matters under Siting Board jurisdiction, rather than those under the purview of the Kentucky Environmental and Public Protection Cabinet.
- Address specific aspects of the proposed facility, rather than simply general support or opposition.
- Suggest ways to remedy any perceived shortcomings in the application.



Comments also may be submitted to the Siting Board in writing. People with extensive, detailed comments are encouraged to submit them in writing to:

**Kentucky State Board on Electric Generation and Transmission Siting**

**211 Sower Boulevard**

**P.O. Box 615**

**Frankfort, KY 40602**

**Fax (502) 564-3460**

**[psc.ky.gov](http://psc.ky.gov)**

## **INTERVENORS**

Any interested party may apply to the Siting Board to become an intervenor in the proceeding. The request must be made in writing within 30 days of the filing of a completed application. Intervenors can be, but are not limited to, residents of the city or county in which the proposed facility would be located. Intervenors have the right to participate fully in the board proceedings. This includes the right to file requests for information from the applicant or other parties and to cross-examine witnesses during formal proceedings of the Siting Board. Parties to a case before the Siting Board also have the right to appeal the Siting Board decision to the Circuit Court in the county in which the facility is proposed to be located.

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## **THE SITING BOARD DECISION**

The Siting Board is required to make its decision no later than 120 days after the submission of a complete application.

The Siting Board will consider information submitted by the applicant, evidence and public comments from the hearings, other public comments and reports submitted by consultants to the Siting Board. The Siting Board also may conduct its own inspection of the location for the proposed facility.

The Siting Board may accept or deny an application as submitted, order mitigation measures to reduce impacts and allow deviations from setback requirements. The Siting Board may not order relocation of a proposed facility.





# THE SITING BOARD PROCESS

## SUMMARY/TIMELINE

-30 DAYS

NOTICE OF INTENT FILED

AD HOC BOARD MEMBERS,  
CONSULTANTS SELECTED

0 DAYS

APPLICATION FILED

FILINGS FOR INTERVENORS

30 DAYS

DEADLINE FOR REQUESTING HEARINGS

NOTICE OF PUBLIC HEARINGS

60 DAYS

DEADLINE FOR PUBLIC HEARINGS

BOARD CONSULTANTS FILE REPORTS

120 DAYS

BOARD DECISION DUE

+30 DAYS

DEADLINE FOR FILING APPEALS



## **THE ROLE OF THE KENTUCKY CABINET FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION**

The law creating the Siting Board does not alter the role of Kentucky Department for Environmental Protection in granting permits for electric generating facilities.

The required permits include those for:

- Air emissions
- Wastewater discharges
- Water withdrawal
- Solid waste disposal

It is likely that some or all of these permits may have been granted prior to application being made to the Siting Board. Therefore, members of the public interested in electric generation facility siting issues should not rely solely on the Siting Board process to gain notice of or comment upon such facilities.

The Department has its own procedures for gathering public input on pending permit applications. They are as described on the chart that follows.

## Public Input Opportunities for Each of the DEP Permits Typically Issued to Kentucky Power Plants

Type of Permit	Public Comment Periods (Opportunities to submit written comments)	Public Hearing Opportunities (Opportunities to present verbal comments)
Air Quality Permit	30 day public comment period on the draft permit	Members of the public can request a hearing during the public comment period. DEP may self-initiate a public hearing if there is significant public interest.
KPDES Permit for Wastewater Discharge	30 day public comment period on the draft permit	Members of the public can request a hearing during the public comment period or DEP may self-initiate a public hearing if there is significant public interest.
Special Waste Landfill Permit for Ash Management	30 day public comment period notice when application is administratively complete.  30 day public comment period on the draft permit.	Members of the public can request an informational hearing with the Department during the permit application public comment period.  Members of the public can request a hearing with a Cabinet Hearing Officer during the draft permit public comment period.
Water Withdrawal Permit (Non-Utilities only)	30 day public comment period if there will be an inter-basin water transfer. (An inter-basin transfer is when water is withdrawn from one stream system and then discharged into a different stream system)	No public hearings

Kentucky Department for Environmental Protection

14 Reilly Road  
 Ash Building  
 Frankfort, KY 40601  
 502-564-2150  
 502-564-4245 (fax)  
[www.dep.ky.gov/](http://www.dep.ky.gov/)

**278.216 Site compatibility certificate – Site assessment report – Commission action on application.**

- (1) Except for a utility as defined under KRS 278.010(9) that has been granted a certificate of public convenience and necessity prior to April 15, 2002, no utility shall begin the construction of a facility for the generation of electricity capable of generating in aggregate more than ten megawatts (10MW) without having first obtained a site compatibility certificate from the commission.
- (2) An application for a site compatibility certificate shall include the submission of a site assessment report as prescribed in KRS 278.708(3) and (4), except that a utility which proposes to construct a facility on a site that already contains facilities capable of generating ten megawatts (10MW) or more of electricity shall not be required to comply with setback requirements established pursuant to KRS 278.704(3). A utility may submit and the commission may accept documentation of compliance with the National Environmental Policy Act (NEPA) rather than a site assessment report.
- (3) The commission may deny an application filed pursuant to, and in compliance with, this section. The commission may require reasonable mitigation of impacts disclosed in the site assessment report including planting trees, changing outside lighting, erecting noise barriers, and suppressing fugitive dust, but the commission shall, in no event, order relocation of the facility.
- (4) The commission may also grant a deviation from any applicable setback requirements on a finding that the proposed facility is designed and located to meet the goals of this section and KRS 224.10-280, 278.010, 278.212, 278.214, 278.218, and 278.700 to 278.716 at a distance closer than those provided by the applicable setback requirements.
- (5) Nothing contained in this section shall be construed to limit a utility's exemption provided under KRS 100.324.
- (6) Unless specifically stated otherwise, for the purposes of this section, "utility" has the same meaning as in KRS 278.010(3)(a) or (9).

**Effective:** June 24, 2003

**History:** Amended 2003 Ky. Acts ch. 150, sec. 3, effective June 24, 2003. -- Created 2002 Ky. Acts ch. 365, sec. 13, effective April 24, 2002.

**278.708 Site assessment report – Consultant – Mitigation measures.**

- (1) Any person proposing to construct a merchant electric generating facility shall file a site assessment report with the board as required under KRS 278.706(2)(1).
- (2) A site assessment report shall be prepared by the applicant or its designee.
- (3) A completed site assessment report shall include:
  - (a) A description of the proposed facility that shall include a proposed site development plan that describes:
    1. Surrounding land uses for residential, commercial, agricultural, and recreational purposes;
    2. The legal boundaries of the proposed site;
    3. Proposed access control to the site;
    4. The location of facility buildings, transmission lines, and other structures;
    5. Location and use of access ways, internal roads, and railways;
    6. Existing or proposed utilities to service the facility;
    7. Compliance with applicable setback requirements as provided under KRS 278.704(2), (3), or (5); and
    8. Evaluation of the noise levels expected to be produced by the facility;
  - (b) An evaluation of the compatibility of the facility with scenic surroundings;
  - (c) The potential changes in property values resulting from the siting, construction, and operation of the proposed facility for property owners adjacent to the facility;
  - (d) Evaluation of anticipated peak and average noise levels associated with the facility's construction and operation at the property boundary; and
  - (e) The impact of the facility's operation on road and rail traffic to and within the facility, including anticipated levels of fugitive dust created by the traffic and any anticipated degradation of roads and lands in the vicinity of the facility.
- (4) The site assessment report shall also suggest any mitigating measures to be implemented by the applicant including planting trees, changing outside lighting, erecting noise barriers, and suppressing fugitive dust.
- (5) The board shall have the authority to hire a consultant to review the site assessment report and provide recommendations concerning the adequacy of the report and proposed mitigation measures. The board may direct the consultant to prepare a separate site assessment report. Any expenses or fees incurred by the board's hiring of a consultant shall be borne by the applicant.
- (6) The applicant shall be given the opportunity to present evidence to the board regarding any mitigation measures. As a condition of approval for an application to obtain a construction certificate, the board may require the implementation of any mitigation measures that the board deems appropriate.

**Effective:** April 24, 2002

**History:** Created 2002 Ky. Acts ch. 365, sec. 5, effective April 24, 2002.

**Wood, Warren**

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**From:** Buxton, Roy [rbuxton@icc.illinois.gov]  
**Sent:** Tuesday, April 25, 2006 2:09 PM  
**To:** Wood, Warren  
**Subject:** FW: Power Plant Certification  
**Attachments:** header.htm

Mr. Warren:

The Illinois electric utility industry was restructured at the end of 1997. Soon after, the utilities either sold their generating plants or transferred them to affiliated companies. Some companies have built generating plants in Illinois since 1997, but they were not utilities. They had to get all the usual permits, but they did not need to ask the Illinois Commerce Commission for a certificate of convenience and necessity because the ICC had no authority over their construction plans.

Does that answer your question?

Roy Buxton  
217-785-5424

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**From:** Bilyeu, Mary  
**Sent:** Monday, April 24, 2006 11:31 AM  
**To:** Buxton, Roy  
**Subject:** Power Plant Certification

Warren Wood, MO PUC, 573-751-2978, wants to talk to you about what is required by State of Illinois for building power plants in IL.

4/25/2006

**Kansas Legislature**

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**66-1,158****Chapter 66.--PUBLIC UTILITIES****Article 1.--POWERS OF STATE CORPORATION COMMISSION**

**66-1,158. Nuclear generation facility siting; definitions.** As used in this act:

(a) "Commission" means the state corporation commission.

(b) "Electric utility" means every public utility, as defined by K.S.A. 66-104, and amendments thereto, which owns, controls, operates or manages any equipment, plant or generating machinery for the production, transmission, delivery or furnishing, of electricity or electric power.

(c) "Landowner" means any person having an estate or interest in any land, which land is proposed to be acquired by an electric utility in connection with the construction, operation and maintenance of a nuclear generation facility or addition to a nuclear generation facility.

(d) (1) "Nuclear generation facility or addition to a nuclear generation facility" means: (A) Any physical plant utilizing nuclear energy as the primary fuel for the production or generation of electricity or electric power; or (B) any addition of nuclear generation capacity to an existing generation facility.

(2) "Nuclear generation facility or addition to a nuclear generation facility" does not include: (A) Remodeling, reconditioning or retrofitting of an existing nuclear plant; (B) construction of nonnuclear generation capacity at the site of an existing nuclear plant; or (C) any facility or addition to a facility proposed to be located outside this state if: (i) The need for the facility or addition and the reasonableness of its proposed siting is subject to review by the utility regulatory authority of that state; (ii) less than 10% of the retail customers on the electric system intended to be served by such facility or addition are located in this state; and (iii) such retail customers located in this state number no more than 15,000.

(e) "Party" means any landowner, electric utility, governmental board or agency, or any other person allowed to intervene in any proceeding under this act.

(f) "Person" means any individual, partnership, corporation or other association of

**History:** L. 1976, ch. 283, § 1; L. 1979, ch. 209, § 2; L. 1993, ch. 106, § 1; L. 2000, ch. 2, § 1; Feb. 24.



## Kansas Legislature

[Home](#) > [Statutes](#) > Statute[Previous](#)[Next](#)**66-1,159****Chapter 66.--PUBLIC UTILITIES****Article 1.--POWERS OF STATE CORPORATION COMMISSION**

**66-1,159. Same; permit required prior to site preparation or construction; application; hearing.** No electric utility may begin site preparation for or construction of a nuclear generation facility or addition to a nuclear generation facility or exercise the right of eminent domain to acquire any land in connection with site preparation for or construction of any such facility or addition thereto, without first acquiring a permit from the commission. Whenever any such electric utility desires to obtain such a permit, the utility shall file an application with the commission, setting forth therein that the utility proposes to construct a nuclear generation facility or addition to a nuclear generation facility and specifying the description and the total number of acres of land that such utility contemplates is needed in connection with the construction, operation and maintenance of such facility or addition thereto. Also, the electric utility shall file with the application documents and plans which indicate the total planned utilization of a proposed location for electric generation purposes and documents and plans for utilization of an alternative location or locations. Such documents and plans with respect to alternative locations shall not be required for additions to existing nuclear generation facilities. In addition, the electric utility shall file with the application such documents pertaining to the construction, operation and maintenance of the proposed facility or addition and such other matters deemed relevant thereto as may be required by rules and regulations of the commission. Thereupon, the commission shall fix a time for a public hearing on such application, which shall be not less than 30 nor more than 180 days from the date the application was filed and shall be conducted in accordance with the provisions of the Kansas administrative procedure act, to determine the necessity for the proposed facility or addition and the most reasonable location and size of the proposed facility or addition. The commission shall fix the place for hearing, which may be in the county in which is located the major portion of the land which has been or is proposed to be acquired in connection with the construction, operation and maintenance of the proposed facility or addition. Such hearing may be held

**History:** L. 1976, ch. 283, § 2; L. 1978, ch. 270, § 2; L. 1979, ch. 209, § 3; L. 1988, ch. 356, § 243; L. 2000, ch. 2, § 2; Feb. 24.

## Kansas Legislature

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**66-1,162****Chapter 66.--PUBLIC UTILITIES****Article 1.--POWERS OF STATE CORPORATION COMMISSION**

**66-1,162. Same; hearing proceedings; transcript; costs; findings and decision; issuance of permit; construction authorized upon issuance of permit notwithstanding local zoning ordinances, resolutions or regulations.** Except as otherwise provided in this act, the rules and regulations adopted by the commission pursuant to K.S.A. 66-106 and amendments thereto to govern the commission's proceedings shall be applicable to any proceeding before the commission under this act. The electric utility shall proceed with the introduction of evidence of the necessity for the proposed nuclear generation facility or addition to a nuclear generation facility and of the reasonableness of the proposed location and size of the facility or addition. The burden of proof on any such matter shall be upon the electric utility and shall be established by a preponderance of the evidence. All parties present or represented by counsel at the hearing shall have an opportunity to be heard and the right to cross-examine any witness appearing before the commission at the hearing. The commission shall cause a transcript to be made of the hearing. All costs of any hearing shall be taxed against the electric utility. The hearing and all parties' arguments shall be completed within 90 days after the commencement thereof. At any time after the commencement of the hearing, the electric utility may withdraw its application for the permit required by K.S.A. 66-1,159 and amendments thereto.

The commission shall make findings of fact and file such findings with its decision to grant, grant conditioned by such findings or withhold the permit applied for, except that whenever approval of applications are pending with or must be obtained from any state regulatory authority which relate to the operation of any such facility or addition to a facility, the commission shall postpone its decision until proof of the approval or disapproval of any such application is received. In any case where a state regulatory authority cannot render final approval of any such application until the facility or addition to a facility is in actual operation, the commission shall accept as proof of approval or disapproval the state

application. Prior to making its determination with respect to the most reasonable location and size of a proposed nuclear generation facility or addition to a nuclear generation facility, the commission shall make its determination of whether or not a necessity exists for the electric generation capacity of a proposed facility or addition to a facility. In addition to any other consideration deemed necessary in making such determination, the commission shall consider and make determinations on the following factors: (1) Whether or not the electric generating capacity of the proposed facility or addition to a facility meets or contributes to the meeting of the electrical energy needs of the people of this state considering the probable future statewide electrical energy needs thereof; and (2) whether or not available electrical generating capacity exists within the state that is capable of being distributed economically, reliably, technically and environmentally. Whenever the commission determines that a necessity exists for electric generation capacity to be provided by a proposed nuclear generation facility or addition to a nuclear generation facility, the commission shall make its determinations with respect to the most reasonable size and location of any such facility or addition to a facility. In addition to any other consideration deemed necessary in making a determination with respect to the size of a proposed facility or addition to a facility, the commission shall consider the electric utility's total planned utilization of a proposed location for electric generation purposes as it relates to the necessity found by the commission for additional electric generating capacity in the state. In addition to any other consideration deemed necessary in making a determination with respect to the most reasonable location of a proposed facility or addition to a facility, the commission shall consider the availability of natural resources necessary in the operation of a proposed facility or addition to a facility as the same relates to each alternative location submitted by the electric utility as required by the provisions of K.S.A. 66-1,159 and amendments thereto. The location of the existing nuclear generation facility shall be the most reasonable location for any addition to such facility. Upon a determination that a necessity exists for the proposed nuclear generation facility or addition to a nuclear generation facility and that the proposed location and size of such facility or addition thereto are the most reasonable, the commission shall issue to the electric utility a permit to construct such facility or addition thereto, except that the commission may condition such permit with respect to the location and size of the proposed nuclear generation facility or addition to a nuclear generation facility to provide for an alternate location or size, or both, thereof, but in no case shall the commission provide for a size larger than that applied for. Upon the issuance of such permit, no local ordinance, resolution or regulation shall prohibit the construction of the nuclear generation facility or addition to a nuclear generation facility, and the electric utility may proceed with such facility or addition thereto notwithstanding any requirement to obtain any building permit under any local zoning ordinance, resolution or regulation.

**History:** L. 1976, ch. 283, § 5; L. 1979, ch. 209, § 5; L. 1988, ch. 356, § 245; L. 2000, ch. 2, § 5; Feb. 24.



**23-18-502. Legislative findings and declarations.**

(a) The General Assembly finds and declares that there is at present and will continue to be a growing need for electric and gas public utility services which will require the construction of major new facilities. It is recognized that the facilities cannot be built without affecting in some way the physical environment where such facilities are located and without the expenditure of massive amounts of capital.

(b) The General Assembly further finds that it is essential in the public interest to minimize any adverse effect upon the environment and upon the quality of life of the people of the state which the new facilities might cause and to minimize the economic costs to the people of the state of obtaining reliable, clean, safe, and adequate energy supplies.

(c) The General Assembly further finds that present laws and practices relating to the location, financing, construction, and operation of the utility facilities should be strengthened to protect environmental values, to encourage the development of alternative renewable and nonrenewable energy technologies which are energy-efficient, and to take into account the total cost to society of such facilities. Present laws and practices may result in undue costly delays in new construction, may encourage the development of energy technologies which are relatively inefficient, and may increase costs, which will eventually be borne by the people of the state in the form of higher utility rates. These existing laws and practices threaten the ability of utilities to meet the needs of the people of the state for economical and reliable utility service.

(d) Furthermore, the General Assembly finds that there should be provided an adequate opportunity for individuals, groups interested in energy and resource conservation and the protection of the environment, state and regional agencies, local governments, and other public bodies to participate in timely fashion in decisions regarding the location, financing, construction, and operation of major facilities.

(e) The General Assembly, therefore, declares that it shall be the purpose of this subchapter to provide a forum with exclusive and final jurisdiction, except as provided in §§ 23-18-505 and 23-18-506, for the expeditious resolution of all matters concerning the location, financing, construction, and operation of electric generating plants and electric and gas transmission lines and associated facilities in a single proceeding to which access will be open to individuals, groups, state and regional agencies, local governments, and other public bodies to enable them to participate in these decisions. These matters presently under the jurisdiction of multiple state, regional, and local agencies are declared to be of statewide interest.

**History.** Acts 1973, No. 164, § 2; 1977, No. 866, § 1; A.S.A. 1947, § 73-276.1.

**23-18-503. Definitions.**

As used in this subchapter, unless the context otherwise requires:

(1) "Applicant" means the utility or other person making application to the Arkansas Public Service Commission for a certificate of environmental compatibility and public need;

(2) "Commence to construct" means any clearing of land, excavation, or other action that would adversely affect the natural environment of the site or route of a major utility facility but does not include changes needed for temporary use of sites or routes for nonutility purposes, or uses in securing survey or geological data, including necessary borings to ascertain foundation conditions;

(3) "Commission" means the Arkansas Public Service Commission;

(4) "Energy-efficient" means economical in the use of energy;

(5) "Major utility facility" means:

(A) Electric generating plant and associated transportation and storage facilities for fuel and other facilities designed for, or capable of, operation at a capacity of fifty (50) megawatts or more;

(B) For the sole purpose of requiring an environmental impact statement hereunder, an electric transmission line and associated facilities, including substations, of a design voltage of one hundred (100) kilovolts or more, extending a distance of more than ten (10) miles, or of a design voltage of one hundred seventy (170) kilovolts or more, extending a distance of more than one (1) mile; and

(C) For the sole purpose of requiring an environmental impact statement hereunder, a gas transmission line and associated facilities designed for, or capable of, transporting gas at pressures in excess of one hundred twenty-five pounds per square inch (125 lbs. psi), extending a distance of more than one (1) mile, excepting, however, those gas pipelines devoted solely to the gathering of gas from gas wells constructed within the limits of any gas field as defined by the Oil and Gas Commission;

(6) "Municipality" means any county or municipality within this state;

(7) "Nonrenewable energy technology" or "nonrenewable energy sources" means any technology or source of energy which depends upon the use of depletable fossil fuels such as oil, gas, and coal;

(8) "Person" includes any individual, group, firm, partnership, corporation, cooperative association, municipality, government subdivision, government agency, local government, or other organization;

(9) "Public utility" or "utility" means any person engaged in the production, storage, distribution, sale, delivery, or furnishing of electricity or gas, or both, to or for the public, as defined in § 23-1-101(9)(A)(i) and (9)(B), but does not include an exempt wholesale generator as defined in § 23-1-101(5); and

(10) "Renewable energy technology" means any technology or source of energy, such as solar, wind, biomass conversion, or geothermal, which is not depletable.

**History.** Acts 1973, No. 164, § 3; 1977, No. 866, § 1; 1979, No. 245, § 1; A.S.A. 1947, § 73-276.2; Acts 1999, No. 1322, § 2.



**23-18-510. Certificate of environmental compatibility and public need - Requirement - Exceptions.**

(a) No person shall commence to construct a major utility facility in the state, except those exempted as provided in subsection (b) of this section and §§ 23-18-504(a) and 23-18-508, without first having obtained a certificate of environmental compatibility and public need, hereafter called a "certificate", issued with respect to the facility by the commission. The replacement or expansion of an existing transmission facility with a similar facility in substantially the same location or the rebuilding, upgrading, modernizing, or reconstruction for the purposes of increasing capacity shall not constitute construction of a major utility facility if no increase in width of right-of-way is required.

(b) Nothing in this subchapter shall be construed to require a certificate under this subchapter or an amendment thereof for reconstruction, alteration, or relocation of any major utility facility which must be reconstructed, altered, or relocated because of the requirements of any federal, state, or county governmental body or agency for purposes of highway transportation, public safety, or air and water quality.

**History.** Acts 1973, No. 164, § 4; 1977, No. 866, § 1; A.S.A. 1947, § 73-276.3.

**23-18-511. Application for certificate - Contents generally.**

An applicant for a certificate shall file with the Arkansas Public Service Commission a verified application in such form as the commission may prescribe and containing the following information:

- (1) A general description of the location and type of the major utility facility proposed to be built;
- (2) A general description of any reasonable alternate location or locations considered for the proposed facility;
- (3) A statement of the need and reasons for construction of the facility;
- (4) A statement of the estimated costs of the facility and the proposed method of financing the construction of the facility;
- (5)(A) A general description of any reasonable alternate methods of financing the construction of the facility and a description of the comparative merits and detriments of each alternate financing method considered.
  - (B) If at the time of filing of the application the federal income tax laws and the state laws would permit the issuance of tax-exempt bonds to finance the construction of the proposed facility for the applicant by a state financing agency, the application shall also include a discussion of the merits and detriments of financing the facility with such bonds;
- (6) An analysis of the projected economic or financial impact on the applicant and the local community where the facility is to be located as a result of the construction and the operation of the proposed facility;
- (7) An analysis of the estimated effects on energy costs to the consumer as a result of the construction and operation of the proposed facility;
- (8)(A) An exhibit containing an environmental impact statement, which shall fully develop the four (4) factors listed in subdivision (8)(B) of this section, treating in reasonable detail such considerations, if applicable, as the proposed facility's direct and indirect effect on the ecology of the land, air and water environment, established park and recreational areas, and on any sites of natural, historic, and scenic values and resources of the area in which the facility is to be located, and any other relevant environmental effects.
  - (B) The environmental impact statement shall set out:
    - (i) The environmental impact of the proposed action;
    - (ii) Any adverse environmental effects which cannot be avoided;
    - (iii) A description of the comparative merits and detriments of each alternate location or for generating plants, the energy production process considered, and a statement of the reasons why the proposed location and production process were selected for the facility; and
    - (iv) Any irreversible and irretrievable commitments of resources that would be involved in the proposed action should it be implemented; and

(9) Such other information of an environmental or economic nature as the applicant may consider relevant or as the commission may by regulation or order require.

**History.** Acts 1973, No. 164, § 5; 1977, No. 866, § 1; A.S.A. 1947, § 73-276.4; Acts 1999, No. 1556, § 9; 2001, No. 324, §§ 7, 8; 2003, No. 204, §§ 12, 13.

**23-18-519. Decision of commission - Modifications of application.**

(a) The Arkansas Public Service Commission shall render a decision upon the record either granting or denying the application as filed or granting it upon such terms, conditions, or modifications of the location, financing, construction, operation, or maintenance of the major utility facility as the commission may deem appropriate.

(b) The commission may not grant a certificate for the location, financing, construction, operation, and maintenance of a major utility facility, either as proposed or as modified by the commission, unless it shall find and determine:

(1) The basis of the need for the facility;

(2) That the facility will serve the public interest, convenience, and necessity;

(3) The nature of the probable environmental impact of the facility;

(4) That the facility represents an acceptable adverse environmental impact, considering the state of available technology, the requirements of the customers of the applicant for utility service, the nature and economics of the proposal, and the various alternatives, if any, and other pertinent considerations;

(5) The nature of the probable economic impact of the facility;

(6) That the facility financing method either as proposed or as modified by the commission represents an acceptable economic impact, considering economic conditions and the need for and cost of additional public utility services;

(7) In the case of an electric transmission line, that such a facility is not inconsistent with known plans of other electric systems serving the state, which plans have been filed with the commission;

(8) In the case of a gas transmission line, that the location of the line will not pose an undue hazard to persons or property along the area to be traversed by the line;

(9) That the energy efficiency of the power production facility has been given significant weight in the decision-making process; and

(10) That the location of the facility as proposed conforms as closely as practicable to applicable state, regional, and local laws and regulations issued thereunder, except that the commission may refuse to apply all or any part of any regional or local law or regulation if it finds that, as applied to the proposed facility, that law or regulation is unreasonably restrictive in view of the existing technology, or of factors of cost or economics, or of the needs of consumers whether located inside or outside of the directly affected government subdivisions.

(c)(1) If the commission determines that the location or design of all or a part of the proposed facility should be modified, it may condition its certificate upon the modification, provided that the municipalities, counties, and persons residing therein affected by the modification shall have been given reasonable notice thereof, if the persons, municipalities, or counties have not previously been served with notice of the application.

(2) If the commission requires in the case of a transmission line that a portion thereof shall be located underground in one (1) or more areas, the

<http://www.arkleg.state.ar.us/NXT/gateway.dll/ARCode/title28383.htm/subtitle28384/chapter29196.htm/subchapter29252/section29271.htm?f=tel...> 5/1/2006

commission, after giving appropriate notice and an opportunity to be heard to affected ratepayers, shall have the power and authority to authorize the adjustment of rates and charges to customers within the areas where the underground portion of the transmission line is located in order to compensate for the additional costs, if any, of the underground construction.

(d)(1) If the commission determines that financing of all or part of the proposed facility should be modified, it may condition its certificate upon the modification.

(2) If at the time of filing the application or within sixty (60) days thereafter, the federal income tax laws and the state laws would permit the issuance of tax-exempt bonds to finance the construction of the proposed facility for the applicant and if the commission determines that financing the facility with such tax-exempt bonds would be in the best interests of the people of the state, the commission, after giving appropriate notice and an opportunity to be heard to the parties, shall have the power and authority to require by order or regulation that the facility be financed in such manner as may be provided elsewhere by law.

(e) A copy of the decision and any order issued therewith shall be served upon each party within sixty (60) days after the conclusion of each hearing held under this subchapter.

**History.** Acts 1973, No. 164, § 9; 1977, No. 866, § 1; A.S.A. 1947, § 73-276.8; Acts 1999, No. 1556, § 10; 2001, No. 324, §§ 9, 10; 2003, No. 204, §§ 14, 15.

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  INTERSTATE POWER AND LIGHT COMPANY	DOCKET NO. GCU-02-2
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**FINAL DECISION AND ORDER**

(Issued September 13, 2002)

**I. STATEMENT OF THE CASE**

On June 10, 2002, Interstate Power and Light Company (IPL) filed with the Utilities Board (Board) an application pursuant to Iowa Code chapter 476A for a generating facility certificate to construct and operate a combined-cycle, natural gas fueled, combustion turbine electric generating facility with a nameplate capacity of 632.4 MW. The proposed facility is called the Power Iowa Energy Center (PIEC) and is located in Cerro Gordo County near Mason City, Iowa. IPL filed amendments to its application on August 7 and 13, 2002, including a generation interconnection study performed for three potential points of interconnection. IPL held the informational meeting required by 199 IAC 24.7 on June 5, 2002, in Mason City and proof of publication of notice of the meeting was filed.

On July 12, 2002, the Board docketed IPL's application, established a procedural schedule, and granted waivers to allow for an expedited procedural

schedule. The order also required IPL to file the results of its generator interconnection and load flow and facilities studies.

Notice of the filing was mailed to all owners and lessees of real property located within 1,000 linear feet of the proposed site pursuant to Iowa Code § 476A.4(2)"c" (2001 Supp.), as listed in IPL's application. In accordance with Iowa Code § 476A.4(3), notice was published and proof of publication filed.

There are four other parties to this proceeding: the Consumer Advocate Division of the Department of Justice (Consumer Advocate), the Iowa Consumers Coalition (ICC), Ag Processing Inc., and CPV Highlands, L.L.C. (CPV). IPL filed the testimony of five witnesses with its application. None of the other parties filed testimony. Consumer Advocate filed a statement on August 6, 2002, indicating it did not oppose granting the certificate if it were conditioned upon IPL "receiving all appropriate transmission interconnection, transmission service and other transmission related authorizations currently and prospectively required prior to operating the proposed plant on the transmission system." IPL has accepted those conditions in the "Joint Statement of Issues" filed on August 12, 2002.

On August 21, 2002, IPL filed a motion to cancel the hearing scheduled for August 26, 2002. IPL in its motion said it contacted all other parties and was authorized to state that none of the parties required an evidentiary hearing. On August 22, 2002, the Board issued an order canceling the hearing and setting a briefing schedule. The Board cancelled the hearing because no one had questions on cross-examination for IPL's witnesses.

IPL and Consumer Advocate filed initial briefs on September 3, 2002. No reply briefs were filed.

## II. DISCUSSION OF THE EVIDENCE

The proposed PIEC will be a combined cycle electric generating plant with a nameplate capacity of 632.4 MW. The facility will be built on a site owned by IPL. The prime sources of electricity generation will be two combustion turbines with nameplate capacity of 188.7 MW each and one 255 MW nameplate capacity steam turbine-generator. Based on the nameplate ratings, less auxiliary loads and losses, the facility will be capable of producing approximately 599 MW. The PIEC is expected to operate in intermediate load service with an estimated capacity factor of 30 to 60 percent, generating at an average output of 500 MW.

The PIEC will have black-start capability from five diesel generators. The facility will be solely owned by IPL and all of the output will be available for supply to IPL's system in accordance with the system coordination and operating agreement approved by the Federal Energy Regulatory Commission. IPL plans to begin site preparation this October and have the plant ready for commercial operation in June 2004.

IPL's filing maintains that the PIEC will provide positive benefits to IPL's customers. The primary benefits are: 1) adding 632.4 MW of nameplate capacity to assist IPL in meeting its projected need for intermediate capacity; 2) enhanced reliability for the IPL system; 3) additional voltage support for the regional



transmission grid; and 4) increased reliability for the Mason City area because of the "black-start" capability. Black-start capability means the generating facility can be independently restarted and used to restore service to IPL's system in the event of a widespread outage on the area's transmission grid. (Struss Testimony, p. 14; Application, Sections 1.5.1 and 1.8).

IPL also points out the economic benefits provided by the PIEC. During the peak construction period, IPL said the project would create approximately 400 jobs, generate approximately \$78.5 million of direct expenditures for goods and services, and have a payroll of approximately \$31 million. When completed, the plant will employ about 20 persons full-time with an annual payroll of \$1.7 million. Annual expenditures for non-fuel goods and services to operate and maintain the facility are expected to be about \$2.5 million. The PIEC will also increase the property tax base, thereby directly benefiting local school districts. (Halil Testimony, as corrected, p. 5; Application, Section 3).

### III. ANALYSIS

Iowa Code chapter 476A (Supp. 2001) is the applicable chapter dealing with electric power generating certificates. 2001 Iowa Acts, House File 577, significantly amended this chapter. Among other things, House File 577 changed the decision criteria the Board examines in a certification or siting proceeding.

Prior to the enactment of House File 577, Iowa Code § 476A.6 listed six criteria for the Board to examine in determining whether to issue a generating

certificate. Three of the criteria only applied to public utilities. These three criteria were whether the applicant, if a public utility, had 1) a comprehensive energy management plan, 2) considered sources of supply from either purchase of electricity or investment in facilities owned by others, and 3) considered all feasible alternatives to the proposed facility including nongeneration alternatives.

The other three criteria applied to all applicants. The first criterion was that the proposed facility is required by the present or future public convenience, use, and necessity. The second criterion was that the applicant was willing to abide by the terms of the certificate. The final criterion applying to all applicants was that the proposed facility would cause minimum land use, environmental, and aesthetic impact.

House File 577 eliminated the criteria applying only to public utilities and modified the criteria applicable to all applicants. Now, there are three statutory decision criteria and those criteria apply to both public utility and non-public utility applicants. The decision criteria in Iowa Code § 476A.6 (2001 Supp.) are:

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, 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.

The first criteria provides for the Board to examine three factors, legislative intent expressed in Iowa Code § 476.53 (2001 Supp.), economic development policy as expressed in Title I, Subtitle 5, and whether the facility will be detrimental to the provision of adequate and reliable electric service. The proposed facility is consistent with the legislative intent expressed in Iowa Code § 476.53 (Supp. 2001). This section provides, in part, that:

It is the intent of the general assembly to attract the development of electric power generating and transmission facilities within the state in sufficient quantity to ensure reliable electric service to Iowa consumers and provide economic benefits to the state.

The PIEC will make a significant contribution to economic development. Not only is the provision of adequate and reliable electric service a key component of the state's infrastructure, but also the PIEC will generate 400 jobs at the peak of construction as well as provide permanent employment and tax revenue. IPL has established that construction and operation of the facility is consistent with the economic development policy of the state.

IPL has also established that the proposed facility will not be detrimental to the provision of adequate and reliable electric service. The facility adds significant generation for IPL's system and enhances the reliability and capability of the regional transmission system. In addition, this new generation will help address

voltage support needs and provide black-start capability that can be used to restore IPL's system in the event of a widespread outage on the transmission grid in the region.

One of the most important determinations for the Board to make under the first criterion will be the impact of the generation facility on area transmission facilities. Here, not only does it appear from the generation interconnection study performed by an engineering firm hired by IPL that there is no negative impact, but in fact the added generation will allow IPL to enhance reliability because of the favorable location of the facility with respect to the transmission grid.

Although all the evidence to date demonstrates that the facility will have a positive impact on the regional transmission system, the Midwest Independent System Operator (MISO) has not completed its interconnection transmission study. IPL has committed to performing any transmission system upgrades required by MISO. (Strauss Testimony, p. 12). As agreed to by IPL and Consumer Advocate, the Board will condition any certificate upon IPL receiving all appropriate transmission interconnection, transmission service, and other transmission related authorizations currently and prospectively required prior to operating the proposed plant on the transmission system. IPL will be required to perform any transmission system upgrades required by MISO. IPL will also be required to file a copy of any MISO studies with the Board.

IPL has consistently expressed its willingness to comply with the provisions of a certificate and the requirements of Chapter 476A. IPL's assertions were not

challenged and therefore IPL has satisfied the second statutory criteria. (Mineck Testimony, p. 8).

The third criterion deals with land use and environmental impacts. The proposed addition is being constructed on land owned by IPL that is currently used for production of row crops. IPL intends to return 20 acres of the site to agricultural use to minimize the facility's impact. Investigations have confirmed that the site does not contain significant habitat for wildlife, or significant undisturbed natural features, or sensitive resources such as jurisdictional wetlands. (Application, Sections 3.4 and 3.5). IPL has committed to obtain all applicable local, state, and federal permits prior to construction or operation of the PIEC. (Arnold Testimony, p. 7; Struss Testimony, p. 5).

The environmental portion of the third criterion is similar to that under the prior law. With respect to environmental matters, the Board has traditionally deferred to the Iowa Department of Natural Resources (IDNR) and found that issuance of applicable air quality, wastewater, and other necessary environmental permits by the IDNR establishes compliance with this criteria. Because all appropriate pre-construction permits have not been issued, a generating certificate cannot be issued. Iowa Code § 476A.5(1). Therefore, only a conditional finding of compliance with the third criterion can be made. A certificate for the generating unit will not be issued until IPL notifies the Executive Secretary of the Utilities Board that all appropriate pre-construction permits have been issued by applicable local, state, and federal

agencies. No additional hearing is required and the Board will issue the actual generating certificate subsequent to this notification.

IPL has assured the Board throughout this proceeding that it will meet all permit and licensing requirements of the various regulatory agencies that have jurisdiction over the construction, maintenance, and operation of the PIEC. (Arnold Testimony, p. 7; Struss Testimony, p. 5). IPL also stated in testimony and brief that it would not begin construction or operation of the PIEC without first obtaining the necessary preconstruction permits and approvals. (*Id.*; IPL Initial Brief, p. 16). Advance site preparation work, however, can commence immediately with the issuance of this decision. Iowa Code § 476A.9 (2001).

#### IV. FINDINGS OF FACT

1. It is reasonable to conclude that the proposed facility will, among other things, increase generation available to IPL's ratepayers, ease transmission constraints, create temporary and permanent jobs, and increase the local tax base such that it is consistent with Iowa's energy and economic development policies.

2. It is reasonable to expect that IPL will comply with any and all provisions of a certificate authorizing construction, operation, and maintenance of the proposed facility.

3. It is reasonable to conclude the proposed facility will have minimal land use and environmental consequences, considering available technology and the economics of available alternatives.

4. It is reasonable to conclude that if final pre-construction permits are issued, the proposed facility will satisfy air quality and wastewater standards and will have minimal environmental and land use consequences.

5. It is reasonable to condition a certificate upon IPL receiving all appropriate transmission interconnection, transmission service, and other transmission related authorizations currently and prospectively required prior to operating the proposed plant on the transmission system and performing any transmission system upgrades required by MISO.

#### **V. CONCLUSIONS OF LAW**

1. The Utilities Board has jurisdiction of the parties and the subject matter of this proceeding pursuant to the provisions of Iowa Code chapter 476A (Supp. 2001).

2. IPL, subject to the issuance of final pre-construction permits and filing of the MISO transmission study, has met the three statutory criteria contained in Iowa Code § 476A.6.

#### **VI. ORDERING CLAUSES**

##### **IT IS THEREFORE ORDERED:**

1. Pursuant to Iowa Code chapter 476A (Supp. 2001), Interstate Power and Light Company's application for a certificate to construct and operate a generating unit is granted, subject to final pre-construction permits being issued and the MISO transmission study being filed. A certificate will be issued once IPL notifies

the Board that final pre-construction permits have been issued and the MISO study filed. A certificate will be conditioned upon IPL receiving all appropriate transmission interconnection, transmission service, and other transmission related authorizations currently and prospectively required prior to operating the proposed plant on the transmission system, and performing any transmission system upgrades required by MISO. This order is the final decision of the Utilities Board in Docket No. GCU-02-2.

2. The Utilities Board retains jurisdiction of the subject matter in this docket to the extent provided in Iowa Code chapter 476A.

**UTILITIES BOARD**

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 13<sup>th</sup> day of September, 2002.



STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

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IN RE:

MIDAMERICAN ENERGY COMPANY

DOCKET NO. GCU-01-1

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**FINAL DECISION AND ORDER**

(Issued March 8, 2002)

**STATEMENT OF THE CASE**

On October 15, 2001, MidAmerican Energy Company (MidAmerican) filed with the Utilities Board (Board) an application pursuant to Iowa Code chapter 476A for a generating-facility certificate to construct and operate a 540 MW combined-cycle, natural gas fueled, combustion turbine. The proposed facility is called the Greater Des Moines Energy Center (GDMEC) and is located at 3200 S.E. 45<sup>th</sup> Street, Pleasant Hill, Polk County, Iowa. On November 13, 2001, MidAmerican filed additional information, including a system impact study submitted to the Mid-Continent Area Power Pool (MAPP) associated with MidAmerican's request to interconnect the proposed facility with the transmission grid. MidAmerican held the informational meeting required by 199 IAC 24.7 on August 23, 2001, in Pleasant Hill, and proof of publication of notice of the meeting was filed.

On November 29, 2001, the Board docketed MidAmerican's application and established a procedural schedule. The order also required MidAmerican to file

additional information regarding the application, including details supporting MidAmerican's conclusion that GDMEC will improve the local delivery system in the greater Des Moines area. MidAmerican filed the requested additional information on December 14, 2001. The November 29 order also granted MidAmerican's request for a waiver of any rules in 199 IAC chapter 24 that would be superceded by new siting rules proposed in Docket No. RMU-01-7. The Board denied MidAmerican's request for a complete waiver of the siting statutes and rules.

Notice of the filing was mailed to all owners and lessees of real property located within 1,000 linear feet of the proposed site pursuant to Iowa Code § 476A.4(2)"c" (2001 Supp.), as listed in MidAmerican's application. In accordance with Iowa Code § 476A.4(3), notice was published and proof of publication filed.

There are four other parties to this proceeding: the Consumer Advocate Division of the Department of Justice (Consumer Advocate), Interstate Power and Light Company f/k/a IES Utilities Inc. and Interstate Power Company (Interstate Power), Hawkeye Generating, L.L.C. (Hawkeye), and CPV Highlands, L.L.C. (CPV).

MidAmerican filed the testimony of four witnesses with its application. None of the other parties filed testimony or objections to the application. On February 7, 2002, MidAmerican filed a motion to cancel the hearing scheduled for February 20, 2002. None of the other parties objected to the motion, and on February 15, 2002, the Board issued an order canceling the hearing and setting a briefing schedule. The Board cancelled the hearing because no one had questions on cross-

examination for MidAmerican's witnesses. With its February 7 motion, MidAmerican also filed several minor corrections to its initial testimony.

MidAmerican filed an initial brief on February 21, 2002. In its cover letter accompanying the brief, MidAmerican said it had been authorized by the other parties to inform the Board that they did not intend to file initial briefs. No reply briefs were filed.

#### **DISCUSSION OF THE EVIDENCE**

The proposed GDMEC will be 540 MW nameplate combined cycle electric generating plant. The facility will be built on a site owned by MidAmerican that was formerly the Des Moines Power Station. The prime sources of electricity generation will be two combustion turbines that will produce a combined 350 MW.

Approximately 190 MW of output will be produced by a steam turbine, which utilizes steam produced in two heat-recovery steam generators associated with the combustion turbines. MidAmerican plans to begin construction in the spring of 2002 and have the two combustion turbines in service by summer of 2003. The remainder of the plant would be completed by the summer of 2005.

MidAmerican's filing maintains that GDMEC will provide positive benefits to MidAmerican's customers. The five primary benefits are: 1) adding 540 MW of nameplate capacity to assist MidAmerican in meeting its projected need for an additional 736 MW by 2005; 2) placing the generation in the immediate vicinity of MidAmerican's major load center, greater Des Moines, an area that is heavily

dependent on transmission facilities; 3) adding generation in an area that will ease transmission constraints in central Iowa; 4) bolstering voltage support in greater Des Moines; and 5) adding to the black-start capability in greater Des Moines. Black-start capability means the generating facility can be independently restarted and used to restore service to MidAmerican's system in the event of a widespread outage on the area's transmission grid. (Stevens Testimony, as corrected, pp. 3-14; Application, Section 1.8).

MidAmerican also points out the economic benefits provided by GDMEC. During the peak construction period, MidAmerican said the project will generate 400-500 jobs, approximately \$62 million in local expenditures, and payroll of approximately \$34 million. When completed, the plant will employ about 24 persons full-time and pay approximately \$2.7 million in annual taxes from both the generating plant operation and natural gas delivery. No testimony or other evidence was filed refuting the allegations MidAmerican made in its application and accompanying testimony.

#### **ANALYSIS**

Iowa Code chapter 476A (Supp. 2001) is the applicable chapter dealing with electric power generating certificates. 2001 Iowa Acts, House File 577, significantly amended this chapter. Among other things, House File 577 changed the decision criteria the Board examines in a certification or siting proceeding.

Prior to the enactment of House File 577, Iowa Code § 476A.6 listed six criteria for the Board to examine in determining whether to issue a generating certificate. Three of the criteria only applied to public utilities. These three criteria were whether the a public utility had 1) a comprehensive energy management plan, 2) considered sources of supply from either purchase of electricity or investment in facilities owned by others, and 3) considered all feasible alternatives to the proposed facility including nongeneration alternatives.

The other three criteria applied to all applicants. The first criterion was that the proposed facility is required by the present or future public convenience, use, and necessity. The second criterion was that the applicant was willing to abide by the terms of the certificate. The final criterion applying to all applicants was that the proposed facility would cause minimum land use, environmental, and aesthetic impact.

House File 577 eliminated the criteria applying only to public utilities and modified the criteria applicable to all applicants. Now, there are three decision criteria and those criteria apply to both to public utility and non-public utility applicants. The decision criteria in Iowa Code § 476.6 (2001 Supp.) are:

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, 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.

The first criteria provides for the Board to examine three things: legislative intent expressed in Iowa Code § 476.53 (2001 Supp.), economic development policy as expressed in Title I, Subtitle 5, and whether the facility will be detrimental to the provision of adequate and reliable electric service. The proposed facility is consistent with the legislative intent expressed in Iowa Code § 476.53 (Supp. 2001). This section provides, in part, that:

It is the intent of the general assembly to attract the development of electric power generating and transmission facilities within the state in sufficient quantity to ensure reliable electric service to Iowa consumers and provide economic benefits to the state.

The GDMEC will make a significant contribution to economic development. Not only is the provision of adequate and reliable electric service a key component of the state's infrastructure, but also GDMEC will generate 400-500 jobs at the peak of construction as well as provide permanent employment and tax revenue. MidAmerican has established that construction and operation of the facility is consistent with the economic development policy of the state.

MidAmerican has also established that the proposed facility will not be detrimental to the provision of adequate and reliable electric service. The facility adds significant generation in the immediate vicinity of MidAmerican's major load center. In addition, this new generation will help address voltage support needs and add additional black-start capability that can be used to restore MidAmerican's system in the event of a widespread outage on the transmission grid in the region.

While this is the Board's first decision using the new decision criteria, it is apparent that one of the most important determinations for the Board to make under the first criterion will be the impact of the generation facility on area transmission facilities. Here, not only is there no negative impact, but in fact the added generation will allow MidAmerican to ease recent transmission constraint problems. On December 12, 2001, the Mid-Continent Area Power Pool (MAPP) design review subcommittee unanimously approved the interconnection of GDMEC to the transmission system. No further MAPP approval is required and MidAmerican has agreed to build system improvements required by the committee. MidAmerican has satisfied the first criterion.

MidAmerican has consistently expressed its willingness to comply with the provisions of a certificate and the requirements of Chapter 476A. MidAmerican's assertions were not challenged and therefore MidAmerican has satisfied the second statutory criteria. (Alexander Testimony, pp. 13-14).

The third criterion deals with land use and environmental impacts. The proposed addition is being constructed on land owned by MidAmerican. The land

used to be the site of a coal-fired electric generation plant. The site today primarily consists of a vacant field of weeds. Due to the design of the facility and quality of the site, the GDMEC can be constructed, maintained, and operated without significant detrimental land use impacts. (Guyer Testimony, p. 11). No landmarks of historic, religious, archeological, scenic, natural, or other cultural significance are located within one mile of the site. The GDMEC complies with applicable local zoning requirements. (Application, Section 2.3). MidAmerican will also have to obtain building and occupancy authorizations from the City of Pleasant Hill. (Alexander Testimony, p. 14; Guyer Testimony, p. 5).

The environmental portion of the third criterion is similar to that under the prior law. With respect to environmental matters, the Board has traditionally deferred to the Iowa Department of Natural Resources (IDNR) and found that issuance of applicable air quality, wastewater, and other necessary environmental permits by the IDNR establishes compliance with this criteria. MidAmerican has already obtained U.S. Army Corps of Engineers letters of approval regarding construction within flood control easements and the fact the site contains no jurisdictional wetlands. (Application, Section 2.2, Table 2.2-1). However, because all appropriate pre-construction permits have not been issued, a generating certificate cannot be issued. Iowa Code § 476A.5(1). Therefore, only a conditional finding of compliance with the third criterion can be made. A certificate for the generating unit will not be issued until MidAmerican notifies the Executive Secretary of the Utilities Board that all appropriate pre-construction permits have been issued. No additional hearing is



required and the Board will issue the actual generating certificate subsequent to this notification.

MidAmerican has assured the Board throughout this proceeding that it will meet all permit and licensing requirements of the various regulatory agencies that have jurisdiction over the construction, maintenance, and operation of GDMEC. (Alexander Testimony, p. 5). MidAmerican also stated it would not begin construction or operation of GDMEC without first obtaining the necessary permits and approvals. (Guyer Testimony, p. 5). Advance site preparation work, however, can commence immediately with the issuance of this decision. Iowa Code § 476A.9 (2001).

#### **FINDINGS OF FACT**

1. It is reasonable to conclude that the proposed facility will, among other things, increase generation available to MidAmerican's ratepayers, ease transmission constraints, create temporary and permanent jobs, and increase the local tax base such that it is consistent with Iowa's energy and economic development policies.

2. It is reasonable to expect that MidAmerican will comply with any and all provisions of a certificate authorizing construction, operation, and maintenance of the proposed facility.

3. It is reasonable to conclude the proposed facility will have minimal land use and environmental consequences, considering available technology and the economics of available alternatives.

4. It is reasonable to conclude that if final pre-construction permits are issued, the proposed facility will satisfy air quality and wastewater standards and have minimal environmental and land use consequences.

#### **CONCLUSIONS OF LAW**

1. The Utilities Board has jurisdiction of the parties and the subject matter of this proceeding pursuant to the provisions of Iowa Code chapter 476A (Supp. 2001).

2. MidAmerican Energy Company, subject to the issuance of final pre-construction permits, has met the three statutory criteria contained in Iowa Code § 476A.6.

#### **ORDERING CLAUSES**

##### **IT IS THEREFORE ORDERED:**

1. Pursuant to Iowa Code chapter 476A (Supp. 2001), MidAmerican Energy Company's application for a certificate to construct and operate a generating unit is granted, subject to final pre-construction permits being issued. A certificate will be issued once MidAmerican notifies the Board that final pre-construction permits have been issued. This order is the final decision of the Utilities Board in Docket No. GCU-01-1.

2. The Utilities Board retains jurisdiction of the subject matter in this docket to the extent provided in Iowa Code chapter 476A.

**UTILITIES BOARD**

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 8<sup>th</sup> day of March, 2002.