

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

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IN RE:  MARSHALL COUNTY RURAL ELECTRIC COOPERATIVE d/b/a CONSUMERS ENERGY	DOCKET NO. P-841
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**ORDER AMENDING PROCEDURAL ORDER**

(Issued August 29, 2000)

On August 9, 2000, the undersigned issued an order establishing a procedural schedule and setting the hearing for this case. The order stated "Marshall County REC filed a land restoration plan with its petition. The Board will separately consider whether the plan meets the requirements of the statute and Board rules in Docket No. LRP-00-2."

This is incorrect. The Board will not be considering the land restoration plan in a separate docket. The Board's intention is that intrastate pipeline land restoration plans be evaluated as a part of the permit application, and that is the procedure that will be followed in this case.

Board staff has prepared a memo dated August 22, 2000, regarding the land restoration plan. The memo is marked as Appendix B and is attached to this order. Pursuant to Iowa Code § 17A.14(4)(1999), the undersigned proposes to take official notice of the memo and the facts contained therein thus making them a part of the

record of this case. Iowa Code § 17A.12(6)(c)(1999). Any party objecting to the taking of official notice of the memo should file such objection as soon as possible, and at least five days prior to the hearing. The parties will have the opportunity to contest any information contained in the memo in prefiled testimony, if filed after the date of this order, and at the hearing.

**IT IS THEREFORE ORDERED:**

1. The procedural order and notice of hearing issued August 9, 2000 is amended by eliminating the sentence "The Board will separately consider whether the plan meets the requirements of the statute and Board rules in Docket No. LRP-00-2."

2. Marshall County REC's land restoration plan will be evaluated in this case as a part of the permit application. There will be no separate Docket No. LRP-00-2.

3. The administrative law judge proposes to take official notice of the memo attached to this order and marked as Appendix B and of the facts contained therein. Any party objecting to the taking of official notice of the report should file such objection as soon as possible, and must file such objection no later than five days prior to the hearing. Any party desiring to cross-examine the author of the memo concerning the statements contained therein must file a notice of intent to cross-examine no later than September 7, 2000.

4. All other provisions of the procedural order and notice of hearing issued August 9, 2000 remain the same.

**UTILITIES BOARD**

/s/ Amy L. Christensen  
Amy L. Christensen  
Administrative Law Judge

ATTEST:

/s/ Raymond K. Vawter, Jr.  
Executive Secretary

Dated at Des Moines, Iowa, this 29<sup>th</sup> day of August, 2000.

## Appendix B

### IOWA UTILITIES BOARD Safety and Engineering Section

**TO:** Docket No. P-841  
**FROM:** Cynthia Munyon  
**DATE:** August 22, 2000  
**SUBJECT:** Land Restoration Plan

On July 21, 2000, Marshall County Rural Electric Cooperative d/b/a Consumers Energy (Consumers) filed a petition, identified as Docket No. P-841, to construct, operate, and maintain approximately 230 feet of 2-inch diameter steel pipeline and approximately 10.2 miles of 6-inch pipe polyethylene pipeline for the transportation of natural gas in Jasper County to the Harvester development in Marshall County. Consumers filed an agricultural land restoration plan (Plan) pursuant to Iowa Code Supplemental § 479.29(9) (1999) with its petition. Consumers amended its Plan on July 31, 2000.

In its Plan, Consumers states the proposed route of the pipeline primarily utilizes road right-of-way, and it is anticipated that approximately 700 feet of private property (based on measurements taken from Petition Exhibit B) will be impacted by the proposed construction. This 700 feet contains the only agricultural land that would be affected by the project and is the only area for which an agricultural land restoration plan is required or applicable. The private property is on the route of the 6-inch pipeline adjacent to the crossing of Indian Creek. Consumers maintains the pipeline could not remain on public right-of-way at this location due to county plans to rebuild the bridge.

Iowa Code Supplemental § 479.29(9) provides in pertinent part:

Petitioners for a permit for pipeline construction shall file with the petition a written land restoration plan showing how the requirements of this section, and of rules adopted pursuant to this section, will be met. The petitioners shall provide copies of the plan to all landowners of property that will be disturbed by the construction.

On May 19, 2000, the Board issued an order in Docket No. RMU-99-10, In re: Restoration of Agricultural Lands During and After Pipeline Construction, "Order Commencing Rule Making." Those rules have not yet been adopted and are not currently in effect. However, land restoration plans must address the following subject matters set forth in § 479.29(1):

- a. Topsoil separation and replacement.
- b. Temporary and permanent repair to drain tile.
- c. Removal of rocks and debris from the right-of-way.
- d. Restoration of areas of soil compaction.
- e. Restoration of waterways, terraces, and other erosion control structures.
- f. Revegetation of untilled land.
- g. Future installation of drain tile or soil conservation structures.
- h. Restoration of land slope and contour.
- i. Restoration of areas used for field entrances and secondary roads.
- j. Construction in wet conditions.
- k. Designation of a pipeline company point of contact for landowner inquiries or claims.

In its Plan, Consumers states that it will comply with the Board's current rules set forth in 199 IAC Chapter 9. Although soil compaction, revegetation, and restoration of slope and contour are not addressed in Chapter 9, Consumers' Plan adopts provisions compatible with the Board's proposed rules in Docket No. RMU-99-10. Consumers maintain that it does not anticipate the proposed construction will require the use of any temporary roads. However, Consumers contends that any areas used for field entrances will be restored and the land made suitable for return to its previous use. The Plan also includes a contact person for claims or inquiries.

Consumers' Plan appears to adequately address all land restoration issues specified in Iowa Code Supplemental § 479.29(1).

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