

City of Decorah
Municipal Electric Utility Task Force
September 29, 2021 – 10:00 am
Meeting Minutes

Electronic meeting pursuant to Iowa Code section 21.8 – in circumstances where such a meeting is impossible or impractical due to concerns about COVID-19 and social distancing for the safety of commission members and the public.

In support of Iowa Governor Kim Reynolds' proclamation declaring a State of Public Health Disaster Emergency in Iowa, the current COVID-19 situation makes it "impossible and impractical" to meet in one location. Due to this the Decorah City Hall was partially closed to the public for the March 25, 2021 MEU Task Force meeting. Seating was limited to ensure distancing. The public was invited to participate via electronic means.

Members present included: Carly Hayden Foster, Karen McLean, Reg Laursen, Mark Lovelace, Andy Johnson, Larry Grimstad, and Kristine Jepsen.

Others present: Mayor Lorraine Borowski, Council Liaison Steve Zittergruen, Sustainability Commission chair Jim Martin-Schramm. Several other council members and community members were present.


Agenda:

1. Call to order and welcome Iowa Utilities Board Members. (Hayden Foster)
 - a. Opening remarks and introductions by Geri Huser, Richard Lozier, and Josh Byrnes.
2. IUB Members are invited to discuss the role of the IUB in a municipalization process, including (Questions given previous to meeting):
 - a. What does a city need to do before the IUB can consider a case for municipalization?
 - i. Staff attorney provided handout which includes the steps required to establish a new municipal electric utility (attached).
 1. Huser – this is new and not available yet on their website, but it is okay to make available to our community.
 2. Goal was to provide a document and process for parties to come before the IUB.
 - ii. Zittergruen stated that last time the community was put between two significantly different studies, and the results created confusion and division. Task Force has already had two requests of information denied by Alliant, does the IUB have any suggestions acquiring this information?
 1. Huser – We need to be very careful how we respond to any questions. IUB Staff Attorneys can help facilitate, but the City Council must follow guidelines presented.
 2. Lozier – this process is very rare in Iowa. In 2008, we had six municipalities present a case and the IUB determined that they didn't have the where withal to handle a MEU. This process is toughsledding and must be done at the local level.
 3. Hadley – After reviewing the last feasibility studies, data depreciation and loss revenues, could these formulas be inputted into the Iowa Code for consistency?
 4. Hayden Foster – What detail needs to be in the petition?
 - a. Mr. Wright, staff attorney responded – expert witnesses to establish safety, ability to provide service, obtain power, engineering standards, maintain & operate within safety measures. Contested Case Proceeding – Iowa Code 17a.

- b. What factors does the IUB consider when making decisions regarding municipalization?
- i. Neal – Our obstacles is the actual vote puts public dollars vs. private funds. In 2018, the existing provider made things ugly. Can codes of conduct be established? Since they are a monopoly, couldn't the utility be open and honest in the process?
 - 1. Huser – We are not here to answer specifics, not much more can be said that hasn't already be said in the previous docket.
 - ii. Johnson – Task force was asked to update the existing studies or get a new feasibility study, but the data set that goes into these studies need to be more consistent. If and when this process is finished, and there is a vote for a MEU, can you speak to the ways that we can get cost estimates for moving this petition forward? Last time there were threats that this process may cost \$1 million or \$2 million were being thrown out there.
 - 1. Losier – fees and costs involved – not aware in a municipilization case if the incurred costs can be shifted from one party to the other.
 - a. Johnson – are there standard amounts?
 - b. Lozier – they are all over the board.
 - 2. Martin-Schramm – Asked twice previously for data and Alliant rejected. Feasibility studies are as accurate as possibly for the city's voters. High quality information is paramount. The only way is to go through the step of Contested Case Proceedings. This has been rebuffed three times now. 2020 the IUB made statements that the best way is through complaint channels.
 - a. Huser – currently an open docket on this specific issue, therefore we can't respond to these questions or complaints.
 - b. Cecil Wright (staff attorney) – Any time a customer has issue with communication or service, they can always use the informal complaint process. It is then the Boards decision if they want to respond.
 - i. Huser – Currently, we can't respond because of the open docket.

3. Adjourn (Hayden Foster) – 11:00 am

Sincerely,



Mark Lovelace
MEU Task Force member

Sustainability Plan

E.3 ACTION: Establish a Municipal Electric Utility (MEU) task force and commission a MEU Feasibility Study to be completed by fall 2021 (potential update of previous plan).



Iowa Utilities Board

The following steps are required to establish a new municipal electric utility:

1. A city council passes a resolution calling for an election to decide whether to establish a municipal electric utility. *Iowa Code § 388.2(1)(b)*
2. The Mayor or Council gives notice of the election to the existing utility and to the county commissioner of elections at least 60 days before the election. *Iowa Code § 388.2(1)(c)*
3. The election is held and the majority vote determines the result. *Iowa Code § 388.2(2)(a)*
Note: If the measure fails, a new vote cannot occur for 4 years. *Iowa Code § 388.2(2)(b)*
4. If the vote approves establishment of a municipal electric utility, the mayor appoints a utility board. By resolution, the city council provides for staggered terms and sets compensation. *Iowa Code § 388.3*
5. The municipal utility board files a petition with the Iowa Utilities Board (IUB) for a certificate of authority to furnish electricity to customers currently receiving electricity from another utility. *Iowa Code § 476.23(1)*. This petition will be filed in an SPU docket.
6. Notice of the petition is provided by the IUB to the existing utility. *Iowa Code § 476.23(1)*
7. If an objection is filed, the IUB must determine, after notice and an opportunity for hearing, that service to the customers by the new municipal utility is in the public interest, which includes the consideration of any unnecessary duplication of facilities. *Iowa Code § 476.23(1)*

Iowa Code § 476.23(1) states, in part:

Whether or not an objection is filed, any certificate issued shall require that the petitioner pay to the electric utility presently serving the customer, the reasonable price of for facilities serving the customer. This price determination by the board shall include due consideration of the cost of the facilities being acquired; any necessary generating capacity and transmission capacity dedicated to the customer, including, but not limited to, electric power generating facilities and alternate energy production facilities not yet in service but for which the board has issued an order pursuant to section 476.53, and electric power generating facility emissions plan budgets approved by the board pursuant to section 476.6, subsection 19, depreciation; loss of revenue; and the cost of facilities necessary to reintegrate the system of the utility after detaching the portion sold.

Pursuant to *Iowa Code § 476.25*:

It is declared to be in the public interest to encourage the development of coordinated statewide electric service at retail, to eliminate or avoid unnecessary duplication of electric utility facilities, and to promote economical, efficient, and adequate electric service to the public. In order to effect that public interest, the board may establish service areas within which specified electric utilities shall provide electric service to customers on an exclusive basis.

For public interest review by the Board, *City of Sheldon, Iowa v. Iowa Public Service Company* provides the factors used in subsequent Board review. See SPU-88-7, 114 P.U.R.4th 482, 1990 WL 488831 (1990). The Board stated "it has an affirmative duty to determine whether service by a newly-created municipal utility is in the public interest." (In re *City of Everly v. Interstate Power and Light Co., et al.*, SPU-06-5, Final Decision and Order, July 11, 2008; see also *Sheldon*.) This broad review includes all costs, benefits, and other factors, not merely the vote of the municipality's residents. When analyzing a municipalization vote, however, there needs to be a review including the vote margin, the voting turnout, and how the municipality presented information to the voters. (*Everly* at 44.)

- a. Economical. When reviewing the economical service of municipalization, a negative net present value simply means the municipal service may be more expensive than the current service; however, if a municipality shows a non-financial reason for the municipalization, the negative net present value will have lighter weight in the public interest determination.
- b. Efficient service. The Board must determine whether municipalization promotes efficient service. *Sheldon* states that "it is reasonable to assume that economies of scale and scope contribute to efficiency." (*Sheldon* at *15.)
- c. Avoid unnecessary duplication of facilities. The Iowa Code and previous Board decisions routinely reference the unnecessary duplication of facilities.
- d. Adequate and reliable service. Adequate service requires the proposed municipal electric utility to complete due diligence with respect to prospective operations and maintenance plans, and that the proposed municipal electric utility could provide adequate service at reasonable prices. The Board has found that to be within the public interest, the municipality would need to "be able to furnish adequate and reasonable service from the first day of operation." (*Everly* at 44.) Further, the Board stated there needs to be a "reasonable plan ready to implement." (*Id.*)
- e. Due diligence. To find that municipalization is within the public interest, the municipality must show "due diligence on one or more issues important to municipalization, such as operations and maintenance, energy efficiency, and the ability to offer safe and reliable service from day one." (*Id.* at 45.)

In later reviews, the Board has looked at additional factors; however, not all of the factors are dispositive (particularly when the factors are changeable) to being within the public interest. Those additional public interest factors that have been discussed include: (1) Energy Efficiency; (2) Renewable Energy Programs; (3) Regional Transmission Organizations; (4) Economic Development; (5) Consistent Service Throughout the City and Community Control; (6) Preservation of Existing Service Areas and Right to Serve Existing Customers; (7) Natural and Physical Barriers; and (8) Reasonable Price for Facilities. See In re: Independence Light & Power, Telecommunications, Petitioner, v. East-Central Iowa Rural Electric Cooperative, Respondent, Docket No. SPU-08-10, 2010 WL 5144905 (Iowa U.B.) (Dec. 15, 2010).

8. Any certificate of authority granted by the IUB must require the petitioner pay to the existing electric utility the reasonable price for the facilities of the existing utility. The IUB shall determine the reasonable price. *Iowa Code* § 476.23(1).

9. The IUB must also approve the discontinuation of service by the existing utility. *Iowa Code* § 476.20(1)

Do we have three events or categories for community education forums?

1. Forums prior to and after Alliant provides requested information.

Hold public forums in high school auditorium or city hall with the following participants.

City or task force representative opens the forum with a review of the procedure outlined by the IUB.

Attempt to invite and interview city officials, MEU officials, economic development officials and industry representatives from surrounding area MEUs - Rochester, Spring Grove, New Hampton, Osage, Cedar Falls, Guttenberg, Waverly, Pella and Executive Director of MEU Assn. and Winter Park, FL – the most recent MEU with similar circumstances. Should we also attempt to invite and interview Alliant Energy?

Who are the moderators addressing community concerns?

2. Forums after city/Alliant feasibility studies hold public forums to explain studies
3. Forums after the city decides on having a referendum if it decides to hold a referendum.

Presentations should discuss both the Pros and Cons of an MEU