

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: CITY OF SIOUX CENTER	DOCKET NO. P-869
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PROPOSED DECISION AND ORDER GRANTING PERMIT

(Issued May 16, 2007)

APPEARANCES:

MR. BRIAN K. VAN ENGEN, Attorney at Law, Oostra, Bierma & Van Engen, 32 6th Street NW, Sioux Center, Iowa 51250, appearing on behalf of the City of Sioux Center.

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 January 19, 2007, the City of Sioux Center (Sioux Center) filed a petition and exhibits for a pipeline permit with the Utilities Board (Board). (petition for permit.) Sioux Center proposes to construct, operate, and maintain a new 6-inch diameter natural gas pipeline approximately 2.4 miles long. (petition for permit; testimony of Mr. Enloe; O'Neal report.) Sioux Center also proposes to acquire an existing Northern Natural Gas (NNG) 3-inch diameter natural gas pipeline approximately 2.4 miles long. (petition for permit; testimony of Mr. Enloe; O'Neal report.) Sioux Center plans to install the new 6-inch pipeline parallel to the 3-inch pipeline on the existing

easements for the 3-inch pipeline. (petition for permit; testimony of Mr. Enloe; O'Neal report.) Both pipelines would be entirely in Sioux County, Iowa. (petition for permit; testimony of Mr. Enloe; O'Neal report.) Sioux Center amended its petition and exhibits and provided additional information on January 30, February 14, February 27, and March 7, 2007. (petition for permit.)

The existing and proposed pipelines will provide additional capacity to the Sioux Center system. (petition for permit; testimony of Mr. Enloe; O'Neal report.) They are necessary to serve the increased load of the SELC ethanol plant served by Sioux Center and to serve projected load growth for Sioux Center over the next 20 years. (petition for permit; testimony of Mr. Enloe; O'Neal report.)

On April 4, 2007, the Board assigned this case to the undersigned administrative law judge. On April 11, 2007, the undersigned issued an order establishing a procedural schedule, proposing to take official notice, and providing notice of the hearing. In that order, the undersigned set April 24, 2007, as the hearing date and proposed to take official notice of a report concerning the proposed pipeline dated March 8, 2007, prepared by Mr. Jeffrey L. O'Neal, utility regulatory engineer for the Board.

On April 18, 2007, Sioux Center filed a request for an expedited schedule with the Board. On April 19, 2007, the undersigned issued a revised procedural order and notice of hearing setting the hearing for May 15, 2007.

The hearing was held on May 15, 2007, in Board Conference Room 3, 350 Maple Street, Des Moines, Iowa. Sioux Center was represented by its attorney, Mr. Brian Van Engen. Mr. Van Engen was connected to the hearing by telephone conference call. Mr. C. Lindsay Enloe, President of Utility Safety and Design, Inc. (USDI), testified on behalf of Sioux Center. Mr. Matt Van Schouwen and Mr. Murray Hulstein appeared at the hearing on behalf of Sioux Center but did not testify. The Consumer Advocate Division of the Department of Justice (Consumer Advocate) was represented by its attorney, Mr. John F. Dwyer. Mr. O'Neal testified as the engineer selected by the Board to examine the proposed route and permit application pursuant to Iowa Code § 479.11 (2007).

FINDINGS OF FACT

1. Sioux Center is a pipeline company within the meaning of Iowa Code § 479.2. (petition for permit; testimony of Mr. Enloe; O'Neal report.)
2. On January 19, 2007, Sioux Center filed a petition and exhibits for a pipeline permit for two pipelines with the Board. (petition for permit.) Sioux Center proposes to construct, operate, and maintain a new 6-inch diameter natural gas pipeline approximately 2.4 miles long. (petition for permit; testimony of Mr. Enloe; O'Neal report.) Sioux Center also proposes to acquire an existing NNG 3-inch diameter natural gas pipeline approximately 2.4 miles long. (petition for permit; testimony of Mr. Enloe; O'Neal report.) Both pipelines would be entirely in Sioux County, Iowa. (petition for permit; testimony of Mr. Enloe; O'Neal report.)

3. On June 15, 1954, in Docket No. P-233, the Iowa State Commerce Commission (ISCC), predecessor agency of the Board, issued Temporary Permit No. 188 to NNG to construct, operate, and maintain the 3-inch pipeline at issue in this case. (petition for permit; O'Neal report.) On February 3, 1955, the ISCC issued Permanent Permit No. 267 for the pipeline. (O'Neal report.) On May 5, 1980, the ISCC issued Renewal Pipeline Permit No. R-908 for the pipeline. (O'Neal report.) In 1987, the Eighth Circuit Court of Appeals ruled that federal law preempted the provisions of Iowa Code Chapter 479 with respect to interstate natural gas pipelines. *ANR Pipeline Co. v. Iowa State Commerce Comm'n*, 828 F.2d 465 (8th Cir. 1987). As a result, all existing Iowa permits for interstate natural gas pipelines were rendered invalid. (O'Neal report.) Therefore, the existing NNG 3-inch pipeline does not currently have a permit from the Board because Iowa permits are not required for interstate natural gas pipelines. (O'Neal report.)

4. Once Sioux Center acquires the existing 3-inch pipeline from NNG, it will no longer be an interstate pipeline, so a permit will be required before Sioux Center begins to operate it. (petition for permit; testimony of Mr. Enloe; O'Neal report.) The proposed 6-inch pipeline and the existing 3-inch pipeline must have a permit from the Board because they will operate at a pressure higher than 150 psig and because they are transmission lines. 199 IAC 10.16; 49 CFR 192.3. They are transmission lines because they will transport natural gas from another transmission line to a distribution center. 49 C.F.R. 192.3. Also, at the requested maximum

allowable operating pressure (MAOP) of 800 pounds per square inch gauge (psig), the 6-inch diameter pipeline would operate at a hoop stress of more than 20% of specified minimum yield strength (SMYS), thus making it a transmission line as defined by 49 C.F.R. 192.3. (petition for permit; testimony of Mr. Enloe; O'Neal report.)

5. Sioux Center caused notice of the hearing to be published in Sioux County in the Sioux Center News, a newspaper of general circulation in the county, on April 25 and May 2, 2007. (proof of publication.)

6. The proposed and existing pipelines will follow 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 report.) Sioux Center will construct the proposed 6-inch pipeline within the existing easements for the 3-inch pipeline that Sioux Center will acquire from NNG. (petition for permit; testimony of Mr. Enloe; O'Neal report.) The NNG easements allow for construction of another pipeline within the easements. (testimony of Mr. Enloe.) There are no problems with the location and route of the pipelines 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; testimony of Mr. Enloe.)

7. Sioux Center expects to receive approval of its requested road crossing permits from Sioux County on May 15, 2007. Grant of this petition assumes that Sioux Center will receive the requested permits.

8. The proposed and existing pipelines will deliver natural gas from a new NNG delivery and metering station on an existing NNG pipeline to a new Sioux Center regulator station that will supply natural gas to Sioux Center's gas distribution system. (petition for permit; testimony of Mr. Enloe; O'Neal report.) The pipelines are necessary to serve an increased load of the SELC ethanol plant served by Sioux Center. (petition for permit; testimony of Mr. Enloe; O'Neal report.) They are also necessary to provide additional capacity to serve anticipated load growth of the City of Sioux Center over the next 20 years. (petition for permit; testimony of Mr. Enloe; O'Neal report.) Sioux Center cannot serve the increased load through the existing 3" pipeline. (testimony of Mr. Enloe.) The project will relocate the town border station to a less populated area and will therefore promote the safety of the Sioux Center system. (testimony of Mr. Enloe.) In addition, Sioux Center will remove the propane air system presently located near a college and a day care center. (testimony of Mr. Enloe.) Therefore, the proposed and existing pipelines will promote the public convenience and necessity. (petition for permit; testimony of Mr. Enloe; O'Neal report.)

9. The proposed and existing pipelines will comply with the design, construction, and safety requirements of Iowa Code chapter 479, 199 IAC § 10.12, and 49 CFR Part 192. (petition for permit; testimony of Mr. Enloe; O'Neal report.) No further safety-related terms, conditions, or restrictions need to be imposed pursuant to Iowa Code § 479.12. (petition for permit; testimony of Mr. Enloe; O'Neal report.)

10. Sioux Center 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." (petition exhibit D.)

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-869 file.)

12. Sioux Center filed a land restoration plan and will restore disturbed agricultural land in conformance with the plan. (petition for permit; testimony of Mr. Enloe; 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, 479.12, and 479.18; 199 IAC 10.

2. The Board has jurisdiction over Sioux Center and over the petition for a natural gas pipeline permit it has filed. Iowa Code §§ 479.2, 479.3, 479.5, 479.6, 479.12, and 479.18.

3. The petition of Sioux Center for issuance of a permit for the natural gas pipelines in this docket should be granted. Iowa Code §§ 479.11, 479.12, 479.26, and 479.29; 199 IAC 9 and 10.

4. The land restoration plan filed by Sioux Center complies with the requirements of Iowa Code § 479.29 and the Board's rules at 199 IAC 9.

IT IS THEREFORE ORDERED:

1. Official notice is taken of the report dated March 8, 2007, filed in this docket by Mr. Jeffrey O'Neal, utility regulatory engineer for the Board.
2. Pursuant to Iowa Code chapter 479, the petition for a pipeline permit filed by Sioux Center in this docket is granted. A permit will be issued if this proposed decision and order becomes the final order of the Board.
3. Once it receives approved road crossing permits from Sioux County, Sioux Center must file proof of the approval with the Board.
4. Sioux Center must provide timely notice to the Board before beginning construction of the pipeline and must also file weekly progress reports with the Board during construction of the pipeline.
5. After Sioux Center completes construction of the new pipeline, it must file a construction completion report with the Board. This report must include information regarding any unusual construction problems or occurrences and a copy of the pressure test procedures used and the results obtained.
6. Within 180 days after completion of the construction of the new pipeline, Sioux Center must file a map that accurately shows the location of the pipeline route as constructed. The map will be a part of the record in this case and will represent the final route as authorized by the permit.
7. The Board retains jurisdiction of the subject matter in this docket.

8. This proposed decision will become the final decision of the Board unless, within 5 days after the proposed decision is issued, a party files written notice of appeal with the Board 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/ Margaret Munson
Executive Secretary, Deputy

Dated at Des Moines, Iowa, this 16th day of May, 2007.