

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

<p>IN RE:</p> <p>ENTERPRISE PRODUCTS OPERATING L.P. and ENTERPRISE PRODUCTS PARTNERS L.P.</p>	<p>DOCKET NO. P-836</p>
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**PROPOSED DECISION AND ORDER AMENDING PERMIT**

(Issued February 9, 2007)

**APPEARANCES:**

MR. JOEL E. KOHLER, P.E., Manager of Pipeline Compliance, EPCO, Inc., 1100 Louisiana Street, Houston, Texas 77002, appearing pro se on behalf of Enterprise Products Operating L.P., P.O. Box 9, Gonzales, LA 70707-0009.

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

**STATEMENT OF THE CASE**

On September 18, 1997, the Utilities Board (Board) issued Pipeline Permit No. 1190 to Mid-America Pipeline Company, Tulsa, Oklahoma (MAPCO) that allowed MAPCO to construct, operate, and maintain the pipeline at issue in this case. (petition for permit amendment; O'Neal report.) Enterprise Products Partners LP (EPP) acquired the assets of MAPCO in 2002, and Enterprise Products Operating L.P. (Enterprise), a wholly owned subsidiary of EPP, began operating the pipeline in February 2003. (petition Ex. F; Tr. 20-1; O'Neal report.)

On March 17, 2006, Enterprise filed a petition and exhibits for amendment of Pipeline Permit No. 1190 to increase the maximum operating pressure specified in the permit from 300 psig to 720 psig. (petition for permit; O'Neal report; testimony of Mr. Kohler.) Enterprise filed amendments to its petition and exhibits and filed additional information on June 28 and August 24, 2006. (petition for permit.) The 4½ diameter natural gas transmission pipeline is approximately 0.73 miles long and transports natural gas from a Northern Natural Gas Company pipeline to a pumping station on one of the pipelines Enterprise operates near Whiting in Monona County, Iowa. (petition for permit; O'Neal report; testimony of Mr. Kohler.) The natural gas is used as fuel for the pumps. (O'Neal report.)

On December 7, 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 December 12, 2006. In that order, the undersigned set January 30, 2007, as the date for the hearing on the petition, and proposed to take official notice of two reports concerning the pipeline petition and route dated November 27, 2006: one prepared by Mr. Jeffrey L. O'Neal, utility regulatory engineer for the Board, and one prepared by Mr. Reed Helm, utility regulatory inspector for the Board.

Enterprise filed prepared direct testimony and exhibits of Mr. Joel E. Kohler on January 3, 2007. The exhibits had been previously filed with the Board by Enterprise

and included a notification of transfer of permit and petition exhibits. Enterprise filed proof of publication of notice of the hearing on January 29, 2007.

The hearing was held on January 30, 2007, in Board Conference Room 3, 350 Maple Street, Des Moines, Iowa. Enterprise appeared pro se. Mr. Joel E. Kohler was connected to the hearing by telephone conference call and testified on behalf of Enterprise. The Consumer Advocate was represented by its attorney, Mr. John F. Dwyer. Mr. Jeffrey O'Neal and Mr. Reed Helm testified as the staff selected by the Board to examine the petition and proposed route pursuant to Iowa Code § 479.11 (2007). At the hearing, Mr. Kohler testified that Enterprise does not own the assets listed in petition Exhibit D. (Tr. 20-6.) He testified that Enterprise's parent company, EPP, is the owner of the assets. (Tr. 20-6.) In order to satisfy the financial requirement of Iowa Code § 479.26, Enterprise agreed that the amended pipeline permit would be held by both Enterprise and its parent company, EPP. (Tr. 20-8.) Enterprise agreed to file a letter with the Board within a week of the hearing that stated the corrected name of the company that will hold the amended permit. (Tr. 29.) At the hearing, Mr. Kohler also testified the company preferred to satisfy the requirement of Iowa Code § 479.26 by having the permit be held by Enterprise and its general partner, Enterprise Products OLPGP, rather than by filing a surety bond. (Tr. 28.)

On January 31, 2007, Enterprise filed a letter requesting that the amended permit be issued in the name of "Enterprise Products Operating L.P., by Enterprise

Products OLPGP, Inc., its General Partner." The request is denied because there is no evidence in the record that Enterprise Products OLPGP owns property in Iowa sufficient to satisfy the financial requirement of Iowa Code § 479.26.

### **FINDINGS OF FACT**

1. Enterprise is a pipeline company within the meaning of Iowa Code § 479.2. (petition for permit; Tr. 16, 21; O'Neal report.)
2. On September 18, 1997, the Board issued Pipeline Permit No. 1190 to Mid-America Pipeline Company, Tulsa, Oklahoma (MAPCO) that allowed MAPCO to construct, operate, and maintain the pipeline at issue in this case. (petition for permit; O'Neal report; Tr. 20.) Enterprise Products Partners L.P. (EPP) acquired MAPCO in 2002, and Enterprise Products Operating L.P. (Enterprise), a wholly owned subsidiary of EPP, began operating the pipeline in February 2003. (petition Ex. F; Tr. 20-1.)
3. On March 17, 2006, Enterprise filed a petition and exhibits for amendment of Pipeline Permit No. 1190 to increase the maximum operating pressure specified in the permit from 300 psig to 720 psig. (petition for permit; O'Neal report; Tr. 16-7.) Enterprise filed amendments to its petition on June 28 and August 24, 2006. (petition for permit.) The 4½ diameter natural gas transmission pipeline at issue in this case is approximately 0.73 miles long. (petition for permit; O'Neal report; Tr. 17.)

4. The pipeline follows a route described in Exhibit A and shown on Exhibit B attached to the petition for a permit (as amended). (petition Exhibits A and B.) The route begins at an existing Northern Natural Gas Company pipeline and runs in a generally easterly and northeasterly direction to a pumping station on a pipeline operated by Enterprise near Whiting, Iowa. (petition Exhibits A and B; Helm report; O'Neal report; Tr. 17.) The entire pipeline is located in Monona County, Iowa. (petition for permit; Helm report; O'Neal report.)

5. The pipeline transports natural gas from an interconnection with a Northern Natural Gas Company pipeline to a pumping station on a pipeline operated by Enterprise located near Whiting, Iowa. (petition for permit; O'Neal report; Tr. 17.) The natural gas is used as fuel for the pumps. (petition for permit; O'Neal report.)

6. Enterprise caused notice of the hearing to be published in Monona County in the Onawa Democrat, a newspaper of general circulation in the county, on January 10 and 17, 2007. (proof of publication.) Enterprise also caused notice of the hearing to be published in Monona County in the Mapleton PRESS, a newspaper of general circulation in the county, on January 11 and 18, 2007. (proof of publication.)

7. The maximum operating pressure specified in the original permit for this pipeline was 300 psig. (petition for permit; O'Neal report; Tr. 17.) The pipeline was designed, constructed, and tested for a maximum allowable operating pressure (MAOP) of 720 psig. (O'Neal report; petition for permit; Tr. 17.) In its application for permit amendment, Enterprise requests an increase in the maximum operating

pressure allowed by the permit from 300 psig to 720 psig. (petition for permit; Tr. 17; O'Neal report.) The increase in the maximum operating pressure will allow Enterprise to deliver a larger volume of fuel gas to its pumping station on its pipeline, which will allow Enterprise to increase its liquids pipeline volume to meet customer and consumer energy demands in the Midwest. (Tr. 17; petition for permit; O'Neal report.) The maximum operating pressure Enterprise requests in this petition for permit amendment is the maximum operating pressure that would be specified if a new permit were issued today, unless the petitioner specifically requested a lower maximum operating pressure. (O'Neal report.) Therefore, the permit amendment will promote the public convenience and necessity. (petition for permit; testimony of Mr. Kohler; O'Neal report.)

8. The pipeline complies with all design, construction, testing, and safety requirements of Iowa Code Chapter 479, 199 IAC § 10.12, and 49 C.F.R. Part 192. (petition for permit; O'Neal report; Helm report; Tr. 18.) The pipeline has been operated and will continue to be operated and maintained in conformance with all applicable state and federal requirements. (Tr. 18; O'Neal report; Helm report; petition for permit.) No safety-related terms, conditions, or restrictions need to be imposed pursuant to Iowa Code § 479.12. (petition for permit; O'Neal report; Helm report; testimony of Mr. Kohler.)

9. The location and route of the pipeline are reasonable and no further terms, conditions, or restrictions regarding them need to be imposed pursuant to

Iowa Code § 479.12. (petition for permit; O'Neal report; Helm report; testimony of Mr. Kohler.)

10. Enterprise does not own the property listed in petition Exhibit D and did not file satisfactory proof of its solvency and financial ability to pay damages. (petition for permit; Tr. 20-8.) However, in order to satisfy the financial requirement of Iowa Code § 479.26, Enterprise agreed that the permit would be held by both it and its parent company, EPP, which does own property subject to execution within this state, other than pipelines, of a value in excess of \$250,000. (Tr. 20-9; petition for permit.) There is no evidence in the record that Enterprise's general partner, Enterprise Products OLPGP, can satisfy the financial requirement of Iowa Code § 479.26. (petition for permit; Tr. 1-33; O'Neal report; Helm report.)

11. No written objections to the petition for a permit were filed and no objectors appeared at the hearing. (testimony of Mr. O'Neal; Docket No. P-836 file.)

12. Enterprise does not propose any new construction. (petition for permit; O'Neal report.) Since there will be no new construction, the permit amendment will not impact any agricultural land. (petition for permit; O'Neal report.)

### **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, 479.5, 479.6, 479.12, and 479.18; 199 IAC 10.

2. The Board has jurisdiction over Enterprise and over the petition for permit amendment Enterprise filed. Iowa Code §§ 479.2, 479.5, 479.6, 479.12, and 479.18.

3. The petition of Enterprise for issuance of an amendment to Pipeline Permit No. 1190 to increase the maximum operating pressure specified in the permit from 350 psig to 720 psig, as modified to reflect the correct permit holder, should be granted. Iowa Code §§ 479.11, 479.12, and 479.26; 199 IAC 10.

4. Since the proposed pipeline will not impact any agricultural land, Enterprise and EPP are not required to comply with the requirements of Iowa Code § 479.29 and 199 IAC 9.

5. Enterprise and EPP must comply with the requirements of all applicable state and federal statutes and rules regarding the operation and maintenance of the pipeline. Iowa Code Chapter 479; 199 IAC 10.12; 49 C.F.R. Parts 192 and 199.

6. Iowa Code § 479.26 requires that before a permit is granted, the applicant must satisfy the Board that it owns property in Iowa, other than pipelines, subject to execution of a value in excess of \$250,000, or the applicant must file and maintain a surety bond in that amount that satisfies the requirements of the statute. The statute contains other methods to satisfy the statutory requirement, none of which have been met in this case. If the amended permit is held by Enterprise and its parent company, EPP, which owns property in Iowa satisfying the statute, this will satisfy the financial requirement of Iowa Code § 479.26. Alternatively, if Enterprise

wishes the permit to be issued to "Enterprise Products Operating L.P., by Enterprise Products OLPGP, Inc., its General Partner," Enterprise must file a surety bond that meets the requirements of Iowa Code § 479.26 prior to permit issuance.

**IT IS THEREFORE ORDERED:**

1. Official notice is taken of the report dated November 27, 2006, filed in this docket by Mr. Jeffrey L. O'Neal, utility regulatory engineer for the Board, and of the report dated November 27, 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 an amendment to Pipeline Permit No. 1190 filed by Enterprise in this docket is granted, with the restriction that the amended permit will be issued to and held by Enterprise Products Operating L.P. and its parent company, Enterprise Products Partners, L.P.
3. Amended Pipeline Permit No. 1190 with a maximum operating pressure of 720 psig will be issued to Enterprise Products Operating L.P. and its parent company, Enterprise Products Partners, L.P., if this proposed decision and order becomes the final order of the Board.
4. The request filed by Enterprise on January 31, 2007, that the permit be issued in the name of "Enterprise Products Operating L.P., by Enterprise Products OLPGP, Inc., its General Partner," is denied for the reason stated in the body of this decision. However, if Enterprise wishes the amended permit to be held in the name of "Enterprise Products Operating L.P., by Enterprise Products OLPGP, Inc., its

General Partner," it must notify the Board in writing within seven days of the issuance of this proposed decision, and it must file a surety bond satisfactory to the Board that meets the requirements of Iowa Code § 479.26 prior to permit issuance.

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

6. This proposed decision will become the final decision of the Board unless appealed to the Board within 15 days of its issuance, or unless the Board decides to review the proposed decision on its own motion within 15 days of its issuance. Iowa Code § 17A.15(3); 199 IAC § 7.8(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 9<sup>th</sup> day of February, 2007.