

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: ENTERPRISE PRODUCTS OPERATING L.P.	DOCKET NO. P-836
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**ORDER ESTABLISHING PROCEDURAL SCHEDULE AND PROPOSING TO
TAKE OFFICIAL NOTICE AND NOTICE OF HEARING**

(Issued December 12, 2006)

On September 18, 1997, the Utilities Board (Board) issued Pipeline Permit No. 1190 to Mid-America Pipeline Company (MAPCO) that allowed MAPCO to construct, operate, and maintain the pipeline at issue in this case. On March 17, 2006, Enterprise Products Operating L.P. (Enterprise) filed a petition for amendment of Pipeline Permit No. 1190 to increase the maximum operating pressure specified in the permit from 300 psig to 720 psig. Enterprise acquired the assets of MAPCO in 2002 and is a successor to MAPCO. Enterprise began operating the pipeline in 2003. The 4½-inch diameter natural gas pipeline approximately 0.73 miles long in Monona County transports natural gas from a Northern Natural Gas Company pipeline to a pumping station on one of Enterprise's hazardous liquid pipelines near Whiting, Iowa. The natural gas is used as fuel for the pumps. The pipeline requires a permit because it meets the definition of a transmission line under 49 CFR Part 192 because it transports natural gas from another transmission line (and ultimately from

gas gathering lines and/or storage facilities) to a large volume customer that is not downstream of a distribution center. 199 IAC 10.16; 49 CFR 192.3. Enterprise filed amendments to its petition and exhibits and provided additional information on June 28 and August 24, 2006.

On December 7, 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 amendments 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); 199 IAC 10.9.

To obtain a permit amendment, the petitioner must show that the services it proposes to render will promote the public convenience and necessity. Iowa Code § 479.12; 199 IAC 10.9. The petitioner must also satisfy the financial requirements of Iowa Code § 479.26; 199 IAC 10.9.

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 10.9, 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. No new construction is proposed, so the requirements of Iowa Code § 479.29 do not apply.

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.

Enterprise must submit prepared testimony and exhibits prior to the hearing. At a minimum, Enterprise's prepared testimony must address the issues listed above.

Enterprise has the burden to prove that its pipeline meets all the statutory and regulatory requirements discussed above. Failure to file adequate prepared testimony and exhibits to support its petition for permit amendment may result in delay of this proceeding or denial of the requested permit amendment.

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 Enterprise 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.

PARTY STATUS

Enterprise 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. Enterprise 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 amendment. 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 amendment 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 grant of the requested permit amendment. 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.

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 November 27, 2006, concerning Enterprise's petition. Mr. Reed Helm, utility regulatory inspector for the Board, has prepared a report dated November 27, 2006, concerning the route of the pipeline. Copies of both 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 who files a letter of objection to Enterprise'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 requested permit amendment.
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 January 3, 2007, Enterprise must file prepared direct testimony as discussed in this order. If Enterprise wishes to file a prehearing brief, it must do so on or before January 3, 2007.

b. If the Consumer Advocate or any objector chooses to file prepared responsive testimony or a prehearing brief, it must do so on or before January 17, 2007.

c. If Enterprise wishes to file prepared rebuttal testimony, it must do so on or before January 24, 2007.

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, January 30, 2007, in Board Conference Room 3, 350 Maple Street, Des Moines, Iowa. Enterprise has requested that the hearing be held by telephone conference call, and the request is granted unless an objection to the telephone conference hearing is filed with the Board on or before January 3, 2007. Persons who wish to be connected to the hearing by telephone conference call must dial the Board's

bridge line at 1-866-708-4636 at the time set for the hearing. Each party must provide a copy of its prepared testimony and exhibits to the court reporter prior to or at the hearing. 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 business days prior to the hearing to request that appropriate arrangements be made.

4. 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."

5. The undersigned administrative law judge proposes to take official notice of Mr. O'Neal's report dated November 27, 2006, and of Mr. Helm's report dated November 27, 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.

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

7. Board staff will provide Enterprise with a notice to be published and Enterprise must publish the notice as required by Iowa Code § 479.7 and

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199 IAC 10.4. Enterprise must file proof of publication prior to or at the hearing.
Failure to comply with these requirements will require rescheduling of 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 12th day of December, 2006.

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

TO: Docket No. P-836

FROM: Jeffrey L. O'Neal

DATE: November 27, 2006

SUBJ: Staff Review of Enterprise Products Operating L.P. Petition for Amendment of Pipeline Permit No. 1190 to Increase the Maximum Operating Pressure for a Natural Gas Pipeline in Monona County, Iowa.

On September 18, 1997, the Utilities Board (Board) issued Pipeline Permit No. 1190 to Mid-America Pipeline Company (MAPCO), in Docket No. P-836, allowing MAPCO to construct, operate and maintain 0.72 miles of 4½-inch diameter natural gas pipeline in Monona County, Iowa. On March 17, 2006, Enterprise Products Operating L.P. (Enterprise) filed a petition for amendment of Pipeline Permit No. 1190, to increase the maximum operating pressure specified in the permit from 300 psig to 720 psig. Enterprise acquired MAPCO in October 2002.

A first reading of the petition raised questions regarding the circumstances surrounding the acquisition of MAPCO by Enterprise. Based on additional information provided by Enterprise, it is staff's understanding that the acquisition was part of a corporate restructuring. From the information provided it appears that Enterprise became the parent corporation of MAPCO through a corporate restructuring and now has requested that the permit be held in the Enterprise name. It is staff's understanding that pipeline operating personnel and procedures have remained the same. Board subrule 10.19(3) states that reassignment of a pipeline permit as part of a corporate restructuring, with no change in pipeline operating personnel or procedures, is considered a transfer. Enterprise has satisfied Board rules by giving notice of the transfer and no further action is needed.

Enterprise primarily operates hazardous liquids pipelines in Iowa. The pipeline under permit in this docket is used to transport natural gas from a Northern Natural Gas Company pipeline to a pumping station on one of Enterprise's liquids pipelines near Whiting, Iowa. The natural gas is used as fuel for the pumps.

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 a large volume customer that is not downstream of a distribution center.

An informational meeting was not held for this amendment. An informational meeting is not required because no new construction is planned and no new right of way is needed, and because the pipeline is less than 5 miles long. (See 199 IAC 10.3.)

By letters dated June 15, 2006, and July 31, 2006, Board staff advised Enterprise of petition deficiencies requiring correction, and requested additional information on certain items. On June 28, 2006, and August 24, 2006, Enterprise filed revisions to the petition and exhibits and provided additional information.

On November 8 and 9, 2005, Utility Regulation Inspector Reed Helm of Board staff inspected the pipeline for compliance with federal pipeline safety standards adopted by the Board. He filed a report regarding this safety inspection on December 12, 2005. The inspection report stated no leaks have been found on this pipeline. The inspection report cited two probable violations of pipeline safety standards. A probable violation of § 192.739(a)(1)&(3) was cited because regulator station inspection records did not include all required information. A probable violation of § 192.201(a)(2)(i) was cited for the overpressure protection device being set at a pressure greater than maximum allowable operating pressure (MAOP) plus 10 percent. By letter dated January 17, 2006, Enterprise provided a satisfactory response to both probable violations. Documentation filed in Enterprise's petition for amendment of permit shows the MAOP of this pipeline as determined under Part 192 is 720 psig, not 300 psig as assumed in the inspection report. Both probable violations cited were dependant on an assumption that the MAOP of the pipeline was 300 psig, not 720 psig. Since the MAOP was actually 720 psig, there were no violations. On November 27, 2006, Mr. Helm filed a report regarding the route of the pipeline. The report stated the entire route is in a Class 1 location through rural crop land, with no buildings near the pipeline. No problems were noted with the route.

In this memo the term "maximum allowable operating pressure" or "MAOP" refers the maximum operating pressure allowed under Minimum Federal Safety Standards in 49 Part 192. The term "maximum operating pressure" refers to the maximum operating pressure specified in the pipeline permit issued by the Board. The term "maximum actual operating pressure" refers to the maximum operating pressure that will exist in the piping system during a normal annual operating cycle, as specified by a petitioner on Exhibit C under Item No. 1.

Exhibits C and F filed with the current petition for amendment of pipeline permit show that the MAOP of this pipeline is 720 psig. Exhibit C in the petition for permit filed in 1997 prior to construction of this pipeline showed it would be designed, constructed and tested for an MAOP of 720 psig. The 1997 Exhibit C stated in Item No. 1 that the maximum actual operating pressure would be 300 psig. In 1997, unless otherwise requested by the petitioner, pipeline permits specified a maximum operating pressure equal to the maximum actual operating pressure specified in Item No. 1 in Exhibit C (as stated in the instructions in the Exhibit C form in use at that time), rather than the MAOP. This practice was changed in 2002. Since that time, pipeline permits specify a maximum operating pressure equal to the MAOP listed in Exhibit C, Item No.

5, unless otherwise requested by the petitioner (as stated in the instructions in the current Exhibit C form). Pipeline Permit No. 1190 specified a maximum operating pressure of 300 psig, in accordance with the practice that existed in 1997. The MAOP of this pipeline has been 720 psig since before the pipeline was placed in service in 1997. The maximum operating pressure being requested by Enterprise in its petition for amendment is the maximum operating pressure that would be specified in a new or renewal permit today, unless otherwise requested by the petitioner.

The amendment seeks only an increase in the maximum operating pressure specified in the permit. No new construction is proposed. Therefore, no land restoration plan was needed or filed.

Exhibit F states that operating pressures greater than 300 psig will provide flexibility in transporting fuel gas to the pump station.

Conclusions/Summary

I have reviewed the petition and exhibits in this docket. It appears from the information presented that the pipeline complies with all design, construction, and testing requirements of the Board. A recent inspection by Board staff cited two probable violations of pipeline safety standards, but these were subsequently shown not to have been violations. There are no outstanding conflicts with pipeline safety standards. The filing appears in sufficient order that the petition can be set for hearing.

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

TO: Docket P-836

DATE: November 27, 2006

FROM: Reed Helm

SUBJECT: Route inspection of Mid-American Pipeline Company's four-inch fuel gas line to the Whiting pumping station, Whiting IA.

On November 8 and 9, 2005, a route inspection of Mid-American Pipeline Company's (MAPCO) four inch fuel gas pipeline near Whiting, Iowa was conducted. The pipeline is operated by Enterprise Products Operating LP, and supplies natural gas to fuel pump engines at MAPCO's pumping station. The inspection included an inspection of the route and right of way (ROW) conditions of the pipeline.

The 3839 foot pipeline commences at the Northern Natural Gas station on the north side of 173rd Street in Monona County. The pipeline travels east approximately 480 feet to an existing MAPCO ROW. The pipeline travels northeasterly to Monona County Highway K45. The pipeline crosses the Union Pacific Railroad and County Highway K-45 to MAPCO's pumping station on the east side of Highway K-45.

The entire route is in a Class 1 location through rural cultivated crop land. There were no residences or buildings near the pipeline. No safety concerns or compliance issues were noted regarding the route.