

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

<p>IN RE:</p> <p>IOWA ELECTRIC LIGHT & POWER COMPANY n/k/a INTERSTATE POWER AND LIGHT COMPANY</p>	<p>DOCKET NO. P-246</p>
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PROPOSED DECISION AND ORDER GRANTING PERMIT RENEWAL

(Issued November 9, 2006)

APPEARANCES:

MS. PAULA N. JOHNSON, Attorney at Law, Interstate Power and Light Company, Alliant Tower, 200 First Street SE, P.O. Box 351, Cedar Rapids, Iowa 52406-0351, appearing on behalf of Interstate Power and Light Company.

MR. JOHN F. 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 June 29, 1954, the Iowa State Commerce Commission (ISCC), predecessor agency of the Utilities Board (Board), issued Temporary Permit No. 204 to the Lateral Gas Pipeline Company, Inc., a subsidiary of Iowa Electric Light & Power Company n/k/a Interstate Power and Light Company (IPL), for the construction, operation, and maintenance of the pipeline at issue in this case. (Docket No. P-246 file; petition for permit renewal; O'Neal report.) The pipeline was constructed in 1954. (testimony of Mr. teDuits; Docket No. P-246 file; petition for

permit renewal; O'Neal report.) On March 3, 1955, the ISCC issued Permanent Permit No. 274 that replaced Temporary Permit No. 204. (Docket No. P-246 file; petition for permit renewal; O'Neal report.) Permanent Permit No. 274 was issued for a period of 25 years. (Docket No. P-246 file; petition for permit renewal; O'Neal report.) On May 23, 1980, the Board issued an order granting Renewal Permit No. R-926 for the pipeline. (Docket No. P-246 file; petition for permit renewal; O'Neal report.) The renewal permit had an expiration date of March 3, 2005. (O'Neal and Helm reports; Docket No. P-246 file.)

On December 1, 2004, IPL filed a petition and exhibits for renewal of the pipeline permit for the 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. (petition for permit renewal; O'Neal and Helm reports.) IPL filed amendments to its petition and exhibits and provided additional information on June 14 and August 4, 2005, and on May 22, 2006.

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. (petition for permit renewal; O'Neal report.) The pipeline is the sole source of natural gas to the towns of Villisca, Hepburn, and Clarinda. (petition for permit renewal; testimony of Mr. teDuits.) The pipeline is a transmission line with a maximum allowable operating pressure (MAOP) of 500 psig. (petition for

permit renewal; O'Neal report; testimony of Mr. teDuits.) 199 IAC 10.16;
49 CFR 192.3.

The original petition issued in 1954-5 and the renewal petition issued in 1980 included two sections of pipeline downstream of the Clarinda town border station (TBS) that were not included in IPL's current petition for permit renewal filed in 2004. (O'Neal report; petition for permit renewal; Docket No. P-246 file.) One section ran from the Clarinda TBS to the Clarinda city limits and the other ran from the Clarinda TBS to a state hospital. (O'Neal report; Docket No. P-246 file; petition for permit renewal.) These two sections of pipeline are distribution mains with an MAOP of 60 psig. (O'Neal and Helm reports; petition for permit renewal; Docket No. P-246 file.) Therefore, no permit is required for them. 49 C.F.R. § 192.3; 199 IAC 10.16. Apparently, the two distribution mains were previously included in the permit at the request of IPL's predecessor company. (O'Neal report; petition for permit renewal; Docket No. P-246 file.) However, IPL no longer wishes them to be included in the permit. (O'Neal report; petition for permit renewal; Docket No. P-246 file.) Therefore, the renewal permit granted by this order will not include these two distribution mains.

On January 9, 2006, Mr. Keith and Mrs. Jean Wagoner filed a written objection to the petition for renewal with the Utilities Board (Board). The Wagoners were concerned that the pipeline is not buried at a safe depth for farming on land they own and rent. (Wagoner objection.)

On September 5, 2006, the 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 September 19, 2006. In that order, the undersigned set November 7, 2006, as the date for the hearing on the petition, and proposed to take official notice of two reports concerning the pipeline dated July 31, 2006, prepared by Mr. Jeffrey L. O'Neal, utility regulatory engineer, and Mr. Reed Helm, utility regulatory inspector, for the Board.

The hearing was held on November 7, 2006, in Board Conference Room 3, Iowa Utilities Board offices, 350 Maple Street, Des Moines, Iowa. IPL was represented by its attorney, Ms. Paula N. Johnson. Mr. Daniel teDuits, lead gas engineer for IPL, testified on behalf of IPL. Mr. O'Neal and Mr. Helm testified as the engineers selected by the Board to examine the pipeline route and permit application pursuant to Iowa Code § 479.11 (2005). The Consumer Advocate Division of the Department of Justice (Consumer Advocate) was represented by its attorney, Mr. John F. Dwyer. Mr. and Mrs. Wagoner, the only persons who filed an objection to the pipeline, did not appear at the hearing.

FINDINGS OF FACT

1. IPL is a pipeline company within the meaning of Iowa Code § 479.2. (testimony of Mr. teDuits; petition for permit; O'Neal report.)
2. The pipeline at issue in this case was constructed in 1954. (testimony of Mr. teDuits; Docket No. P-246 file; petition for permit renewal; O'Neal report.) On

December 1, 2004, IPL filed a petition and exhibits for renewal of the pipeline permit for the 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. (petition for permit renewal; O'Neal and Helm reports.)

3. The original permits issued in 1954-5 and the renewal permit issued in 1980 included two sections of pipeline downstream of the Clarinda TBS that were not included in IPL's current petition for permit renewal filed in 2004. (O'Neal report; petition for permit renewal; Docket No. P-246 file.) One section ran from the Clarinda TBS to the Clarinda city limits and the other ran from the Clarinda TBS to a state hospital. (O'Neal report; Docket No. P-246 file; petition for permit renewal.) These two sections of pipeline are distribution mains with an MAOP of 60 psig. (O'Neal and Helm reports; petition for permit renewal; Docket No. P-246 file.) Therefore, no permit is required for them. 49 C.F.R. § 192.3; 199 IAC 10.16. Apparently, the two distribution mains were previously included in the permit at the request of IPL's predecessor company. (O'Neal report; petition for permit renewal; Docket No. P-246 file.) However, IPL no longer wishes them to be included in the permit. (O'Neal report; petition for permit renewal; Docket No. P-246 file.) Therefore, the renewal permit granted by this order will not include these two distribution mains.

4. 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. (petition for permit renewal; O'Neal report.) The pipeline is the sole source of natural gas to the towns of Villisca, Hepburn, and Clarinda. (petition for permit renewal; testimony of Mr. teDuits.) Therefore, the pipeline promotes the public convenience and necessity. (petition for permit renewal; testimony of Mr. teDuits; O'Neal report.)

5. The pipeline is a transmission line with a maximum allowable operating pressure (MAOP) of 500 psig. (petition for permit renewal; O'Neal report; testimony of Mr. teDuits.) 199 IAC 10.16; 49 CFR 192.3.

6. IPL caused notice of the hearing to be published in Page County in the Clarinda Herald-Journal, a newspaper of general circulation in the county, on October 11 and 18, 2006. (proof of publication.) IPL caused notice of the hearing to be published in Montgomery County in the Villisca Review, a newspaper of general circulation in the county, on October 12 and 19, 2006. (proof of publication.)

7. The pipeline follows a route described in Exhibit A and shown on Exhibit B attached to the petition for a permit. (petition Exhibits A and B; O'Neal and Helm reports.) There are no problems with the location and route of the pipeline and no further terms, conditions, or restrictions regarding them need to be imposed pursuant to Iowa Code § 479.12. (petition for permit; O'Neal and Helm reports; testimony of Mr. teDuits.)

8. The evidence supports a continued MAOP of 500 psig for the pipeline. (petition for permit; O'Neal report; testimony of Mr. teDuits.) There are no high

consequence areas as defined by 49 C.F.R. Part 192 on the pipeline. (petition for permit; O'Neal and Helm reports.)

9. Mr. and Mrs. Wagoner filed a written objection to the pipeline on January 9, 2006, and a response to IPL's prehearing brief and direct testimony of Mr. teDuits on October 25, 2006. (Wagoner objection; Wagoner response.) The Wagoners farm land they own and rent that is crossed by the pipeline. (Wagoner objection; Wagoner response.) The Wagoners' concerns related primarily to whether the burial depth of the pipeline is sufficient for safe farming operations. (Wagoner objection; Wagoner response.) The Wagoners requested that an on-site depth reading survey of the pipeline be done with the parties and representatives of the Board present. (Wagoner response.) On November 1, 2006, Heath Consultants conducted a depth survey of the pipeline on the Wagoners' properties on behalf of IPL. (testimony of Mr. teDuits, Mr. O'Neal; IPL Exhibit 3.) The Wagoners, representatives of IPL, Mr. O'Neal, and Mr. Helm were present. (testimony of Mr. teDuits, Mr. O'Neal; IPL Exhibit 3.) Heath Consultants surveyed both the transmission part of the pipeline on the Wagoners' property that is the subject of this proceeding and the distribution part of the pipeline on the Wagoners' property that is not the subject of this proceeding. (testimony of Mr. teDuits; IPL Exhibit 3.) The depth survey showed that the transmission section of the pipeline is buried at least 32 inches deep and often deeper on the Wagoners' property. (IPL Exhibit 3; testimony of Mr. teDuits, Mr. O'Neal.) The depth survey also showed that the

distribution main is buried at least 31 inches deep and often deeper on the Wagoners' property. (IPL Exhibit 3; testimony of Mr. teDuits, Mr. O'Neal.) Therefore, the evidence presented in this case shows that the pipeline is buried at a safe depth for farming operations on the Wagoners' properties. (IPL Exhibit 3; testimony of Mr. teDuits, Mr. O'Neal.) IPL offered to install additional pipeline markers on the Wagoners' land if the Wagoners wished, but as of the date of the hearing, the Wagoners had not requested this. (testimony of Mr. teDuits.)

10. IPL has inspected the pipeline as required and lowered sections of the pipeline that became shallow over time due to erosion or excavation. (testimony of Mr. teDuits; IPL Exhibits 1, 2; petition for permit renewal; O'Neal report; Docket No. P-246 file.) IPL is not aware of any locations at which the pipeline is buried at a depth of less than 20 inches. (testimony of Mr. teDuits; petition for permit renewal; IPL Exhibits 1, 2, 3; Docket No. P-246 file; O'Neal report.) The pipeline continues to comply with the construction, safety, and design requirements of Iowa Code chapter 479, 199 IAC 10.12, and 49 C.F.R. Part 192. (testimony of Mr. teDuits, Mr. O'Neal, Mr. Helm; petition for permit renewal; Docket No. P-246 file; O'Neal and Helm reports; IPL Exhibits 1, 2, 3.) The pipeline is operated and maintained according to applicable requirements. (testimony of Mr. teDuits, Mr. O'Neal, Mr. Helm; petition for permit renewal; O'Neal and Helm reports; IPL Exhibits 1, 2, 3.) No further safety-related terms, conditions, or restrictions need to be imposed pursuant to Iowa Code

§ 479.12. (petition for permit renewal; testimony of Mr. teDuits, Mr. O'Neal, Mr. Helm; O'Neal and Helm reports; IPL Exhibits 1, 2, 3; Docket No. P-246 file.)

11. In their response to IPL's prehearing brief and direct testimony filed October 25, 2006, the Wagoners raised other related concerns regarding the railroad easement, the annual patrol of the pipeline, and Iowa One Call, and requested a copy of a report from Midwest Technologies regarding the pipeline. (Wagoner response.) IPL sufficiently addressed the Wagoners' concerns and filed a copy of the requested report as an exhibit. (testimony of Mr. teDuits; IPL Exhibit 2, Schedule E.) There are no remaining issues raised by the Wagoners that would provide a reason to deny the requested petition for renewal. (Wagoner objection; Wagoner response; testimony of Mr. teDuits, Mr. O'Neal, Mr. Helm; IPL Exhibits 1, 2, 3; O'Neal and Helm reports; petition for permit renewal; Docket No. P-246 file.)

12. IPL owns property subject to execution within this state, other than pipelines, of a value in excess of \$250,000, and thus meets the requirements of Iowa Code § 479.26 and 199 IAC 10.2(1)"d." (testimony of Mr. teDuits; petition exhibit D.)

13. The evidence in the case supports the grant of IPL's petition for renewal of its pipeline permit for a period of twenty-five years. (testimony of Mr. teDuits, Mr. O'Neal, Mr. Helm; petition for permit; Docket No. P-246 file; IPL Exhibits 1, 2, 3.)

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, 479.3, 479.4, 479.12, and 479.18; 199 IAC 10.

2. The Board has jurisdiction over IPL and over the petition for pipeline permit renewal it filed. Iowa Code §§ 479.2, 479.3, 479.5, 479.6, 479.12, and 479.18.

3. The petition for pipeline permit renewal filed by IPL in this docket should be granted. Iowa Code §§ 479.11, 479.12, and 479.26; 199 IAC 10.

4. The provisions of Iowa Code § 479.29 do not apply to this permit renewal because the pipeline was constructed prior to June 1, 1999, and IPL does not request permission to construct new pipeline. Iowa Code § 479.29(12).

IT IS THEREFORE ORDERED:

1. Official notice is taken of the report dated July 31, 2006, filed in this docket by Mr. Jeffrey L. O'Neal, utility regulatory engineer for the Board. Official notice is taken of the report dated July 31, 2006, filed in this docket by Mr. Reed Helm, utility regulatory inspector for the Board.

2. Pursuant to Iowa Code chapter 479, the petition for pipeline permit renewal filed by IPL in this docket is granted. A renewal permit will be issued if this decision and order becomes the final order of the Board.

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

4. This proposed decision will become the final decision of the Board unless appealed to the Board within 15 days of its issuance or the Board votes to review the proposed decision on its own motion. Iowa Code § 17A.15(3); 199 IAC 7.26(2).

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 9th day of November, 2006.