

S 2-6-02 Do Pass

COMMERCE H. 2/28/02 Commerce

H. 3/15/02 Do Pass

FILED JAN 30 2002

SENATE FILE 2086

BY FREEMAN

(COMPANION TO LSB 5893HH

BY JENKINS)

(P. 440)
Passed Senate, Date 2/27/02
Vote: Ayes 48 Nays 0
Approved 4-1-02

(P. 891)
Passed House, Date 3-20-02
Vote: Ayes 98 Nays 0

A BILL FOR

1 An Act relating to the kilowatt threshold for electric
2 transmission line franchises, making related changes, and
3 providing an effective date.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 2086
COMMERCE

1 Section 1. Section 478.1, Code 2001, is amended to read as
2 follows:

3 478.1 FRANCHISE.

4 1. A person shall not construct, erect, maintain, or
5 operate a transmission line, wire, or cable which that is
6 capable of operating at an electric voltage of ~~thirty-four-and~~
7 ~~one-half~~ sixty-nine kilovolts or more along, over, or across
8 any public highway or grounds outside of cities for the
9 transmission, distribution, or sale of electric current,
10 without first procuring from the utilities board within the
11 utilities division of the department of commerce a franchise
12 granting authority as provided in this chapter. ~~However,~~-a

13 2. A franchise shall not be required for electric lines
14 constructed entirely within the boundaries of property owned
15 by a person primarily engaged in the transmission or
16 distribution of electric power or entirely within the
17 boundaries of property owned by the end user of the electric
18 power.

19 3. If the transmission line, wire, or cable is capable of
20 operating only at an electric voltage of less than ~~thirty-four~~
21 ~~and-one-half~~ sixty-nine kilovolts, no franchise is required.
22 However, the utilities board shall retain jurisdiction over
23 all such lines, wires, or cables.

24 4. A person who seeks to construct, erect, maintain, or
25 operate a transmission line, wire, or cable which that will
26 operate at an electric voltage of less than ~~thirty-four-and~~
27 ~~one-half~~ sixty-nine kilovolts outside of cities and which that
28 cannot secure the necessary voluntary easements to do so may
29 petition the board pursuant to section 478.3, subsection 1,
30 for a franchise granting authority for such construction,
31 erection, maintenance, or operation, and for the use of the
32 right of eminent domain.

33 Sec. 2. Section 478.2, Code 2001, is amended to read as
34 follows:

35 478.2 PETITION FOR FRANCHISE -- INFORMATIONAL MEETINGS

1 HELD.

2 1. Any person~~-corporation-or-company~~ authorized to
3 transact business in the state including cities may file a
4 verified petition asking for a franchise to erect, maintain,
5 and operate a line or lines for the transmission,
6 distribution, use, and sale of electric current outside cities
7 and for such purpose to erect, use, and maintain poles, wires,
8 guy wires, towers, cables, conduits, and other fixtures and
9 appliances necessary for conducting electric current for
10 light, heat, or power over, along, and across any public
11 lands, highways, streams, or the lands of any person, company,
12 or corporation, and to acquire necessary interests in real
13 estate for such purposes.

14 2. As conditions precedent to the filing of a petition
15 with the utilities board requesting a franchise for a new
16 transmission line, and not less than thirty days prior to the
17 filing of such petition, the person~~-company-or-corporation~~
18 shall hold informational meetings in each county in which real
19 property or rights therein will be affected.

20 a. A member of the board, the counsel of the board, or a
21 hearing examiner designated by the board shall serve as the
22 presiding officer at each meeting, shall present an agenda for
23 such meeting which shall include a summary of the legal rights
24 of the affected landowners, and shall distribute and review
25 the statement of individual rights required under section
26 6B.2A, subsection 1. A formal record of the meeting shall not
27 be required.

28 b. The meeting shall be held at a location reasonably
29 accessible to all persons~~-companies-or-corporations-which~~
30 that may be affected by the granting of the franchise.

31 3. The person~~-company-or-corporation~~ seeking the
32 franchise for a new transmission line shall give notice of the
33 informational meeting to each person, company, or corporation
34 determined to be the landowner affected by the proposed
35 project and any person, company, or corporation in possession

1 of or residing on the property.

2 a. For the purposes of this section, "landowner" unless
3 the context otherwise requires:

4 (1) "Landowner" means a person~~,-company,-or-corporation~~
5 listed on the tax assessment rolls as responsible for the
6 payment of real estate taxes imposed on the property and
7 "transmission.

8 (2) "Transmission line" means any line capable of
9 operating at ~~thirty-four-and-one-half~~ sixty-nine kilovolts or
10 more and extending a distance of not less than one mile across
11 privately owned real estate.

12 b. The notice shall ~~set-forth~~ contain the following:

13 (1) The name of the applicant~~,-state-the.~~

14 (2) The applicant's principal place of business~~,-state~~
15 the.

16 (3) A general description and purpose of the proposed
17 project~~,-state-the.~~

18 (4) The general nature of the right-of-way desired~~,-state~~
19 the.

20 (5) The possibility that the right-of-way may be acquired
21 by condemnation if approved by the utilities board~~,-provide-a.~~

22 (6) A map showing the route of the proposed project~~,-~~
23 provide-a.

24 (7) A description of the process used by the utilities
25 board in making a decision on whether to approve a franchise
26 or grant the right to take property by eminent domain~~,-advise.~~

27 (8) A statement that the landowner has the right to be
28 present at such meetings and to file objections with the
29 utilities board~~,-designate-the.~~

30 (9) The place and time of the meeting~~,-~~

31 c. The notice shall be served not less than thirty days
32 prior to the time set for the meeting by certified mail with
33 return receipt requested~~,-~~ and shall be published once in a
34 newspaper of general circulation in the county at least one
35 week and not more than three weeks before the time of the

1 meeting and such publication shall be considered notice to
2 landowners whose residence is not known.

3 4. No A person, company, or corporation seeking rights
4 under this chapter shall not negotiate or purchase any
5 easements or other interests in land in any county known to be
6 affected by the proposed project prior to the informational
7 meeting.

8 Sec. 3. Section 478.3, subsection 2, unnumbered paragraph
9 1, Code Supplement 2001, is amended to read as follows:

10 Petitions for transmission lines capable of operating at
11 ~~thirty-four-and-one-half~~ sixty-nine kilovolts or more and
12 extending a distance of not less than one mile across
13 privately owned real estate shall also set forth an allegation
14 that the proposed construction represents a reasonable
15 relationship to an overall plan of transmitting electricity in
16 the public interest and substantiation of such allegations,
17 including but not limited to, a showing of the following:

18 Sec. 4. Section 478.13, unnumbered paragraph 2, Code 2001,
19 is amended to read as follows:

20 An extension of a franchise is not required for an electric
21 transmission line ~~which~~ that has been permanently retired from
22 operation at ~~thirty-four-and-one-half~~ sixty-nine kilovolts or
23 more but which remains in service at a lower voltage. The
24 board shall be notified of changes in operating status.

25 Sec. 5. EFFECTIVE DATE. This Act, being deemed of
26 immediate importance, takes effect upon enactment.

27 EXPLANATION

28 This bill increases the transmission line franchise
29 requirement threshold in Code chapter 478 from 34.5 kilovolts
30 to 69 kilovolts, by making changes in Code sections 478.1,
31 478.2, 478.3, and 478.13.

32 The bill also divides some existing Code sections into
33 subsections, paragraphs, and subparagraphs, and makes some
34 grammatical changes. The bill deletes several redundant
35 references to "person, company or corporation" in Code section

1 478.2, using instead the simpler "person", which is defined in
2 Code section 4.1, subsection 20, as an "individual,
3 corporation, limited liability company, government or
4 governmental subdivision or agency, business trust, estate,
5 trust, partnership or association, or any other legal entity".
6 The bill is effective upon enactment.

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SENATE FILE 2086

AN ACT

RELATING TO THE KILOWATT THRESHOLD FOR ELECTRIC TRANSMISSION
LINE FRANCHISES, MAKING RELATED CHANGES, AND PROVIDING AN
EFFECTIVE DATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 478.1, Code 2001, is amended to read as follows:

478.1 FRANCHISE.

1. A person shall not construct, erect, maintain, or operate a transmission line, wire, or cable which that is capable of operating at an electric voltage of ~~thirty-four-and one-half~~ sixty-nine kilovolts or more along, over, or across any public highway or grounds outside of cities for the transmission, distribution, or sale of electric current without first procuring from the utilities board within the utilities division of the department of commerce a franchise granting authority as provided in this chapter. ~~However,~~

2. A franchise shall not be required for electric lines constructed entirely within the boundaries of property owned by a person primarily engaged in the transmission or distribution of electric power or entirely within the boundaries of property owned by the end user of the electric power.

3. If the transmission line, wire, or cable is capable of operating only at an electric voltage of less than ~~thirty-four and one-half~~ sixty-nine kilovolts, no franchise is required. However, the utilities board shall retain jurisdiction over all such lines, wires, or cables.

4. A person who seeks to construct, erect, maintain, or operate a transmission line, wire, or cable which that will operate at an electric voltage of less than thirty-four-and one-half sixty-nine kilovolts outside of cities and which that cannot secure the necessary voluntary easements to do so may petition the board pursuant to section 478.3, subsection 1, for a franchise granting authority for such construction, erection, maintenance, or operation, and for the use of the right of eminent domain.

Sec. 2. Section 478.2, Code 2001, is amended to read as follows:

478.2 PETITION FOR FRANCHISE -- INFORMATIONAL MEETINGS HELD.

1. Any ~~person, corporation, or company~~ authorized to transact business in the state including cities may file a verified petition asking for a franchise to erect, maintain, and operate a line or lines for the transmission, distribution, use, and sale of electric current outside cities and for such purpose to erect, use, and maintain poles, wires, guy wires, towers, cables, conduits, and other fixtures and appliances necessary for conducting electric current for light, heat, or power over, along, and across any public lands, highways, streams, or the lands of any person, company, or corporation, and to acquire necessary interests in real estate for such purposes.

2. As conditions precedent to the filing of a petition with the utilities board requesting a franchise for a new transmission line, and not less than thirty days prior to the filing of such petition, the ~~person, company, or corporation~~ shall hold informational meetings in each county in which real property or rights therein will be affected.

a. A member of the board, the counsel of the board, or a hearing examiner designated by the board shall serve as the presiding officer at each meeting, shall present an agenda for such meeting which shall include a summary of the legal rights

of the affected landowners, and shall distribute and review the statement of individual rights required under section 6B.2A, subsection 1. A formal record of the meeting shall not be required.

b. The meeting shall be held at a location reasonably accessible to all persons, companies, or corporations which that may be affected by the granting of the franchise.

3. The person, company, or corporation seeking the franchise for a new transmission line shall give notice of the informational meeting to each person, company, or corporation determined to be the landowner affected by the proposed project and any person, company, or corporation in possession of or residing on the property.

a. For the purposes of this section, "landowner" unless the context otherwise requires:

(1) "Landowner" means a person, company, or corporation listed on the tax assessment rolls as responsible for the payment of real estate taxes imposed on the property and "transmission."

(2) "Transmission line" means any line capable of operating at thirty-four-and-one-half sixty-nine kilovolts or more and extending a distance of not less than one mile across privately owned real estate.

b. The notice shall set forth contain the following:

(1) The name of the applicant; state the.

(2) The applicant's principal place of business; state the.

(3) A general description and purpose of the proposed project; state the.

(4) The general nature of the right-of-way desired; state the.

(5) The possibility that the right-of-way may be acquired by condemnation if approved by the utilities board; provide a.

(6) A map showing the route of the proposed project; provide a.

(7) A description of the process used by the utilities board in making a decision on whether to approve a franchise or grant the right to take property by eminent domain; advise.

(8) A statement that the landowner has the right to be present at such meetings and to file objections with the utilities board; designate the.

(9) The place and time of the meeting;.

c. The notice shall be served not less than thirty days prior to the time set for the meeting by certified mail with return receipt requested; and shall be published once in a newspaper of general circulation in the county at least one week and not more than three weeks before the time of the meeting and such publication shall be considered notice to landowners whose residence is not known.

4. No A person, company, or corporation seeking rights under this chapter shall not negotiate or purchase any easements or other interests in land in any county known to be affected by the proposed project prior to the informational meeting.

Sec. 3. Section 478.3, subsection 2, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

Petitions for transmission lines capable of operating at thirty-four-and-one-half sixty-nine kilovolts or more and extending a distance of not less than one mile across privately owned real estate shall also set forth an allegation that the proposed construction represents a reasonable relationship to an overall plan of transmitting electricity in the public interest and substantiation of such allegations, including but not limited to, a showing of the following:

Sec. 4. Section 478.13, unnumbered paragraph 2, Code 2001, is amended to read as follows:

An extension of a franchise is not required for an electric transmission line which that has been permanently retired from operation at thirty-four-and-one-half sixty-nine kilovolts or more but which remains in service at a lower voltage. The board shall be notified of changes in operating status.

Sec. 5. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

MARY E. KRAMER
President of the Senate

BRENT SIEGRIST
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2086, Seventy-ninth General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved 4/1, 2002

THOMAS J. VILSACK
Governor