

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: CONSUMERS ENERGY COOPERATIVE	DOCKET NO. P-858
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PROPOSED DECISION AND ORDER GRANTING PERMIT

(Issued September 8, 2004)

APPEARANCES:

MR. DENNIS L. PUCKETT, Attorney at Law, Sullivan & Ward, P.C., 801 Grand Avenue, Suite 3500, Des Moines, Iowa 50309, appearing on behalf of Consumers Energy Cooperative.

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

STATEMENT OF THE CASE

On May 19, 2004, Consumers Energy Cooperative (Consumers Energy) filed a petition and exhibits for a permit to construct, operate, and maintain a 6-inch diameter transmission pipeline approximately 2.33 miles long for the transportation of natural gas in Hardin County, Iowa. (petition for permit; testimony of Mr. Kidd; O'Neal report). Consumers Energy amended its petition on July 13 and 28, and on August 2 and 19, 2004. (petition for permit). The proposed pipeline will provide natural gas to the Pine Lake Ethanol Plant south of Ackley, Iowa. (petition for permit; O'Neal report; testimony of Mr. Kidd).

On August 12, 2004, the Utilities Board (Board) assigned this case to the undersigned administrative law judge, who issued an order establishing a procedural schedule, proposing to take official notice, and providing notice of the hearing on August 12, 2004. In that order, the undersigned set September 7, 2004, as the date for the hearing on the petition, and proposed to take official notice of a report concerning the proposed pipeline prepared by Mr. Jeffrey O'Neal, regulatory engineer for the Board's Safety and Engineering Section dated August 3, 2004.

Consumers Energy filed prepared direct testimony of Mr. Jim Kidd with Exhibits JK-1 and JK-2, and prepared direct testimony of Mr. Rudy Parcel with Exhibits RP-1 and RP-2, on August 19, 2004.

The hearing was held on September 7, 2004, in Board Conference Room 3, 350 Maple Street, Des Moines, Iowa. Consumers Energy was represented by its attorney, Mr. Dennis Puckett. Mr. Jim Kidd, manager of Energy Services for Consumers Energy, and Mr. Rudy Parcel, Gas Services Coordinator for the Iowa Association of Municipal Utilities (IAMU), testified on behalf of Consumers Energy. (testimony of Mr. Kidd, Mr. Parcel). All representatives of Consumers Energy were connected to the hearing by telephone conference call. The Consumer Advocate Division of the Department of Justice (Consumer Advocate) was represented by its attorney, Mr. John Dwyer. Mr. Jeffrey O'Neal testified on behalf of the Board.

FINDINGS OF FACT

1. Consumers Energy is a pipeline company within the meaning of Iowa Code § 479.2 (2003). (testimony of Mr. Kidd).
2. On May 19, 2004, Consumers Energy filed a petition and exhibits for a permit to construct, operate, and maintain approximately 2.33 miles of 6-inch diameter transmission pipeline for the transportation of natural gas in Hardin County, Iowa. (petition for permit; testimony of Mr. Kidd, Mr. Parcel; O'Neal report). Consumers Energy amended its petition on July 13 and 28, and August 2 and 19, 2004. (petition for permit). The proposed pipeline will have a maximum allowable operating pressure of 700 psig. (petition for permit; testimony of Mr. Parcel; O'Neal report).
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). It will begin at a proposed tap off the existing Northern Border Pipeline, then run in a westerly direction to the Pine Lake Ethanol Plant. (petition for permit; O'Neal report; testimony of Mr. Kidd). The proposed pipeline will provide natural gas to the Pine Lake Ethanol Plant. (petition for permit; O'Neal report; testimony of Mr. Kidd).
4. Consumers Energy caused notice of the hearing to be published in Hardin County in the Times Citizen, a newspaper of general circulation in the county, on August 21 and 28, 2004. (proof of publication).

5. This pipeline is necessary to provide natural gas to the Pine Lake Ethanol Plant south of Ackley in Hardin County, Iowa. (petition for permit; O'Neal report; testimony of Mr. Kidd). Natural gas is clean burning and generally less expensive than fuel oil on an energy content basis. (testimony of Mr. Kidd). This will result in badly needed economic development in the area with little or no adverse environmental impact. (testimony of Mr. Kidd; Exhibit JK-2). Therefore, the proposed pipeline will promote the public convenience and necessity as required by Iowa Code § 479.12. (petition for permit; testimony of Mr. Kidd; Exhibit JK-2; O'Neal report).

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; testimony of Mr. Kidd, Mr. Parcel, Mr. O'Neal; O'Neal report). No further safety-related terms, conditions, or restrictions need to be imposed pursuant to Iowa Code § 479.12. (petition for permit; testimony of Mr. Kidd, Mr. Parcel, Mr. O'Neal; O'Neal report).

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; O'Neal report; testimony of Mr. Kidd).

8. Consumers Energy owns 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." (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. O'Neal; Docket P-858 file).

10. Consumers Energy has obtained all necessary easements except one and is not requesting the right of eminent domain. (petition for permit; testimony of Mr. Kidd). Consumers Energy expects to obtain the final necessary easement in the near future, and will file notice with the Board once the easement is obtained. (testimony of Mr. Kidd).

11. Consumers Energy filed a land restoration plan that adequately addresses the requirements in Iowa Code § 479.29 and 199 IAC 9. (petition for permit; O'Neal report; testimony of Mr. Kidd).

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 9 and 10.

2. The Board has jurisdiction over Consumers Energy 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 Consumers Energy for issuance of a permit for the natural gas pipeline in this docket should be granted. Iowa Code §§ 479.11, 479.12, 479.26 and 479.29; 199 IAC 9 and 10.

IT IS THEREFORE ORDERED:

1. Official notice is taken of the report dated August 3, 2004, filed in this docket by Mr. Jeffrey O'Neal, regulatory engineer for the Board.
2. Pursuant to Iowa Code Chapter 479, the petition for a pipeline permit filed by Consumers Energy in this docket is granted. A permit will be issued if this proposed decision and order becomes the final order of the Board.
3. Consumers Energy must file notice with the Board once it has obtained its last necessary easement.
4. Consumers Energy 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 with the Board.
5. After Consumers Energy 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, Consumers Energy 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). Consumers Energy 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 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 8th day of September, 2004.