

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: ATMOS ENERGY CORPORATION	DOCKET NO. P-851
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PROPOSED DECISION AND ORDER GRANTING PERMIT

(Issued May 5, 2003)

APPEARANCES:

MR. ROBERT F. HOLZ, JR., Attorney at Law, Davis, Brown, Koehn, Shors & Roberts, P.C., The Financial Center, 666 Walnut Street, Suite 2500, Des Moines, Iowa 50309-3993, appearing on behalf of Atmos Energy Corporation.

MR. CRAIG GRAZIANO, Attorney at Law, 310 Maple Street, Des Moines, Iowa 50319, appearing on behalf of the Iowa Department of Justice, Office of Consumer Advocate.

MS. SHEILA K. TIPTON, Attorney at Law, Dorsey & Whitney, L.L.P., 801 Grand, Suite 3900, Des Moines, Iowa 50309, appearing on behalf of Roquette America, Inc.

STATEMENT OF THE CASE

On January 10, 2003, Atmos Energy Corporation (Atmos) filed a petition and exhibits for a permit to construct, operate, and maintain an approximately 16.35 mile 10-inch diameter steel pipeline for the transportation of natural gas in Lee County, Iowa. (petition for permit; testimony of Mr. Lindsey, Mr. Napier, Mr. Dunek; Stursma report). Atmos amended its petition on February 10, February 25, March 4, and

April 8, 2003. (petition for permit). Atmos filed a land restoration plan with its petition and amended the plan on February 10, 2003. (land restoration plan; testimony of Mr. Napier; Stursma report). The proposed pipeline will transport natural gas to a proposed cogeneration facility of Roquette America, Inc. (Roquette) in Keokuk, Iowa. (petition for permit; Stursma report; testimony of Mr. Lindsey, Mr. Napier, Mr. Dunek). The parties refer to the proposed pipeline as the Roquette-America Lateral or the Roquette Lateral. (petition for permit; testimony of Mr. Lindsey, Mr. Napier, Mr. Dunek).

On March 11, 2003, Roquette filed an appearance and intervention, and an alternative petition for intervention.

On March 18, 2003, the Utilities Board (Board) assigned this case to a presiding officer and granted the petition for intervention. A procedural schedule was established by an order issued on March 24, 2003. In that order, the undersigned presiding officer set May 1, 2003, as the date for the hearing on the petition, and proposed to take official notice of a March 10, 2003, report concerning the pipeline prepared by Mr. Don Stursma, manager of the Utilities Division's Safety and Engineering Section.

Atmos filed prepared direct testimony of Mr. Earnest B. Napier and Mr. Dan L. Lindsey, and Exhibits 1 and 2, on April 8, 2003. Roquette filed prepared direct testimony of Mr. Bruce Dunek on April 8, 2003. Atmos filed additional attachments to Exhibit 1 on April 28, 2003.

The hearing was held on May 1, 2003, in the Steamboat Room at the Holiday Inn Express, 4th and Main, Keokuk, Iowa. The Consumer Advocate Division of the Department of Justice (Consumer Advocate) was connected to the hearing by telephone conference call. Mr. Lindsey and Mr. Napier, engineers for Atmos, testified on behalf of Atmos. Mr. Bruce Dunek, engineer for Roquette, testified on behalf of Roquette. Mr. Don Stursma testified on behalf of the Board.

FINDINGS OF FACT

1. Atmos is a pipeline company within the meaning of Iowa Code § 479.2 (2003). (testimony of Mr. Napier, Mr. Lindsey).
2. On January 10, 2003, Atmos Energy Corporation (Atmos) filed a petition and exhibits for a permit to construct, operate, and maintain an approximately 16.35 mile 10-inch diameter steel pipeline for the transportation of natural gas in Lee County, Iowa. (petition for permit; testimony of Mr. Lindsey, Mr. Napier, Mr. Dunek; Stursma report). Atmos amended its petition on February 10, February 25, March 4, and April 8, 2003. (petition for permit). Atmos filed a land restoration plan with its petition and amended the plan on February 10, 2003. (land restoration plan; testimony of Mr. Napier; Stursma report). The proposed pipeline will transport natural gas to a proposed cogeneration facility of Roquette in Keokuk, Iowa. (petition for permit; Stursma report; testimony of Mr. Lindsey, Mr. Napier, Mr. Dunek). The proposed pipeline will have a maximum allowable operating pressure of 1350 psig. (petition for permit; Stursma report; testimony of Mr. Napier; Exhibit 3).

3. The proposed pipeline will follow a route described in Exhibit A and shown on Exhibit B attached to the petition for a permit (as amended). (petition Exhibits A and B; testimony of Mr. Napier). It will begin at an existing metering station on the ANR pipeline in Ft. Madison, Iowa, run in a generally southerly direction to Keokuk, Iowa, turn generally easterly, and terminate at the Roquette plant property in Keokuk, Lee County, Iowa. (petition for permit; Stursma report; testimony of Mr. Napier). The proposed pipeline will transport natural gas to the proposed Roquette cogeneration facility. (petition for permit; Stursma report; testimony of Mr. Napier, Mr. Lindsey, Mr. Dunek).

4. Atmos caused notice of the hearing to be published in Lee County in the Daily Gate City, a newspaper of general circulation in the county, on April 8 and 14, 2003. (proof of publication). Atmos filed proof of payment of the costs of publication of these notices as required by Iowa Code § 479.13 and 199 IAC § 10.4. (proof of publication).

5. This pipeline is necessary to transport natural gas to the proposed Roquette cogeneration facility in Keokuk, Lee County, Iowa. (petition for permit; Stursma report; testimony of Mr. Napier, Mr. Lindsey, Mr. Dunek). The Roquette cogeneration facility will allow Roquette to expand its production and thereby add to the economy of Keokuk and the State of Iowa. (testimony of Mr. Dunek). Atmos' existing system is inadequate to serve Roquette's increased natural gas load and pressure requirements. (testimony of Mr. Napier). Construction of the proposed

pipeline is necessary if Atmos is to transport natural gas to the plant. (testimony of Mr. Napier). Atmos needs to be an economic transporter of natural gas to Roquette, or Roquette would seek to purchase and transport gas directly, thus bypassing Atmos and substantially harming Atmos' Iowa ratepayers. (testimony of Mr. Napier). The proposed pipeline will serve the needs of Roquette as a customer and enhance the gas distribution capacity in this developing area of Keokuk, thus promoting the economic development of Keokuk. (testimony of Mr. Napier). Therefore, the proposed pipeline promotes the public convenience and necessity as required by Iowa Code § 479.12. (petition for permit; Stursma report; testimony of Mr. Napier, Mr. Lindsey, Mr. Dunek).

6. The proposed pipeline will comply with the design, construction, and safety requirements of Iowa Code Chapter 479, 199 IAC § 10.12, and 49 C.F.R. Part 192. (petition for permit; Stursma report; testimony of Mr. Napier, Mr. Stursma). No further safety-related terms, conditions, or restrictions need to be imposed pursuant to Iowa Code § 479.12. (petition for permit; Stursma report; testimony of Mr. Napier, Mr. Stursma).

7. The location and route of the proposed pipeline are reasonable and no further terms, conditions, or restrictions regarding them need to be imposed pursuant to Iowa Code § 479.12. (petition for permit; Stursma report; testimony of Mr. Napier, Mr. Stursma).

8. Atmos 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 and 199 IAC § 10.2(1)"d." (testimony of Mr. Napier; petition exhibit D).

9. No written objections to the petition for a permit were filed and no objectors appeared at the hearing. (testimony of Mr. Stursma; Docket P-851 file).

10. Atmos has obtained all required easements, waivers, and consents it needs for the proposed pipeline, except those related to the railroad crossings. (petition for permit; Stursma report; testimony of Mr. Napier, Mr. Lindsey). Atmos has agreed in principle regarding terms for the railroad crossings with the Keokuk Junction Railway and expects to finalize the agreement in the near future. (testimony of Mr. Lindsey; Exhibit 2). Atmos sought the consent of the Burlington Northern and Santa Fe Railway Company for necessary crossings, did not obtain consent, and is proceeding in accordance with the provisions of Iowa Code § 476.27. (petition for permit; testimony of Mr. Napier, Mr. Lindsey).

11. Atmos filed an amended land restoration plan that adequately addresses all land restoration issues contained in Iowa Code § 479.29 and 199 IAC 9. (land restoration plan; Stursma report).

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, 479.18, and 479.29; 199 IAC Chapters 9 and 10.

2. The Board has jurisdiction over Atmos and over the petition for a natural gas pipeline permit it has filed. Iowa Code §§ 479.2, 479.5, 479.6, 479.12, 479.18, and 479.29.

3. The petition of Atmos for issuance of a permit for the natural gas pipeline in Docket No. P-851 should be granted. Iowa Code §§ 476.27, 479.11, 479.12, 479.26, and 479.29; 199 IAC Chapters 9 and 10.

4. The fact that Atmos has not finalized its arrangements with respect to the railroad crossings does not prevent the Board from issuing the pipeline permit, particularly when the railroads did not file an objection in this proceeding. Iowa Code § 476.27 and Chapter 479; 199 IAC 10.

IT IS THEREFORE ORDERED:

1. Official notice is taken of the report dated March 10, 2003, filed in this docket by Mr. Don Stursma, manager of the Utilities Division's Safety & Engineering Section.

2. The petition for a pipeline permit filed by Atmos in this docket is granted. A permit will be issued if this proposed decision and order becomes the final order of the Board.

3. Atmos must comply with the land restoration plan it filed with the petition (as amended) and the provisions of Iowa Code § 479.29 and 199 IAC 9.

4. Atmos must provide timely notice to the Board before beginning construction of the pipeline, and must also file weekly progress reports during construction of the pipeline.

5. After Atmos completes construction of the new pipeline, it must file a construction completion report with the 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, Atmos 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 represent the final route as authorized by the permit

7. The 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 15 days of its issuance. Iowa Code § 17A.15(3); 199 IAC § 7.8(2). However, under appropriate circumstances, it is possible to reduce the time for appeal. Iowa Code § 17A.15(3); 199 IAC 1.3, 7.8(2). Atmos has requested expedited treatment of this case so it can proceed with construction. No objections to this petition were filed. 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

DOCKET NO. P-851
PAGE 9

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
Executive Secretary

Dated at Des Moines, Iowa, this 5th day of May, 2003.