

**MINUTES OF THE SPECIAL MEETING  
OF THE AMES CITY COUNCIL**

**AMES, IOWA**

**JULY 6, 2009**

The Ames City Council met in special session at 7:00 p.m. on the 6th day of July, 2009, in the City Council Chambers, 515 Clark Avenue, pursuant to law with Mayor Pro Tem Mahayni presiding. Other Council Members present were Goodman, Larson, and Popken. Council Member Doll arrived at 7:12 p.m. *Ex officio* Member Keppy was also present. Council Member Rice was absent.

**MIDWEST INDEPENDENT TRANSMISSION SYSTEM OPERATOR (MISO):** Director Donald Kom, Assistant Director Brian Trower, Energy Procurement Coordinator Collin Dettman, and Power Plant Operations Superintendent Mike Brown were present on behalf of the City's Electric Services Department. Todd Hillman and Derek Mosolf were in attendance as representatives of MISO.

According to Mr. Kom, utilities have become an industry where cooperation, connection, and interdependence is the norm. To facilitate this, Regional Reliability Organizations have been formed. Ames is currently a member of the Mid-Continent Area Power Pool (MAPP), which is an association of electric utilities and other electric industry participants that organized in 1972 for the purpose of pooling generation and transmission. Membership in MAPP is voluntary; it is governed by its members. Director Kom advised that MAPP has two primary functions: (1) to serve as a regional transmission group responsible for facilitating open access of the transmission system, and (2) to serve as a general reserve sharing pool, which provides efficient and available generation to meet regional demand. Mr. Kom stated that access to the electrical grid has been very beneficial to Ames. Over the years, Ames has gained access to other sources of generation, increased reliability, and improved power quality. MAPP membership has afforded Ames fair and equal access to markets. However, according to Mr. Kom, members are now leaving MAPP and going with other organizations.

Director Kom stated that, in 1996, the Federal Energy Regulatory Commission (FERC) issued Orders 888 and 889, which required the "unbundling of services" and allowed equal and open access to the service grid. In December 2001, the FERC approved MISO's application to become a Regional Transmission Organization, and MISO began transmission service on February 1, 2002. MISO is not run by the member utilities that it serves; it is a non-profit organization. Since 2005, MISO changed to allow access to the open market.

Council Member Doll arrived at 7:12 p.m.

Director Kom advised that the City's electrical system is connected to the outside world through two tie lines: (1) a 161-kV line to Central Iowa Power Cooperative's (CIPCO) at the Boone Junction Substation and (2) a 69-kV line to MidAmerican Energy's (MEC) Alleman Substation. According to Mr. Kom, Ames uses a transmission reservation system called Schedule F. He described how the City currently buys and sells power. Mr. Kom said that, since MEC made the decision to join MISO, four City staff members have been spending 30-50% of their time learning about MISO, gathering data, meeting MEC/MISO deadlines, and attending meetings and training. He also said that, on June 15, 2009, Cedar Falls and Muscatine were approved to join MISO.

Mr. Kom said that MISO and MAPP perform similar functions from a transmission standpoint. He described the different operating models for each organization. According to

Mr. Kom, MISO administers the market for electricity producers and users on a wholesale level; it does not generate electricity for itself nor does it buy for itself. The MISO Energy and Operating Reserve Market consists of three components: (1) Day Ahead Energy Market, (2) Real Time Energy Market, and (3) Financial Transmission Rights Market. Mr. Kom described each component.

Director Kom reminded the City Council members that they had directed a RFP be issued for a wind power project. He noted that all proposals received by the City contained a caveat that Ames be a member of MISO.

Assistant Director Trower outlined six options available to the City of Ames:

1. MAPP. There will be a service reduction as of September 1, 2009.
2. PJM. Not a viable option because Ames has no interconnection.
3. SPP. Not a viable option because Ames has no interconnection.
4. ITC Midwest. No interconnection at this time. There are no advantages to go with ITC Midwest. Ames would have to pay for the interconnection.
5. City standing alone. Ames would be an island surrounded by MEC, MISO, and ITC. The City would have to become its own balancing authority and transmission operator. This would require very limited access to the City's Power Plant. There would be uncertainty about the City's ability to move power in and out.
6. MISO. The MISO footprint was shown depicting the locations served by MISO.

Todd Hillman advised that MISO has to provide unbiased access. Mr. Mosolf added that all members have a vote no matter how large or small. Its board consists of seven members.

Director Kom advised of the MISO-member cities that had been visited by City staff. In addition, staff has met with energy providers. He noted specifically that City staff had met with Iowa State University representatives.

Mr. Kom stated that, from base-load generation and long-term strong interconnections, staff believes that becoming part of MISO is the best solution. The ramifications of joining MISO were outlined by Mr. Kom. According to Mr. Kom, whether Ames enters the market or not as part of the MEC Balancing Authority, it is in the City's best interest to ensure that it is modeled and treated correctly. Not having the 161-kV line to Ankeny completed is an issue. There will also be a learning curve. He emphasized that it is not possible at this time to determine the ultimate cost of labor, energy price, or data/systems cost; however, Mr. Kom said that participation in MISO will result in higher costs to the Ames system.

According to Mr. Kom, MAPP would remain as the Regional Reliability Organization for the time-being; however, it would soon shrink to a size where some of the most beneficial services it offers would cease. Schedule F would end on April 1, 2011. Emergency Generation, once provided through MAPP, has already been transferred to MISO. He explained that nearly all MISO market participants purchase Network Transmission Service and purchase enough transmission to meet 100% of their load. Ames has not needed to do that since much of its load is served by its own generation. Therefore, that requirement will be an increase in cost with no benefit. Ames will be further harmed because there are import limitations placed on it by MEC; it will pay for 100% of its load, but would be limited to firm deliveries of approximately 35-50% of its load. However, according to Mr. Kom, both of those detriments cease when the new line goes in service because MEC/MISO will

recognize Ames' 161-kV investments once it interconnects with MEC at a voltage higher than 100 kV and the new line provides additional import capability.

It is hoped that the City will then receive revenue credits. Mr. Kom pointed out that in the case of Cedar Falls and other cities, the credits have more than offset the cost for Network Service.

According to Mr. Kom, two documents are needed to be signed by the City to enable it to become a Market Participant: the signatory page and "Attachment W." These documents need to be executed by the City by July 10, 2009, in order for MISO to complete the necessary modeling so that Ames' entry coincides with MEC's entry on September 1, 2009.

Mr. Kom described the fundamental shift in how Ames will conduct business based on MISO's operational model. He described the steps that Ames needs to take next.

Director Kom told the Council that EUORAB, on June 24, 2009, unanimously approved entering into the agreements to join MISO.

Council Member Larson asked what effect membership in MISO would have, in terms of cost, on the City's ability to use transmission. Director Kom explained that the costs would increase about "ten-fold;" however, revenue credits would be granted to the City once the 161-kV is constructed and gives interconnectivity. He again cited Cedar Falls as an example, stating that its revenue credits are more than their costs. In the short term, the City is requesting to purchase transmission service only as needed. Mr. Mosolf added that FERC provides incentives for cities to join MISO and allows a higher rate of return for transmission assets.

Mr. Larson also asked about the status of CIPCO. Mr. Trower advised that CIPCO has filed a lawsuit against MISO. The case has been remanded back to the Iowa court system, and its status is unknown. ITC is now the balancing authority for CIPCO. CIPCO cannot serve as the balancing authority for Ames because it is not its own balancing authority. Mr. Trower added that is why he did not list CIPCO as an option; ITC was listed as an option. Ames has no connection with ITC at this time; however, ITC is a member of MISO.

Council Member Popken asked if there were any other costs to join MISO. He referenced specifically the need to provide data and asked if software would need to be upgraded. Director Kom advised that there will be additional staffing costs; however, generation will no longer be an issue. Mr. Popken asked if the current billing systems are capable of handling this data. Mr. Kom advised that the SCADA system can handle the data. He explained that the City has been looking at Inter-Control Center Protocol upgrades; however, this is necessary even if the City doesn't become a member of MISO. An RFP will be prepared for specialized functions because City staff believes it is more cost-efficient not to perform those functions in-house. Mike Brown advised that SCADA does have the capability for an interface upgrade for the ICCP data, and MISO has volunteered to pay some of the costs of that upgrade. MISO representatives present confirmed that commitment.

Mr. Kom explained that Ames may choose to bid in for zero generation and use its own generation behind the meter. Ames would then operate its utility as it chooses to do so. Mr. Trower advised that, fundamentally, this does not change the results of the previous

generation study (Burns and McDonnell) that stated Ames should control its own power generation until the Year 2025.

Council Member Goodman voiced his concern that there are many “unknowns.” He asked if there was any benefit in waiting. Director Kom said that the City would not realize any benefit from waiting.

Moved by Popken, seconded by Goodman, to adopt RESOLUTION NO. 09-302 approving Market Participation in MISO.

Council Member Larson asked how long the participation period would be in MISO. Mr. Hillman advised that it was up to the City as far as how much involvement it wishes to have in MISO.

Roll Call Vote: 5-0. Resolution declared adopted unanimously, signed by the Mayor Pro-Tem, and hereby made a portion of these minutes.

Moved by Popken, seconded by Goodman, to adopt RESOLUTION NO. 09-303 approving Agreement W pertaining to payment for transmission services, as provided by MISO.

Roll Call Vote: 5-0. Resolution declared adopted unanimously, signed by the Mayor Pro-Tem, and hereby made a portion of these minutes.

#### **REVIEW OF INTERSTATE POWER & LIGHT (IPL) FRANCHISE FACT SHEETS:**

City Attorney Doug Marek advised that one issue with granting a franchise to IPL (aka Utility) that had arisen was the proposal for eminent domain authority to be given to the franchisee. The representatives of the Utility had requested an opportunity to provide more information on the eminent domain issue and answer any other questions that the City Council members might have.

Marion Fitzgerald, 26566 - 650<sup>th</sup> Avenue, Nevada, Account Manager for Alliant Energy, added that representatives of IPL were present to answer questions. He introduced the following: Keith Sherman, Economic and Community Development Manager; Dan Kovichich, Team Lead for the Real Estate Department of Alliant Energy; John Ziegenbusch, Manager of Economic Development; Jeff Rosencrants, Deputy General Counsel; and Tom Sailer, Senior Manager of Customer Operations.

According to Mr. Fitzgerald, the representatives would be talking about four issues:

1. The benefits of a franchise
2. Eminent domain
3. Indemnification
4. Relocation

Keith Sherman advised that IPL has 800 franchises throughout Iowa. He stated that IPL considers a franchise as a legal contract; it takes the form of an ordinance between a community and the Utility. Mr. Sherman added that a franchise agreement is specifically focused on the use of right-of-way.

Dan Kovichich spoke on the issue of eminent domain. He stated that IPL’s goal is to fairly negotiate and compensate land owners when an easement is needed to operate the natural gas

system. It is a protection for IPL's natural gas customers and would be used only as a last resort. According to Mr. Kovochich, using eminent domain authority is not a common occurrence. IPL's first priority is to locate within the right-of-way or to negotiate a private easement mutually agreeable to the landowner and IPL.

Council Member Popken asked if the City had the option of granting eminent domain authority on a case-by-case basis. Mr. Kovochich said that it is something that can be discussed; however, project timing is crucial; it would take much more time for IPL to have to receive Council approval to move forward in its process. Jeff Rosencrants added that he has negotiated every franchise for IPL during the past 17 years. At the inquiry of Council Member Popken, Mr. Rosencrants stated that IPL prefers to have a full transfer of domain rights (the same authority that the City has legally). IPL would prefer that eminent domain authority be allowed as part of the franchise agreement and not be handled on a case-by-case basis. Mr. Rosencrants added that, in 17 years, IPL has only had to use eminent domain authority on two occasions – both on the electric side and involving abandoned railroad right-of-way. Mr. Rosencrants explained that IPL would be willing to discuss any case involving eminent domain prior to exercising that right; however, they prefer to have the authority available to them. He advised that since the creation of Alliant Energy, more than 330 municipal franchises have been granted, and every one of those has included rights of eminent domain. Mr. Rosencrants reiterated that IPL would only use eminent domain as the very last resort. In any such case, IPL would make sure that it can justify exercising that authority.

Council Member Doll said that it is possible that the City Council might disagree that the use of eminent domain authority is in the City's best interest. He asked what recourse the City would have if it had entered into a franchise agreement granting eminent domain authority to IPL. Mr. Rosencrants indicated that he understood that point; however, IPL would be able to demonstrate that using that authority was in the City's best interest as well as that of IPL's ratepayers or eminent domain authority would not be used. He also pointed out that IPL is restricted by the Iowa Utilities Board; there are a lot of checks and balances. Mr. Rosencrants assured the Council that IPL would take only the amount of land that it needs; it would be in the form of easements only.

Mr. Doll asked Mr. Rosencrants to elaborate on the two Iowa cases when IPL needed to resort to eminent domain authority. Mr. Rosencrants stated that neither of the property owners were willing to grant easements, and neither case involved new facilities.

After being questioned by Council Member Goodman, City Attorney Marek advised that, when the current franchise agreement was negotiated, there was no provision in the State Code for eminent domain authority to transfer to the franchisee. However, under the current Code, eminent domain rights may be granted under a franchise agreement. Council Member Mahayni pointed out that, in order for eminent domain to be used, there has to be verification of a public purpose and an offering market value. Mr. Marek added that, under the current Franchise Agreement, IPL would have to approach the City Council and request eminent domain authority. Council Member Larson added that all condemnation costs would be borne by IPL in either scenario. Mr. Rosencrants added that IPL would provide justification of serving a public purpose; however, it prefers to have eminent domain authority conveyed via the franchise agreement. Mr. Marek said that if eminent domain would be conveyed on a case-by-case basis, an ordinance would be required each time.

City Manager Schainker advised that the ordinance that will come before the City Council at the July 14 hearing date will contain full eminent domain authority being conveyed to IPL. Mr. Marek also pointed out that the Franchise Agreement does not have to be for 25 years; that is what IPL is being requested, but it could be for a shorter period of time. He advised that if the City Council is not in favor of granting full eminent domain authority, it would not approve the Franchise Agreement and then direct staff to revise the Agreement.

Mr. Rosencrants also addressed the issues of indemnification and relocation. Regarding indemnity, IPL will hold the City harmless if IPL was responsible for causing the incident, was negligent, or failed to prevent the incident. However, IPL has difficulty in assuming liability for acts that it did not create. Pertaining to relocation in the public right-of-way, Mr. Rosencrants said that IPL will relocate its facilities. Firstly, they request relocation, not removal; and secondly, they request that any relocation serve a public purpose.

**ADJOURNMENT:** Moved by Doll, seconded by Goodman, to adjourn the meeting at 9:10 p.m.

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Diane R. Voss, City Clerk

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Riad G. Mahayni, Mayor Pro Tem