

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

<p>IN RE:</p> <p>IOWA ELECTRIC LIGHT &amp; POWER COMPANY n/k/a INTERSTATE POWER AND LIGHT COMPANY</p>	<p>DOCKET NO. P-246</p>
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**ORDER ESTABLISHING PROCEDURAL SCHEDULE AND PROPOSING TO  
TAKE OFFICIAL NOTICE AND NOTICE OF HEARING**

(Issued September 19, 2006)

On December 1, 2004, Iowa Electric Light & Power Company n/k/a Interstate Power and Light Company (IPL) filed a petition and exhibits for renewal of a pipeline permit for an existing 6-inch and 4-inch diameter natural gas pipeline approximately 25.25 miles long in Montgomery and Page Counties, Iowa, identified as the Clarinda-Villisca Lateral. The Clarinda-Villisca Lateral transports natural gas from a connection with a Natural Gas Company of America (NGPL) pipeline to regulator stations in Villisca, Hepburn, and Clarinda, Iowa, where the pressure is reduced for distribution to customers in those towns. The pipeline is a transmission line. 199 IAC 10.16; 49 CFR 192.3. IPL requests a maximum allowable operating pressure of 500 psig in its petition. IPL filed amendments to its petition and exhibits and provided additional information on June 14 and August 4, 2005, and on May 22, 2006. On February 3, 2006, IPL filed proof of publication showing notice had been published in Montgomery County on January 12 and 19, 2006, and in Page County

on December 21 and 28, 2005. On January 9, 2006, Mr. Keith and Mrs. Jean Wagoner filed a written objection to the petition for renewal with the Utilities Board (Board).

On June 29, 1954, the Iowa State Commerce Commission (ISCC), predecessor agency of the Board, issued Temporary Permit No. 204 to the Lateral Gas Pipeline Company, Inc., a subsidiary of Iowa Electric Light & Power Company n/k/a IPL, for the construction, operation, and maintenance of the pipeline at issue in this case. The pipeline was constructed in 1954. On March 3, 1955, the ISCC issued Permanent Permit No. 274 that replaced Temporary Permit No. 204. Permanent Permit No. 274 was issued for a period of 25 years. On May 23, 1980, the Board issued an order granting Renewal Permit No. R-926 for the pipeline. The renewal permit had an expiration date of March 3, 2005.

On September 5, 2006, the 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 permit renewals 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, 479.18, and 479.23 (2005).

To obtain a permit or permit renewal, the petitioner must show that the services it proposes to render will promote the public convenience and necessity. Iowa Code § 479.12, 479.23; 199 IAC 10.8. The petitioner must also satisfy the financial requirements of Iowa Code § 479.26.

The conduct of this case is governed by Iowa Code chapters 17A and 479, and by Board rules at 199 IAC 10.

### **THE ISSUES**

Pursuant to Iowa Code §§ 479.7 and 479.8, and 199 IAC 10.6 and 10.8, 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, the issues raised by the Wagoners, and issues raised by objectors or any other party.

### **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, exhibits, and a prehearing brief 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 address the following issues and questions.

Mr. and Mrs. Wagoner filed a written objection to the permit renewal on January 9, 2006, that raises concerns regarding the safety of the pipeline and the depth at which it is buried on land owned or rented by the Wagoners. IPL must

address these concerns in prepared testimony and describe any actions it has taken or will take to address these concerns.

Current federal and state rules require certain depth of cover for construction of new pipelines in particular areas. 49 C.F.R. §192.327; 199 IAC 10.12. 49 C.F.R. § 192.703(b) requires pipeline owners to replace, repair, or remove from service segments of pipeline that become unsafe. In its prepared testimony and a prehearing brief, IPL must address the applicability of these rules to the pipeline at issue in this case, and must file prepared testimony and exhibits to demonstrate that the pipeline continues to be safe and in compliance with all applicable requirements.

In its prepared testimony, IPL must state whether it is aware of any locations where the pipeline has less than 20 inches of cover. If any such locations exist, IPL must list the specific locations, the approximate length of pipe at each location, the amount of cover at each location, and the land use at each location (tilled agricultural, etc.). In addition, in prepared testimony, IPL must describe its general policy regarding shallow pipe. IPL must state whether it has any specific minimum depth of cover it considers to be safe for farming over this pipeline. IPL must provide testimony detailing the actions, if any, it has taken or plans to take to reduce the likelihood of a line hit or to mitigate the consequences of a line hit in any locations on this pipeline with shallow cover (i.e., less than the cover required by current regulations for new pipeline construction). IPL must testify regarding the depth at which this pipeline was originally installed, and if it does not have such information,

must provide an explanation of why it does not. In his July 31, 2006, report, Mr. Jeffrey O'Neal discussed IPL's plans to replace certain segments of the pipe during 2005-06. IPL must describe the actions it has taken and testify as to whether the planned pipe replacements for 2005-06 have been completed. If not completed, IPL must state the status of the planned replacements.

On April 5, 2005, IPL filed a report of an engineering study completed by Engineering Services Inc. (ESI) for IPL regarding the pipeline. The report is dated October 29, 2004. In the report on page one, ESI stated: "After installation in 1954, the pipeline's maximum allowed operating pressure (MAOP) was 500 psig until early 2004. It has currently been de-rated and is operating at 450 psig." In the report on page 3, ESI stated it performed a series of linear elastic fracture mechanics calculations using the "current 450 psig line pressure." On page 6 of the report, ESI stated the operating pressure was "450 psig (reduced from 500 psig)." On page 8 of the report, ESI stated the "MAOP has recently been reduced by 10 percent." On May 5, 2005, Mr. O'Neal sent IPL a letter, in which he stated (at page 5): "The ESI report states the pipeline's MAOP was 500 psig until early 2004, but it has been de-rated and is operating at 450 psig. The conclusions in the ESI report are based on an MAOP of 450 psig for this pipeline. However, Exhibits C-1 and C-2, and Attachment 1 to each of these Exhibits, specify an MAOP of 500 psig for this pipeline. Please revise the Exhibits and Attachments, or explain." In response, IPL filed a letter on June 14, 2005, in which it answered (at p. 2): "The ESI report referenced

was incorrect in stating the MAOP was reduced to 450 psig. It is IP&L's intention to maintain an MAOP of 500 psig, however operate the pipeline at 450 psig." In its prepared testimony, IPL must explain how ESI could have been incorrect in such a significant detail, who at IPL provided the information regarding the pipeline's MAOP to ESI and how the information was provided, and why the conclusions of ESI in the report should still be regarded as valid if the MAOP of the pipeline is 500 psig. IPL must provide testimony to support and explain why it needs an MAOP of 500 psig rather than 450 psig for the pipeline and why an MAOP of 500 psig would provide sufficient safety and be in compliance with applicable regulations.

Pipeline permit renewals may be granted for a period of up to 25 years, and are typically granted for a period of 25 years. Iowa Code § 479.19; 199 IAC 10.8. The pipeline was constructed in 1954. In the October 29, 2004, ESI report at page seven, ESI stated that it had "considered this line as an end-of-life case, whereby the equipment is approaching the end of its economic and/or its operating life (60 years or greater)." Sixty years from 1954 will be the year 2014. In its prepared testimony, IPL must present evidence that discusses the age of the pipeline and its continued viability and safety beyond the year 2014, and whether it would be appropriate to consider a renewal period of less than 25 years if the permit is renewed.

In the October 29, 2004, report, ESI suggests that IPL perform additional testing, review and inspection of the pipeline and surrounding soil conditions. (See pp. 7-9 and 12.) In its testimony, IPL must state whether it took the recommended

actions, and if it did not, whether it plans to in the future, or why the actions are not necessary considering the particular condition and location of the pipeline.

IPL has the burden to prove that its pipeline meets all of the statutory and regulatory requirements discussed above. Failure to file adequate prepared testimony, exhibits, and a brief to support the petition for pipeline permit renewal may result in delays of these proceedings or in denial of the requested renewal.

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.

Although they are not required to participate further in this proceeding, if the Wagoners choose to participate, it would be very helpful if they would file written testimony that describes the location of the land they own and rent, whether they are

aware of any locations on those properties where they believe the pipeline currently is buried at an unsafe depth and specifically where they are, and the depth the pipeline is buried at each of the locations. The Wagoners should also identify how the land is being used for farming (or otherwise) at each of the locations.

If the Wagoners, any other objectors, or the Consumer Advocate files prepared testimony or other information, IPL must also address the issues raised in those filings in its rebuttal testimony.

### **PARTY STATUS**

IPL and the Consumer Advocate are currently the parties to this proceeding. Iowa Code §§ 17A.2(8) and 475A.2(2). As discussed above, the Wagoners filed a written objection to the renewal of the pipeline permit. No other objectors have 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.

The Wagoners and anyone else 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 that 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 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](http://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 July 31, 2006, concerning IPL's petition. Mr. Reed Helm, utility regulatory inspector for the Board, has prepared a report also dated July 31, 2006, regarding the pipeline and its route. Copies of the reports are attached to this order. Pursuant to Iowa Code § 17A.14(4), the undersigned administrative law judge proposes to take official notice of the reports and of the facts contained therein, thus making them 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 reports 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 reports in prepared testimony and at the hearing. Mr. O'Neal and Mr. Helm will be present at the hearing and available for cross-examination regarding their reports.

### **IT IS THEREFORE ORDERED:**

1. Each person, including the Wagoners, 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 October 10, 2006, IPL must file prepared direct testimony and a prehearing brief relating to its petition for permit renewal as discussed in this order.

b. If the Consumer Advocate or any objector chooses to file prepared responsive testimony or a brief, it must do so on or before October 24, 2006.

c. If the Consumer Advocate or any objector files prepared testimony or a brief, IPL must file any prepared rebuttal testimony or brief on or before October 31, 2006.

d. 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 Tuesday, November 7, 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 Wednesday, November 1, 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.

e. 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 July 31, 2006, and of Mr. Helm's report dated July 31, 2006, which are attached to this order, and of the facts contained therein. Any party objecting to the taking of official notice of the reports 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 the Wagoners, and will be

delivered to the Consumer Advocate. No persons other than the Wagoners 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 19<sup>th</sup> day of September, 2006.

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

**TO: Docket No. P-246**

**FROM: Jeffrey L. O'Neal**

**DATE: July 31, 2006**

**SUBJ: Staff Review of Interstate Power and Light Company Petition for  
Renewal of Pipeline Permit for Clarinda-Villisca Lateral in  
Montgomery and Page Counties, Iowa.**

On December 1, 2004, Interstate Power and Light Company (IPL) filed with the Iowa Utilities Board (Board) a petition for renewal of pipeline permit pursuant to Iowa Code Chapter 479 for the Clarinda-Villisca Lateral in Montgomery and Page Counties, Iowa. The petition is for approximately 25.25 miles of 6-inch and 4-inch diameter natural gas pipeline, which has a maximum allowable operating pressure (MAOP) of 500 psig. This pipeline requires a pipeline permit because it operates at a pressure greater than 150 psig, and because it meets the definition of a transmission line under 49 C.F.R. § 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 distribution centers in Villisca, Hepburn and Clarinda, Iowa. This pipeline carries natural gas from a connection with a Natural Gas Pipeline Company of America (NGPL) pipeline to regulator stations in Villisca, Hepburn, and Clarinda, Iowa, where the pressure is reduced for distribution to customers in those towns.

**Permit History and Filings**

On June 29, 1954, the Iowa State Commerce Commission (ISCC) (predecessor to the Board) issued Temporary Permit No. 204 to Lateral Gas Pipeline Company, Inc., a subsidiary of Iowa Electric Light and Power Company (IE) (nka IPL), to allow construction of the Clarinda and Villisca Lateral, to operate at a maximum pressure of 800 psi, from NGPL to Clarinda and Villisca in Montgomery and Page Counties. On March 3, 1955, Permanent Permit No. 274 was issued in this docket, replacing Temporary Permit No. 204. On May 23, 1980, Renewal Pipeline Permit No. R-926 was issued in this docket, specifying a maximum operating pressure of 800 psig, and a permit expiration date of March 3, 2005.

On April 19, 1999, IES Utilities Inc. (IES)(n/k/a IPL) filed a request for waiver regarding this pipeline, which was assigned docket no. WRU-99-15-151. IES had discovered 9 areas of shallow pipe on this pipeline. IES planned to lower the pipeline in those areas, and believed it was impracticable to design the remedial changes to the pipeline to be able to accommodate the passage of instrumented internal inspection devices, as required for new and replacement pipeline under 49 C.F.R. § 192.150. In its waiver request, IES discussed several alternatives for mitigating the shallow pipe on this pipeline. IES argued that adding dirt over the shallow sections of the pipeline would only provide a temporary fix in the tillable areas and would not be acceptable in the drainage areas or ditch areas, as it would dam up the flow of water. Another option discussed was lowering the pipeline by digging dirt out from under the pipeline and letting the line sag into the deepened trench under its own weight. IES stated that lowering this pipeline using this method was not a suitable option from a safety standpoint due to the additional stresses placed on the welds in a pipeline of this age. IES discussed two methods involving replacement of the shallow pipe with new pipe installed at a depth meeting current standards, then removing the existing shallow pipe. Since this pipeline is the only supply of natural gas to customers in the communities of Villisca, Hepburn and Clarinda, IES considered methods that would allow replacement of the pipe while the pipeline remained in service. One method involved installation of a temporary bypass at each shallow pipe location to maintain the flow of gas while new pipe was installed at a lower depth. After the new pipe was installed, both the temporary bypass and the original pipe would be removed. This method would result in a near duplication of work on each section and would double the cost over the method IES proposed using. The method IES proposed used special "bottom-out" fittings that would allow it to connect the new pipe to the existing pipeline and remove the old pipe without interrupting service. However, the "bottom-out" fittings are not passable by internal inspection devices as required by § 192.150 for all new or replacement pipe. IES argued this was the safest and most economical method. IES records showed 6 segments of this pipeline had already been lowered using this method between 1980 and 1993. (§ 192.150 was adopted in 1994.) On June 9, 1999, the Board issued an Order Granting Waiver in this docket, subject to review by OPS. By letter dated July 30, 1999, OPS confirmed that the Board's recommendation constituted OPS's decision on the petition.

On December 1, 2004, IPL filed a petition for renewal of pipeline permit in this docket. By letters dated May 5, 2005, and May 15, 2006, Board staff advised IPL of petition deficiencies requiring correction, and requested additional information on certain items. On June 14, 2005, August 4, 2005, and May 22, 2006, IPL filed revisions to the petition and exhibits and provided additional information. By letter dated December 8, 2005, Board staff provided to IPL an Official Notice to be published. On February 3, 2006, IPL filed proof of publication showing notice had been published in Montgomery County on January 12, 2006, and on January 19,

2006, and in Page County on December 21, 2005, and December 28, 2005. One objection was filed on January 9, 2006.

Since an objection was filed within 20 days of the second publication of notice, this matter must be set for hearing. (See 199 IAC 10.8.) Iowa Code § 479.8 requires that where the pipeline would operate under pressure exceeding one hundred fifty pounds per square inch and exceed five miles in length, the hearing shall be held in the county seat of the county located at the midpoint of the proposed line. This pipeline is more than 5 miles in length, and operates at a pressure greater than 150 psig. The midpoint of this pipeline is in Montgomery County. Therefore the hearing must be held in Red Oak, Iowa.

The original permit for this pipeline issued in 1954 and the 1980 renewal permit included two pipelines downstream of the Clarinda town border station (TBS) that are not included in the current renewal petition filing. One ran from the Clarinda TBS 5361 feet (1.015 mi.) to the city limits of Clarinda. The other ran from the Clarinda TBS 3256 feet (0.6167 mi.) to a State Hospital. 1954 letters in Board files show the ISCC considered these to be distribution lines that were to be operated at less than 100 psi, so staff had believed a permit was probably not necessary for these lines, but they were included in the 1954 permit anyway after IE questioned why they had not been included in the permit. These distribution mains were not included in IPL's current renewal petition. A letter from IPL filed June 14, 2005, confirmed IPL did not intend to include those pipelines in the current renewal permit filing; IPL stated these are distribution mains with an MAOP of 60 psig, and therefore they do not require a pipeline permit. During a recent inspection, Reed Helm, Utility Regulation Inspection, confirmed these are distribution mains with an MAOP of 60 psig. These distribution mains do not require a pipeline permit, and do not need to be included in a renewal permit for the pipeline in this docket.

On June 15, 2005, IPL filed a notice of reportable change in this docket, indicating it intended to replace approximately 250 feet of pipe on this pipeline, where a washout had left the pipeline exposed. The notice stated the replacement pipe would be the same strength and wall thickness as the pipe used in the 1999 replacements, and it would be designed to accommodate the passage of internal inspection devices. On March 7, 2006, IPL filed a notice of reportable change in this docket, indicating it intends to replace approximately 400 feet of pipe on this pipeline, where a washout has left the pipeline exposed. The notice stated the replacement pipe will be of common material with the existing pipeline, and it will be constructed to accommodate the passage of internal inspection devices.

### **Route and Safety**

On January 7, 2005 and May 5, 2006, Reed Helm, Utility Regulation Inspector, inspected the route of the pipeline. He filed a report regarding the inspection on July 31, 2006. No maintenance, compliance or safety issues were noted during the inspection. The inspection confirmed the entire route is in a Class 1 location.

On January 4-7, 2005, Mr. Helm inspected the pipeline for compliance with federal pipeline safety standards adopted by the Board. He filed a report regarding this inspection on January 20, 2005. The inspection found no safety code violations. However, additional information was requested regarding valve model numbers and a recent study of this pipeline conducted by a consultant, and an advisory was made concerning the number of corrosion control test points in one area on this pipeline. By letters dated March 31, 2005, and April 29, 2005, IPL provided the requested information, and provided an acceptable response to the advisory.

In response to a request by staff, by letter dated March 31, 2005, IPL provided a copy of a 2004 report by Engineering Systems Inc. (ESI) titled "Clarinda Natural Gas Transmission Main Analysis." The report states a number of leaks were found and repaired on this pipeline in 1958. All of the leaks were at girth welds. No leaks have been found on this pipeline since 1958. The report concluded the 1954 welds on this pipeline do not meet current welding standards, but the report estimated the risk of brittle seam weld failure is low. Chemical analysis and laboratory tests on a sample of the steel in the pipe found its quality to be good for pipe that was produced in the 1950s. The report suggested additional assessments, investigations, analyses, inspections and tests of this pipeline. Recently adopted federal pipeline safety standards regarding pipeline integrity management in Subpart O of 49 C.F.R. Part 192 require similar types of assessments and inspections on transmission lines. However, such integrity management programs are applicable to "covered pipeline segments" that are in "high consequence areas" (HCAs) as defined by the rules. During a recent inspection of this pipeline, Mr. Helm confirmed there are no HCAs on this pipeline. Therefore, most of the integrity management program requirements are not applicable to this pipeline, and the additional assessments and tests suggested in the ESI report are not required for this pipeline by the safety rules adopted by the Board.

On Exhibit C, IPL states the original pipeline is Grade B pipe. The ESI report states the pipe material in this pipeline was ordered simply as standard black, API line pipe, and assumes it most likely was supplied with Class 25 pipe, which has a minimum yield strength of 25,000 psi. This is less than the 35,000 psi minimum yield strength of Grade B pipe. However, even assuming the lowest yield strength specified in § 192.107 for steel pipe (24,000 psi, for steel pipe with

unknown strength), and using a conservative Class 3 location factor, the design pressure of the pipe still far exceeds the MAOP of 500 psig. On Exhibits C-1 and C-2, Item 4, IPL shows the pipeline was tested to 1000 psig in 1954. Iowa Electric's 1980 renewal hearing testimony said this pipeline was tested at 750 psi after construction in 1954. During a recent inspection, Board staff found no records of a 1954 pressure test of this pipeline, and staff found no record of a 1954 pressure test in Board records. Although documentation cannot be found for a 1954 pressure test of this pipeline, a 1954 pressure test would be superceded by the maximum historical operating pressure per § 192.619(a)(3) & (c), so a lack of documentation for a 1954 pressure test does not affect the MAOP of the pipeline. The record supports an MAOP of 500 psig for this pipeline.

The previous renewal permit for this pipeline, issued in 1980, specified a maximum operating pressure of 800 psig. The hearing transcript from the 1980 renewal proceedings shows the MAOP of the pipeline at that time was 400 psig, but IE planned to conduct an uprating procedure to increase the MAOP of this pipeline from 400 psig to 800 psig. However, the file shows that when an uprating was conducted on this pipeline in 1983, the MAOP was only increased to 500 psig, not 800 psig. The current MAOP of this pipeline under Minimum Federal Safety Standards adopted by the Board is 500 psig. The filing would support specifying a maximum operating pressure of 500 psig in a renewal permit for this pipeline.

### **Objection**

An objection was filed by Keith and Jean Wagoner on January 9, 2006. The objectors contend the pipeline's depth of cover is too shallow to safely farm over, and that IPL is aware of this, but is unwilling to correct the problem. The objectors state IPL's lack of action shows a lack of concern for public safety; therefore, they object to the granting of this petition. *IPL should be asked to respond to this objection in its prefiled testimony.*

The Wagoners state that some of this pipeline is buried on land they own and some of it is on land they rent. They state the pipeline was installed in a railroad easement, but the railroad has abandoned this section of its property. The Wagoners' objection does not specify the location of the land they own or rent. The mailing address provided by the Wagoners is on 196<sup>th</sup> Street in Section 20, T-69N, R-36W, Page County. The southern end of the pipeline is in the northwest quarter of this section. *If the objectors choose to participate further in this proceeding, it is recommended they be asked to describe the location of the land they own or rent. It is recommended they also be asked whether they are aware of any locations on these properties where they believe the pipeline currently has an unsafe depth of cover, and the amount of cover at those locations.*

The objectors ask if there is a legal depth at which the pipeline must be installed and maintained for public safety. ISCC rules in effect at the time this pipeline was constructed did not specify a minimum depth of cover for pipelines. The 1952, 1954, and 1958 editions of Iowa Departmental Rules included the following rule:

**Rule PL-113. Construction, Operation and Maintenance.** Until such time as full and complete rules have been adopted by this commission to govern the construction, operation and maintenance of pipe lines and all equipment used as a necessary part of the operation of such lines, such lines and equipment shall be constructed, operated and maintained in accordance with accepted good practice.

American Standard Gas Transmission and Distribution Piping Systems (ASA B31.1.8-1952) was an industry standard in effect at the time this pipeline was constructed; it is the only standard I am aware of that might have been considered to be an “accepted good practice” for the construction, operation and maintenance of this pipeline at the time this pipeline was built. ASA B31.1.8-1952 did not address depth of cover for pipelines.

The next edition of this standard, ASA B31.1.8-1955, approved March 11, 1955, (after this pipeline was installed), in Section 841.16 specified a minimum cover of 24 inches in most locations, with more or less cover required in certain specified types of locations. A later edition of this standard became the basis for the Minimum Federal Safety Standards in 49 C.F.R. Part 192, which are incorporated by reference in current Board rules at 199 IAC 19.5(2)a(2). The 2003 edition of this standard, ASME B31.8-2003, is incorporated by reference in current Board rules at 199 IAC 19.5(2)a(5).

Current construction requirements in Minimum Federal Safety Standards adopted by the Board require that a buried transmission line must be installed with a minimum of 30 inches of cover in a Class 1 location in normal soil, and a minimum of 36 inches of cover under drainage ditches of roads and railroads and under water less than 12 feet deep. (Shallower cover is allowed in consolidated rock.) (See 49 C.F.R. § 192.327.) This entire pipeline is in a Class 1 location as defined in 49 C.F.R. § 192.5. Board rules at 199 IAC 10.12(3) require that pipelines in tilled agricultural land must be installed with a minimum cover of 48 inches. Therefore, if this pipeline were built today, Board rules would require it be buried with a minimum of 48 inches of cover in tilled agricultural land, a minimum of 36 inches under road ditches, under railroad ditches, and under water, and a minimum of 30 inches of cover in other locations. However, neither of these rules existed at the time this pipeline was built, and neither of these rules requires modification of pipelines in existence before the rule was passed. Neither of these rules requires the specified depth of cover be maintained, only that the pipeline must be installed with this amount of cover. Although rules did

not require any specific minimum depth of cover at the time of installation, and rules do not require any specific minimum depth of cover be maintained, shallow pipe does increase the risk of a pipeline being hit by farming equipment or other excavating equipment. A line hit could cause a gas leak, either immediately or at a later date.

49 C.F.R. § 192.703(b) requires, "Each segment of pipeline that becomes unsafe must be replaced, repaired, or removed from service." Federal safety standards or interpretations do not define "unsafe." The question is whether in this circumstance the pipeline is at a depth, and the risk of damage so high, that it is "unsafe." If it is found "unsafe", action is required. Remedial action could include lowering the pipeline, adding more cover over the pipeline, or otherwise protecting the pipeline against outside force damage. (The merits of some specific options for mitigating shallow pipe on this pipeline were discussed in the 1999 waiver request in docket no. WRU-99-15-151.)

I am not aware of any rules or interpretations that establish what should be considered to be an "unsafe" pipeline depth of cover to farm over. A possible source of guidance might be Iowa Code chapter 480, which requires that excavators contact the Iowa One-Call center at least 48 hours before beginning excavation, to request that underground facilities be located and marked, in order to prevent damage to underground facilities, and to prevent injuries to excavators and the public. Normal farming operations are exempted from this requirement.

Iowa Code § 480.1 includes the following definition:

*"Normal farming operations"* means plowing, cultivation, planting, harvesting, and similar operations routine to most farms, but excludes chisel plowing, sub-soiling, or ripping more than fifteen inches in depth, drain tile excavating, terracing, digging or driving a post in a new location other than replacing a post while repairing a fence in its existing location, and similar operations.

For the purposes of chapter 480, the legislature considered farming practices at depths up to 15 inches to be "normal farming operations." This suggests that 15 inches of cover might be considered a minimum. Some additional cover to serve as a buffer might be appropriate.

I am aware of one previous case where a similar objection was raised in a pipeline permit renewal proceeding. On December 30, 1988, a Proposed Decision and Order Granting Renewal of Pipeline Permit was issued in Docket No. P-511 for Iowa Public Service Company's (n/k/a MidAmerican Energy Company) Pleasantville Lateral. A landowner had filed an objection in the case, due to locations on his property where the pipeline depth was as shallow as 21 inches. The objector was concerned for the safety of his sons and employees,

because the 21-inch depth of Pleasantville lateral in some places on his property was vulnerable to the 24-inch deep stroke of a no-till farm implement known as a "V-Ripper". The objector requested that the operator of the pipeline lower the pipeline, at the operator's expense. In the December 30, 1988, Order, four possible types of relief were considered: replacement of the pipeline segments that were less than 24 inches deep, placing additional topsoil over the pipeline corridor, lowering the pipeline, and marking the pipeline before farming operations so the operator of the farming equipment could raise his equipment while crossing the pipeline. In the Order, the administrative law judge (ALJ) granted the renewal permit, with the following two conditions: "The owner of the permit must mark the route of the pipeline when requested to do so, and the owner must also conduct continuing education for those in possession of the land along the route of the pipeline." In the Order, the ALJ stated there was little dispute that the "rising" pipeline posed danger to farmers using no-till equipment, and that this was an unsafe condition for which some remedy must be found, but the remedy must also apply to others similarly situated along the Pleasantville Lateral. The ALJ stated a remedy for this case would be fashioned, but a permanent solution to the overall problem must be devised by the legislature or the Utilities Board. The ALJ found that ordering the pipeline to be replaced would be arbitrary and capricious, since the pipeline had operated safely for more than 25 years, and since farming operations and the land had changed, not the pipeline. The ALJ found that placing additional topsoil over the pipeline would neither be a lasting nor economical remedy. Due to the potentially extreme cost of lowering the pipeline (because the record did not show how many other properties might be affected), and the policy question of who should bear the cost of lowering the pipeline, the ALJ found that such a remedy should follow, not precede, consideration by the Utilities Board or the legislature of the competing public policy considerations. The ALJ found that marking the pipeline in advance of farming operations was the best alternative because it was adequate and because it was least expensive. However, the additional conditions noted above were imposed.

Iowa Code 480 was amended in 1992, after the 1988 decision in Docket No. P-511. The 1992 amendment almost completely rewrote chapter 480, keeping only some language from some of the definitions from the existing chapter. The definition of "Normal farming operations" quoted earlier in this memo was added in the 1992 amendment.

The objectors state portions of the pipeline were as shallow as 4 inches deep and being farmed over, but those portions have been corrected (lowered) in the last 10 years. The objectors assert there are places where the pipeline is still 20 inches or less in depth and being farmed over presently. *IPL should be asked whether it is aware of any remaining areas where this pipeline has less than 20 inches of cover. If it is, IPL should be asked to list the locations, the approximate*

*length of pipe at each location, and the land use at each location (tilled agricultural, etc.).*

*IPL should be asked to describe its general policy regarding shallow pipe. IPL should be asked whether it has any specific minimum depth of cover it considers to be safe for farming over this pipeline. IPL should be asked what actions, if any, it has taken or plans to take to reduce the likelihood of a line hit or to mitigate the consequences of a line hit in any locations on this pipeline with shallow cover.*

The objectors assert the pipeline was never correctly installed at a depth that they feel it is safe to farm over. *IPL should be asked if it knows the depth at which this pipeline was originally installed.*

As described earlier in this report, Board files show that in 1999, pipe was replaced at nine locations on this pipeline where shallow pipe had been found, in 2005, IPL filed notification that it planned to replace pipe at a location on this pipeline where a washout had left the pipe exposed, and on March 7, 2006, IPL filed notification that it plans to replace pipe at a location on this pipeline where a washout has left the pipe exposed. The March 7, 2006, letter stated the 2006 construction was scheduled to begin mid-July 2006. *IPL should be asked whether the pipe replacements planned for 2005 and 2006 have been completed.*

### **Conclusions & Summary**

Staff has reviewed the petition and exhibits in this docket. It appears from the information presented that the pipeline complies with all design, construction, testing, operating and maintenance requirements of the Board. Recent inspections by Board staff found no problems with the route of the pipeline, and no probable violations of pipeline safety standards. The filing appears in sufficient order that the petition can be set for hearing. As of the date of this report, one objection had been filed in this docket. The objection was signed by two objectors: Keith and Jean Wagoner. This report identifies, in *italic type*, a number of items it is recommended IPL or the objectors be asked to address in their prefiled testimony.

**DEPARTMENT OF COMMERCE  
UTILITIES DIVISION  
SAFETY & ENGINEERING SECTION**

**DATE: July 31, 2006**

**TO: Docket No. P-246  
FROM: Reed Helm**

**SUBJECT: Route inspection of the Interstate Power and Light Company (IPL), Clarinda/Villisca Lateral for a Petition for Pipeline Permit Renewal in Montgomery and Page Counties Iowa**

The route of the above mentioned natural gas pipeline was inspected on January 7, 2005, and May 5, 2006. The Exhibit "B" map filed with the petition was used as a guide. The pipeline consists of approximately 11.37 miles of 6.625-inch, grade B steel pipe and 13.88 miles of 4.5-inch, grade B steel pipe with a Maximum Allowable Operating Pressure (MAOP) of 500 psig.

The pipeline begins at the Natural Gas Pipeline of America (NGPL) tap on the north side of 140<sup>th</sup> Street in Montgomery County and continues south to the IPL town border station (TBS) at Clarinda on the north side of 196<sup>th</sup> Street, east of S Avenue in Page County. The entire pipeline is in a Class 1 location.

The six-inch portion of the pipeline begins on the NGPL tap and continues south approximately 11.37 miles to the south side of County Highway H46. At that point one 4-inch pipeline continues south to the Clarinda TBS and a second 4-inch pipeline continues easterly to the Villisca TBS. The majority of the 6-inch pipe, approximately 9.75 miles, is in public right-of-way; the remainder is in private right-of-way. The Clarinda/Villisca Lateral is suspended from a bridge on T Avenue south of 180<sup>th</sup> Street, crossing a tributary of the West Nodaway River.

The 4-inch pipeline to Villisca begins at a valve off the six-inch pipeline and continues easterly 0.75 miles in public right-of-way, then southeasterly approximately 0.56 miles in private right-of-way to the Villisca TBS east of US Highway 71. The Villisca Lateral crosses the West Nodaway River suspended from the bridge.

The Clarinda Lateral continues south from County Highway H46 0.58 miles in public right-of-way. The remainder of the 4-inch pipeline, through Montgomery and Page Counties, to the Clarinda TBS is in private right-of-way.

The pipeline lies in rolling to level agricultural land, with the majority of the pipeline that is in private right of way in cropland. From 260<sup>th</sup> Street in Montgomery County south to the Page County line, and continuing south in Page County to the Clarinda TBS, the pipeline lies in an abandoned railroad right-of-

way. The majority of the abandoned railroad right-of-way where the pipeline lies is cropland.

During the inspection of records for this pipeline the company's Integrity Management Program was reviewed. Records indicated there are no High Consequence Areas (HCAs) on this pipeline. The route inspection confirmed the company's conclusion of no HCAs. Since the entire pipeline is in a Class 1 location, additional requirements of the federal integrity management regulations (49 CFR SubPart O), such as additional patrols or leakage surveys, would not be applicable to this pipeline.

The original permit for this pipeline issued in 1954, and the 1980 renewal permit, included two pipelines downstream of the Clarinda TBS that are not included in the current renewal petition filing. The two pipelines are distribution mains with an MAOP of 60 psig and would not require a pipeline permit, and do not need to be included in a renewal permit for the pipeline.

An objection to the granting of the petition was filed by Keith and Jean Wagoner, owners of propriety on which the pipeline lies. In a letter to the Board dated January 5, 2006 the Wagoner's contend there is shallow pipe on the land they own and rent. The Wagoner's did not identify locations where the shallow pipe exists. Without the locations, it was not possible to determine if there is shallow pipe in the vicinity of the Wagoner's propriety or rented land they farm. No shallow pipe was observed on the pipeline route inspected.

There were no maintenance, compliance or safety issues noted during the route inspection of this pipeline that need to be addressed.