

STATE OF IOWA
DEPARTMENT OF COMMERCE

Poweshiek County, to a new Monsanto seed corn drying facility and to individual landowners (if they choose to connect) east of Grinnell, Iowa. (petition for permit; Stursma report; testimony of Mr. Shrimplin)

IES held an informational meeting on the proposed pipeline on January 18, 2001, pursuant to Iowa Code § 479.5 (2001). (Shrimplin testimony; Stursma report; Stursma 1/18/01 memo) At the time of the informational meeting, several routes were under consideration. (Shrimplin testimony; Stursma report) One route was approximately a quarter of a mile north of Highway 6, one route generally followed a gravel road approximately one mile north of Highway 6, and another route followed Highway 6. (Shrimplin testimony; Stursma report)

On February 2, 2001, Ms. Kathryn E. Thompson filed an objection to the proposed pipeline. (Stursma report; Thompson objection) Ms. Thompson's property is adjacent to the most northern route under consideration. (Shrimplin testimony; Stursma report) Because it could not obtain voluntary easements for the more northern routes, IES chose a route in the north road right-of-way along Highway 6 for construction of the pipeline. (Shrimplin testimony; Stursma report) On June 20, 2001, Ms. Thompson filed a conditional withdrawal of her objection that is effective so long as the pipeline is constructed along Highway 6. (Thompson withdrawal) In her withdrawal, Ms. Thompson stated that, should the proposed plan to build the pipeline along Highway 6 fail, her withdrawal is invalid and she expects to be notified of the new route under consideration. (Thompson withdrawal)

On May 2, 2001, the Utilities Board (Board) assigned this case to a presiding officer. A procedural schedule was established by an order issued on May 31, 2001. In that order, the presiding officer set June 28, 2001, as the date for the hearing on the petition. Also in that order, the presiding officer proposed to take official notice of a report and a memo dated May 25, 2001, prepared by Mr. Don Stursma, manager of the Utilities Division's Safety and Engineering Section.

IES caused notice of the hearing to be published in Poweshiek County in the Grinnell Herald-Register, a newspaper of general circulation in the county, on June 7 and June 14, 2001. (affidavit of publication)

IES filed prepared direct testimony of Mr. Micheal E. Shrimplin on June 18, 2001. The Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed a statement in lieu of testimony on June 25, 2001. The Consumer Advocate stated it would not file prepared responsive testimony and did not object to the proposal to take official notice of the Stursma report and memo.

The hearing was held on June 28, 2001. Mr. Micheal Shrimplin, gas distribution engineer for the southwest quadrant of IES' gas properties in Iowa, testified on behalf of IES. (testimony of Mr. Shrimplin) Mr. Don Stursma, manager of the Safety & Engineering section of the Utilities Division, testified on behalf of the Board.

DISCUSSION OF THE EVIDENCE

IES seeks a permit to construct, operate, and maintain a new natural gas pipeline approximately 3.5 miles long in Poweshiek County, Iowa. (petition for permit; testimony of Mr. Shrimplin; Stursma report) The proposed pipeline will provide natural gas service to a new seed corn drying facility owned by Monsanto, and to individual landowners who choose to connect, east of Grinnell in Poweshiek County. (petition for permit; Stursma report; testimony of Mr. Shrimplin)

The proposed pipeline will be an 8-inch diameter steel line. (petition Exhibit C; Stursma memo) It will follow a route along Highway 6 and on Monsanto property as described in Exhibit A attached to the petition for a permit (as amended). (petition for permit Exhibit A)

IES proposed to build the pipeline with a maximum allowable operating pressure (MAOP) of 250 psig. (petition Exhibit C; testimony of Mr. Shrimplin; Stursma report) However, Iowa Department of Transportation (IDOT) rule 761 IAC 115.25(1)"a" requires that since the proposed pipeline will be constructed longitudinally along the right-of-way of Highway 6, it must have an actual operating pressure of 150 pounds per square inch or less. IES is not planning to request a variance or waiver of this rule from the IDOT. (testimony of Mr. Shrimplin) IES has no objection to a restriction in the permit that states IES could operate the pipeline at no greater than 150 psig. (testimony of Mr. Shrimplin) The permit will contain this restriction.

IES is obligated to design, construct, operate and maintain this pipeline in accordance with the standards adopted by reference at 199 IAC § 10.12(1), which include the federal natural gas pipeline safety standards found in 49 C.F.R. Part 192. Mr. Don Stursma, manager of the Safety & Engineering section, inspected the proposed pipeline route on January 18, 2001, and May 25, 2001, pursuant to Iowa Code § 479.11 (2001). (Stursma memo and report) Mr. Stursma reviewed IES' petition and exhibits. (Stursma report) He concluded that IES should address a number of questions in testimony. (Stursma report)

At the hearing, Mr. Stursma testified that after hearing IES's testimony, and realizing that the 150 psig actual operating pressure restriction issue was resolved, he had no remaining questions or concerns. (testimony of Mr. Stursma)

The pipeline meets all design, construction, and testing requirements. (petition for permit; Stursma report; testimony of Mr. Stursma and Mr. Shrimplin) IES will obtain all required permits and necessary easements. (petition for permit; testimony of Mr. Shrimplin; Stursma report) Other than the objection filed and conditionally withdrawn by Ms. Thompson, no objections or complaints have been filed by any landowners regarding the petition for permit. (petition for permit; testimony of Mr. Shrimplin and Mr. Stursma; Thompson objection and withdrawal)

IES owns non-pipeline property within the state subject to execution of a reasonable value in excess of \$250,000. (petition for permit Exhibit D)

IES filed a land restoration plan with its permit application. (petition Exhibit F Attachment 1, agricultural land restoration plan; Stursma report) At the current time,

IES does not intend to construct the pipeline on agricultural land, so there is no current requirement that a land restoration plan be filed. However, IES filed the plan in case construction problems necessitate a deviation of the route onto adjacent agricultural land. (testimony of Mr. Shrimplin) The land restoration plan filed by IES adequately addresses the land restoration issues specified in the land restoration statute and board rules. (petition Exhibit F Attachment 1, agricultural land restoration plan; Stursma report)

ANALYSIS

Iowa Code §§ 479.12 and 479.26 (2001) apply to all petitions for pipeline permits. Section 479.12 provides that:

The board may grant a permit in whole or in part upon terms, conditions, and restrictions as to safety requirements and as to location and route as determined by it to be just and proper. Before a permit is granted to a pipeline company, the board, after a public hearing as provided in this chapter, shall determine whether the services proposed to be rendered will promote the public convenience and necessity, and an affirmative finding to that effect is a condition precedent to the granting of a permit.

Iowa Code § 479.12 (2001). Section 479.26 requires any applicant for a pipeline permit to establish that it has property subject to execution within Iowa, other than pipelines, of a value greater than \$250,000, or it must file and maintain a surety bond of the same amount. The applicant may satisfy this requirement in any of several prescribed ways. Iowa Code § 479.26 (2001); 199 IAC §10.2(1)"d."

Together, these statutes generate four issues: (1) whether the services the petitioner proposes to render will promote the public convenience and necessity; (2)

whether it is just and proper to impose terms, conditions, and restrictions involving safety requirements upon the permit; (3) whether it is just and proper to impose terms, conditions, and restrictions as to location and route of the pipeline upon the permit; and (4) whether the petitioner has presented adequate proof of satisfactory financial condition. These issues will be addressed in turn.

First, the evidence shows that this pipeline is necessary to provide natural gas service to a new Monsanto seed corn drying facility in Poweshiek County, Iowa. (petition for permit; Stursma report; testimony of Mr. Shrimplin) If the natural gas pipeline were not built, Monsanto would have to use an alternate fuel source. (testimony of Mr. Shrimplin) Natural gas has fewer emissions and less negative impact on air quality than other available alternatives, and would be piped in rather than trucked in. (testimony of Mr. Shrimplin) The proposed pipeline also provides the option of natural gas service to landowners along the route. (testimony of Mr. Shrimplin; petition for permit) Therefore, the service promotes the public convenience and necessity. (petition for permit; Stursma report; testimony of Mr. Shrimplin)

Second, the evidence shows the pipeline will comply with the construction, safety and design requirements of Iowa Code Chapter 479 (2001), 199 IAC 10.12, and 49 C.F.R. Part 192. (petition for permit; testimony of Mr. Stursma and Mr. Shrimplin; Stursma report) The pipeline must have an actual operating pressure of 150 psig or less pursuant to Iowa Department of Transportation (IDOT) rule 761 IAC 115.25(1)"a." Other than the 150 psig actual operating pressure limit, there

is no reason to impose additional safety-related terms, conditions, and restrictions upon the permit. (petition for permit; testimony of Mr. Stursma and Mr. Shrimplin; Stursma report)

The third issue is whether terms, conditions, or restrictions as to location and route should be imposed. Iowa Code § 479.12 (2001). The evidence shows the location and route as proposed are reasonable and there is no reason the location or route of the pipeline should be changed, or that terms, conditions, and restrictions regarding the location or route should be added to the permit. (petition for permit; Stursma report; testimony of Mr. Shrimplin and Mr. Stursma; Thompson withdrawal)

Finally, in accordance with Iowa Code § 479.26, IES has satisfactorily demonstrated that it has property subject to execution within this state, other than pipelines, of a value in excess of \$250,000. (petition Exhibit D)

Iowa Code § 479.29(9) (2001) provides that:

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 requirements of § 479.29 apply to pipeline construction projects commenced on or after June 1, 1999. Iowa Code § 479.29(12) (2001). The Board has adopted land restoration rules pursuant to Iowa Code § 479.29(1) (2001) at 199 IAC Chapter 9.

The land restoration statute and rules only apply to pipeline construction on agricultural land. Iowa Code § 479.29(1) (2001); 199 IAC 9.1. IES' proposed route does not include construction on agricultural land. (petition for permit; testimony of

Mr. Shrimplin) Therefore, the land restoration statute and rules do not apply, and IES was not required to submit a land restoration plan. However, IES voluntarily submitted a plan in case construction of the pipeline deviates from the proposed route onto adjacent agricultural land, and asks the Board to approve the plan.

(petition Exhibit F Attachment 1, agricultural land restoration plan; testimony of Mr. Shrimplin)

In order to be approved, IES' land restoration plan must comply with the requirements of Iowa Code § 479.29 (2001) and 199 IAC Chapter 9. The land restoration plan filed by IES adequately addresses the land restoration issues contained in Iowa Code § 479.29 (2001) and 199 IAC Chapter 9. (petition Exhibit F Attachment 1, agricultural land restoration plan; testimony of Mr. Shrimplin; Stursma memo) IES will provide a copy of its land restoration plan to all landowners of property that will be disturbed by construction of the pipeline as required by Iowa Code § 479.29(9) (2001). (testimony of Mr. Shrimplin)

Since the pipeline will be constructed longitudinally along Highway 6, IES must obtain a permit from the IDOT. 199 IAC 10.2(1)"e." IES has not yet obtained such a permit, but expects to receive it on June 29, 2001. (testimony of Mr. Shrimplin)

FINDINGS OF FACT

1. IES is a pipeline company within the meaning of Iowa Code § 479.2 (2001). (testimony of Mr. Shrimplin; petition for permit)

2. On March 27, 2001, IES filed a petition for a permit to construct, operate, and maintain approximately 3.5 miles of 8-inch diameter steel pipeline for

the transportation of natural gas in Poweshiek County, Iowa. (petition for permit; testimony of Mr. Shrimplin; Stursma report) IES amended its petition on April 20, 2001. (petition for permit) IES filed a land restoration plan with its petition. (petition Exhibit F Attachment 1, land restoration plan; Stursma report; testimony of Mr. Shrimplin)

3. IES caused notice of the hearing to be published in Poweshiek County in the Grinnell Herald-Register, a newspaper of general circulation in the county, on June 7 and June 14, 2001. (affidavit of publication) IES filed proof of payment of the costs of publication of these notices as required by Iowa Code § 479.13 (2001) and 199 IAC 10.4. (affidavit of publication, proof of payment)

4. This pipeline is necessary to provide natural gas service to a new Monsanto seed corn drying facility in Poweshiek County, Iowa. (petition for permit; Stursma report; testimony of Mr. Shrimplin) If the natural gas pipeline were not built, Monsanto would have to use an alternate fuel source. (testimony of Mr. Shrimplin) Natural gas has fewer emissions and less negative impact on air quality than other available alternatives, and would be piped in rather than trucked in. (testimony of Mr. Shrimplin) The proposed pipeline also provides the option of natural gas service to landowners along the route. (testimony of Mr. Shrimplin; petition for permit) Therefore, the service promotes the public convenience and necessity as required by Iowa Code § 479.12 (2001). (petition for permit; Stursma report; testimony of Mr. Shrimplin)

5. The pipeline will comply with the construction, safety, and design requirements of Iowa Code Chapter 479 (2001), 199 IAC 10.12, and 49 C.F.R. Part 192. (petition for permit; testimony of Mr. Stursma and Mr. Shrimplin; Stursma report) IES will obtain the required permit from the IDOT within the near future, and prior to beginning construction. (testimony of Mr. Shrimplin) The pipeline must have an actual operating pressure of 150 psig or less pursuant to Iowa Department of Transportation (IDOT) rule 761 IAC 115.25(1)"a." Other than the 150 psig actual operating pressure limit, there is no reason to impose additional safety-related terms, conditions, and restrictions upon the permit. (testimony of Mr. Stursma and Mr. Shrimplin; petition for permit; Stursma report)

6. An objection to the petition for a permit was filed by Ms. Kathryn Thompson on February 2, 2001. (Thompson objection; testimony of Mr. Stursma and Mr. Shrimplin) On June 20, 2001, Ms. Thompson filed a conditional withdrawal of her objection that is effective so long as the pipeline is constructed along Highway 6 as proposed. (Thompson withdrawal) In her withdrawal, Ms. Thompson stated that, should the proposed plan to build the pipeline along Highway 6 fail, her withdrawal is invalid and she expects to be notified of the new route under consideration. (Thompson withdrawal)

7. The location and route of the proposed pipeline is reasonable, does not need to be changed, and no further terms, conditions, or restrictions need to be imposed pursuant to Iowa Code § 479.12 (2001). (petition for permit; Stursma report and memo)

8. IES has property subject to execution within this state, other than pipelines, of a value in excess of \$250,000, as required by Iowa Code § 479.26 (2001) and 199 IAC 10.2(1)"d." (petition Exhibit D)

9. The land restoration plan filed by IES adequately addresses the land restoration issues contained in Iowa Code § 479.29 (2001) and 199 IAC Chapter 9. (petition Exhibit F Attachment 1, agricultural land restoration plan; testimony of Mr. Shrimplin; Stursma memo) IES will provide a copy of its land restoration plan to all landowners of property that will be disturbed by construction of the pipeline as required by Iowa Code § 479.29(9) (2001) and 199 IAC 9.3(3). (petition Exhibit F Attachment 1, agricultural land restoration plan)

CONCLUSIONS OF LAW

1. The Board has the authority to grant, amend, and renew permits for the construction, operation, and maintenance of pipelines for the intrastate transportation of natural gas. Iowa Code §§ 479.1, 479.4, 479.12 and 479.18 (2001); 199 IAC 10.7.

2. The Board has jurisdiction over IES, and over the petition for a natural gas pipeline permit it has filed. Iowa Code §§ 479.2, 479.5, 479.6, 479.12 and 479.18 (2001).

3. The petition of IES for issuance of a permit for the natural gas pipeline in Docket No. P-843 should be granted. Iowa Code §§ 479.11, 479.12, 479.26, and 479.29 (2001); 199 IAC Chapters 9 and 10. The permit must contain a restriction that IES will operate the pipeline at no greater than 150 psig. 761 IAC 115.25(1).

IT IS THEREFORE ORDERED:

1. Official notice is taken of the report and memo dated May 25, 2001, filed in this docket by Mr. Don Stursma, manager of the Safety & Engineering Section.
2. Pursuant to Iowa Code Chapter 479 (2001), the petition for a pipeline permit filed by IES in this docket is granted. A permit will be issued if this proposed decision and order becomes the final order of the Board. The permit will contain a restriction that IES may operate the pipeline at no greater than 150 psig.
3. If it constructs any part of the pipeline on agricultural land, IES must comply with the land restoration plan it filed with the petition (as amended) and the provisions of Iowa Code § 479.29 (2001) and 199 IAC Chapter 9.
4. IES must provide timely notice to the Utilities Board before beginning construction of the pipeline, and must also file weekly progress reports during construction of the pipeline with the Utilities Board.
5. After IES completes construction of the new pipeline, it must file a construction completion report with the Utilities Board. This report must include information regarding any unusual construction problems or occurrences, and a copy of the pressure test procedures used and the results obtained.
6. Within 180 days after completion of the construction of the new pipeline, IES must file a map that accurately shows the location of the pipeline route as constructed. The map will be a part of the record in this case, and will serve as the route description in the permit granted in this proceeding.

7. The Utilities Board retains jurisdiction of the subject matter in this docket.

8. Ordinarily, this proposed decision would become the final decision of the Board unless appealed to the Board within fifteen days of its issuance. Iowa Code § 17A.15(3) (2001); 199 IAC § 7.8(2). However, under appropriate circumstances, it is possible to reduce the time for appeal. 199 IAC 1.3, 7.8(2); Iowa Code §17A.15(3) (2001). IES would prefer a reduced appeal period. The only objection to this petition was conditionally withdrawn, so long as the pipeline is constructed as proposed along Highway 6. The Consumer Advocate does not object to a reduced appeal period. There are no unresolved issues that indicate a need for the 15-day appeal period. Therefore, this proposed decision will become the final decision of the Board unless appealed to the Board within five (5) days of its issuance.

UTILITIES BOARD

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

ATTEST:

/s/ Judi K. Cooper
Acting Executive Secretary

Dated at Des Moines, Iowa, this 29th day of June, 2001.