

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

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| IN RE: IOWA ELECTRIC LIGHT AND POWER COMPANY n/k/a INTERSTATE POWER AND LIGHT COMPANY | DOCKET NO. P-517 |
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**ORDER ESTABLISHING PROCEDURAL SCHEDULE AND PROPOSING TO
TAKE OFFICIAL NOTICE AND NOTICE OF HEARING**

(Issued March 30, 2006)

On October 17, 2005, Interstate Power and Light Company (IPL) filed a petition and exhibits for an amendment to pipeline Permit No. 531 for an existing 0.29 miles of 2-inch diameter natural gas pipeline in Cedar County, Iowa. The predecessor agency of the Utilities Board (Board) issued Permanent Permit No. 531 in 1962 for 27.1 miles of 6-inch and 2-inch diameter pipeline, called the Conesville-West Branch Lateral, for the transportation of natural gas in Cedar, Johnson, and Muscatine Counties, Iowa. On July 27, 1988, the Board issued Pipeline Renewal Permit No. R1061 for the pipeline, which the Board called the West Branch Lateral. The renewal permit had an expiration date of September 6, 2012. In 2004, without first obtaining a permit, IPL constructed 0.29 miles of 2-inch pipeline extending east from the existing pipeline to transport gas from the existing pipeline to a new regulator station on the south side of West Branch, Cedar County, Iowa. The petition for amendment at issue in this case is for this existing 0.29-mile pipeline. The

pipeline is a transmission line. 199 IAC 10.16; 49 CFR 192.3. The record supports a maximum allowable operating pressure of 720 pounds per square inch gauge (psig). However, the pipeline operates at a common pressure with the remainder of the West Branch Lateral, which has a maximum allowable operating pressure of 712 psig. IPL filed amendments to its petition and exhibits and provided additional information on January 9, February 7, and March 9, 2006.

On March 28, 2006, the Utilities Board (Board) assigned this proceeding to the undersigned administrative law judge to establish a procedural schedule and exercise the authority provided in 199 IAC 7.3.

THE BOARD'S AUTHORITY AND JURISDICTION

The Board has the authority to grant permits and amendments to permits for pipelines in whole or in part upon terms, conditions, and restrictions as to safety requirements, and as to location and route, as it determines to be just and proper. Iowa Code §§ 479.12 and 479.18 (2005).

To obtain the amendment to Permit No. 531, the petitioner must show that the services it renders will promote the public convenience and necessity. Iowa Code § 479.12. The petitioner must also satisfy the financial requirements of Iowa Code § 479.26.

THE ISSUES

Pursuant to Iowa Code §§ 479.7 and 479.8 and 199 IAC 10.6 and 10.9, this matter will be set for a public hearing for the presentation of oral and documentary evidence and the cross-examination of witnesses concerning the public convenience and necessity issue, any safety issues, any pipeline location and route issues, the financial issue, and issues raised by objectors or any other party. This pipeline was constructed without a permit and the issues include whether a civil penalty should be imposed and, if so, the amount of the penalty. The conduct of this case is governed by Iowa Code Chapters 17A and 479, and by Board rules at 199 IAC 9 and 10.

PREPARED TESTIMONY AND EXHIBITS

All parties will be given the opportunity to present and respond to evidence and argument on all issues and to be represented by counsel at their own expense. Iowa Code § 17A.12(4). The proposed decision and order that the administrative law judge will issue in this case must be based on evidence contained in the record and on matters officially noticed in the record. Iowa Code § 17A.12(8). Unless contrary arrangements are made on the record at the hearing, all evidence will be received at the hearing, and the record will be closed to any further evidence at the conclusion of the hearing.

The submission of prepared evidence prior to hearing will help to identify disputed issues of fact to be addressed at the hearing. Prepared testimony contains all statements that a witness intends to give under oath at the hearing, set forth in

question and answer form. When a witness who has submitted prepared testimony takes the stand, the witness does not ordinarily repeat the written testimony or give a substantial amount of new testimony. Instead, the witness is cross-examined by the other parties concerning the statements already made in writing. The use of prepared testimony prevents surprise at the hearing and helps each party to prepare adequately for the hearing, so that a full and true disclosure of the facts can be obtained. Iowa Code §§ 17A.14(1), 17A.14(3) and 479.11. This procedure also tends to diminish the length of the hearing, and spares the parties the expense and inconvenience of additional hearings.

IPL must submit prepared testimony and exhibits prior to the hearing. At a minimum, IPL's prepared testimony must address the issues listed above. In addition, in its prepared testimony, IPL must clarify what maximum allowable operating pressure it is requesting and the basis for the request. IPL must also address why the pipeline was constructed in 2004 without first obtaining a permit from the Board. IPL must provide testimony regarding actions it has taken to ensure that it does not construct pipelines without first obtaining a permit from the Board. In prepared testimony or an affidavit of a corporate officer, IPL must verify that at least \$250,000 worth of the property shown in petition Exhibit D, other than pipelines, is located in Iowa and subject to execution. Iowa Code § 479.26. In either prepared testimony or a prehearing brief, IPL must state its position regarding whether the Board should impose a civil penalty pursuant to Iowa Code § 479.31 for the failure to

obtain a permit. IPL should address the factors in § 479.31 when discussing whether a civil penalty is appropriate.

The Consumer Advocate Division of the Department of Justice (Consumer Advocate), and any objectors may also file prepared testimony and exhibits before the hearing in accordance with the procedural schedule.

Parties other than IPL who choose not to file prepared testimony and exhibits before the hearing will not be precluded from participating in the proceedings. If an objector, for example, does not intend to present evidence going substantially beyond the information contained in the letter of objection, it is unnecessary for the objector to file prepared testimony. However, when a party has a substantial amount of information to present to the Board about the petition, if the information has not been previously disclosed to the Board, it should be presented in the form of prepared testimony and exhibits according to the procedural schedule established below. Similarly, if the Consumer Advocate takes the position that a civil penalty should or should not be imposed in this case, it must file prepared testimony or a brief in support of its position according to the procedural schedule.

PARTY STATUS

IPL and the Consumer Advocate are currently the only parties to this proceeding. Iowa Code §§ 17A.2(8) and 475A.2(2). No one has filed an objection to the petition as of the date of this order. IPL does not request the right of eminent domain for this pipeline.

Anyone who has filed or will file an objection pursuant to Iowa Code §§ 479.9 and 479.10 and 199 IAC 10.5 will also be presumed to be a party to this case. However, no objector is entitled to party status merely because that person has written a letter of objection. In order to qualify as a party, the objector must be able to demonstrate some right or interest that may be affected by the granting of the permit. Iowa Code § 479.9. An objector's status as a party may be challenged at the hearing, and an objector who cannot demonstrate a right or interest that may be affected by the granting of the permit will no longer be considered a party. Therefore, at a minimum, objectors should be prepared to give evidence that will explain the nature of their specific rights or interests they believe should be protected, and will show how these rights or interests will be affected by the pipeline or the grant of a permit. As has already been noted, to the extent that the evidence goes substantially beyond information already communicated to the Board in an objection letter, it should be reduced to writing and filed as prepared testimony according to the procedural schedule established below.

Because objectors will be presumed to be parties up to the time of the hearing, an objector will receive copies of all documents that are filed in this docket after the letter of objection has been filed with the Board. If a person files an objection after some or all of the prepared testimony and exhibits have been filed with the Board by other parties, the objector should make direct contact with the parties who have already filed prepared testimony and exhibits in order to obtain a copy of those

materials. The official file of this case will be available for inspection at the Board's Records and Information Center, 350 Maple Street, Des Moines, Iowa.

199 IAC 1.9(1).

Objections must be filed no less than five days prior to the date of hearing. Late-filed objections may be permitted if good cause is shown. 199 IAC 10.5. Objections must be made in writing and filed with the Executive Secretary of the Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

After an objector has filed a letter of objection, all further communications from the objector to the Board having to do with this case (including motions or prepared testimony and exhibits) should be sent to the Executive Secretary of the Board. A party (including objectors) must file an original and ten copies of each communication with the Executive Secretary and the party must send one copy to each of the other parties to this case, except that three copies must be sent to the Consumer Advocate. 199 IAC 1.8(4), 7.4(6). Along with the communication being sent, the party must file with the Board a certificate of service that conforms to 199 IAC 2.2(16), which verifies that a copy of the document was served upon the other parties.

These procedures are necessary to comply with Iowa Code § 17A.17, which prohibits ex parte communication. Ex parte communication is when one party in a contested case communicates with the judge without the other parties being given the opportunity to be present. In order to be prohibited, the communication must be

about the facts or law in the case. Calls to the Board to ask about procedure or the status of the case are not ex parte communication. Ex parte communication may be oral or written. This means the parties in this case may not communicate about the facts or law in this case with the undersigned administrative law judge unless the other parties are given the opportunity to be present, or unless the other parties are provided with a copy of the written documents filed with the Board.

The parties should examine Iowa Code Chapter 479 and Board rules at 199 IAC 9 and 10 and 199 IAC 1.8, 7.1(3), 7.22, 7.26, and 7.27 for other substantive and procedural statutes and rules that apply to this case. There is a link to the Iowa Code and the administrative rules on the Board's website at www.state.ia.us/iub.

PROPOSAL TO TAKE OFFICIAL NOTICE

Mr. Jeffrey L. O'Neal, utility regulatory engineer for the Board, has prepared a report in the form of a memo dated March 14, 2006, concerning IPL's petition. A copy of the report is attached to this order. Pursuant to Iowa Code § 17A.14(4), the undersigned administrative law judge proposes to take official notice of the report and of the facts contained therein, thus making it a part of the record of this case. Iowa Code § 17A.12(6)(c). Any party objecting to the taking of official notice of the report must file such objection as soon as possible, and no later than five days prior to the hearing. The parties will have the opportunity to contest any information contained in the report in prepared testimony and at the hearing. Mr. O'Neal will be present at the hearing and available for cross-examination regarding his report.

IT IS THEREFORE ORDERED:

1. Each person who files a letter of objection to IPL's petition in this docket will be presumed to be a party in the proceeding unless it is established at hearing that the objector has no right or interest that may be affected by the pipeline.

2. Objections must be made in writing and filed with the Executive Secretary of the Board, 350 Maple Street, Des Moines, Iowa 50319-0069, no later than five days before the hearing. Objectors must file an original and ten copies of all subsequent communications to the Board with the Executive Secretary. The communications must be served on the other parties and accompanied by a certificate of service as discussed in this order.

3. The following procedural schedule is established:

a. On or before April 20, 2006, IPL must file prepared direct testimony relating to its petition for an amendment to Permit No. 531 for its natural gas pipeline, as discussed in this order. If IPL wishes to file a prehearing brief, it must do so on or before April 20, 2006.

b. If the Consumer Advocate or any objector chooses to file prepared responsive testimony, it must do so on or before May 4, 2006. If the Consumer Advocate takes the position that a civil penalty should or should not be imposed in this case, it must file prepared testimony or a brief in support of its position on or before May 4, 2006.

c. A public hearing for the presentation of evidence and the cross-examination of witnesses concerning the issues identified in this notice of hearing will be held beginning at 10 a.m. on Thursday, May 11, 2006, in Board Conference Room 3, 350 Maple Street, Des Moines, Iowa. Each party must provide a copy of its prepared testimony and exhibits to the court reporter at the hearing. If any party wishes to be connected to the hearing by telephone conference call or have a witness connected by telephone conference call, the party must notify the Board as soon as possible, and no later than Thursday, April 27, 2006, so that appropriate arrangements may be made. Persons with disabilities who will require assistive services or devices to observe this hearing or participate in it should contact the Board at (515) 281-5256 no later than five days prior to the hearing to request that appropriate arrangements be made.

d. Required number of copies. All parties must file an original and ten copies of all documents filed with the Board. 199 IAC 1.8(4), 7.4(4)"a."

4. The undersigned administrative law judge proposes to take official notice of Mr. O'Neal's report dated March 14, 2006, which is attached to this order, 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.

5. Pursuant to Iowa Code §§ 17A.12(1) and 199 IAC 10.4, a copy of this order will be served by ordinary mail upon IPL, and will be delivered to the Consumer Advocate. No persons have filed objections to the petition as of the date of this order.

6. IPL must work with Board staff regarding publication of notice pursuant to Iowa Code § 479.7 and 199 IAC 10.4, and must file proof of publication prior to or at the hearing.

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 30th day of March, 2006

**Department of Commerce
UTILITIES DIVISION
SAFETY & ENGINEERING SECTION**

TO: Docket No. P-517

FROM: Jeffrey L. O'Neal

DATE: March 14, 2006

SUBJ: Staff Review of Interstate Power and Light Company Petition for Pipeline Permit Amendment for approximately 0.29 miles of 2-inch Diameter Natural Gas Pipeline in Cedar County, Iowa.

On October 17, 2005, Interstate Power and Light Company (IPL) filed a petition for pipeline permit amendment for an existing 0.29 miles of 2-inch diameter natural gas pipeline in Cedar County, Iowa, that has not been previously permitted by the Utilities Board (Board). This pipeline requires a pipeline permit because it operates at a pressure higher than 150 psig, and because it meets the definition of a transmission line under 49 CFR § 192.3. (See 199 IAC 10.16.) It meets the definition of a transmission line because it transports gas from another transmission line (and ultimately from gathering lines and/or storage facilities) to a distribution center.

An informational meeting was not held for the pipeline covered by this petition. An informational meeting was not required because the pipeline covered by this petition is less than 5 miles long. (See 199 IAC 10.3.)

The pipeline currently covered by the permit in this docket transports natural gas from a tap off Natural Gas Pipeline Company's pipeline south of Conesville to Conesville, Nichols, Lone Tree, Downey and West Branch. In 2004, IPL constructed 0.29 miles of 2-inch pipe extending east from the existing pipeline, to transport gas from the existing pipeline to a new regulator station on the south side of West Branch. The new regulator station replaced an existing regulator station at another location that previously supplied the distribution system in this area. On October 17, 2005, IPL filed a petition for pipeline permit amendment to cover the pipe installed in 2004.

Permit History

On September 6, 1962, the Iowa State Commerce Commission issued Permanent Permit No. 531 in this docket, to Lateral Gas Pipeline Company, for the Conesville-West Branch Lateral, to construct operate and maintain a pipeline for the transportation of natural gas in Cedar, Johnson and Muscatine Counties, Iowa.

The petition was for approximately 27.1 miles of 6-inch and 2-inch diameter pipeline. The permit was transferred to Iowa Electric Light and Power Company (Iowa Electric) on March 2, 1970. On July 27, 1988, the Board issued Pipeline Renewal Permit No. R1061 to Iowa Electric (n/k/a IPL) in this docket for the West Branch Lateral, with an expiration date of September 6, 2012.

IPL should have obtained an amendment to pipeline permit from the Board prior to construction of the pipeline covered by this petition in 2004. This situation was discovered by IPL, and was brought to the attention of Board staff by IPL through its October 17, 2005, filing. In Exhibit F, IPL states it believes the pipeline covered by this petition should be included as part of Docket P-517, and that it is seeking to correct the 2004 oversight. -

Petition

On October 17, 2005, IPL filed a petition for pipeline permit amendment in this docket. By letters dated November 8, 2005, February 2, 2006, and February 13, 2006, Board staff advised IPL of petition deficiencies requiring correction, and requested additional information on certain items. On January 9, 2006, February 7, 2006, and March 9, 2006, IPL filed revisions to the petition and exhibits and provided additional information.

Approximately 150 feet of this pipeline was constructed in agricultural land. (See petition Exhibit I.) Therefore the land restoration rules in 199 IAC Chapter 9 would apply to that portion of the pipeline, and an Agricultural Land Restoration plan should have been filed prior to construction, as part of a petition for pipeline permit. No additional construction is planned at this time, so IPL did not submit an Agricultural Land Restoration plan with its petition for permit amendment.

An Agricultural Land Restoration plan is only required to be prepared and filed for projects that require a petition for pipeline permit, but the land restoration rules in 199 IAC Chapter 9 must still be followed for any pipeline construction in agricultural land, regardless of whether or not the pipeline requires a permit from the Board. Exhibit I describes the practices IPL followed during construction to comply with those land restoration rules.

Iowa Code § 479.12 requires a finding that “the services proposed to be rendered will promote the public convenience and necessity” before a permit can be granted. Exhibit F states the pipeline covered by this petition was constructed in 2004 to serve existing retail customers in the West Branch Industrial Park and rural West Branch area for residential and commercial uses.

This pipeline was installed in order to relocate a regulator station that had experienced an overpressure incident in January 2004. At that time, the regulator station was located in a farm field. As part of an overpressure

mitigation plan, IPL relocated the regulator station to its current location to improve visibility and so its performance could be better monitored and reviewed.

Route and Safety

On January 4, 5 and 6, 2006, I inspected the pipeline covered by this petition for compliance with federal pipeline safety standards, and conducted a field examination of the pipeline's route. The inspection found no probable violations, but listed one advisory under § 192.705(b), noting that more frequent patrolling intervals will be required in the future, due to a recent change in the class location of this pipeline from Class 1 to Class 3.

The pipeline covered by this petition carries natural gas from a connection with the West Branch Lateral already under permit in this docket to a regulator station that feeds a distribution system that supplies gas to customers on the south side of West Branch. The pipeline lies on private easement parallel to the south side of 300th Street, within the city limits of West Brach. Most of the route is on industrial land, but a small portion of the route at its western end is in agricultural land. The route is in a Class 3 location as defined by Federal Minimum Safety Standards in 49 CFR § 192.5. Class 3 is a high population density classification. No problems were noted with the route of the pipeline.

The record supports a maximum allowable operating pressure (MAOP) of 720 psig for the segment of pipeline covered by this petition. However, the segment of pipeline covered by this petition operates at a common pressure with the remainder of the West Branch Lateral, which has an MAOP of 712 psig, limited by its highest actual operating pressure during the five years preceding July 1, 1970. See § 192.619(a)(3). 712 psig is the MAOP of the Natural Gas Pipeline Company pipeline that serves this system.

My inspection found this pipeline is not subject to the recently adopted integrity management rules in 49 CFR Part O; there are no high consequence areas within the potential impact radius for this pipeline.

Conclusions & Summary

I have reviewed the petition and exhibits in this docket. It appears from the information presented that the pipeline currently complies with all design, construction, and testing requirements of the Board. No problems were noted with the route of the pipeline. There are no outstanding probable violations of pipeline safety standards. The filing appears in sufficient order that the petition can be set for hearing.