

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: PLYMOUTH ENERGY, LLC	DOCKET NO. P-868
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PROPOSED DECISION AND ORDER GRANTING PERMIT

(Issued July 12, 2007)

APPEARANCES:

MR. PAUL E. HORVATH, Attorney at Law, Dickinson, Mackaman, Tyler & Hagen, P.C., 699 Walnut Street, Suite 1600, Des Moines, Iowa 50309, appearing on behalf of Plymouth Energy, LLC.

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 March 26, 2007, Plymouth Energy, LLC (Plymouth Energy) filed a petition and exhibits for a pipeline permit with the Utilities Board (Board). (petition for permit.) Plymouth Energy proposes to construct, operate, and maintain a new 6⁵/₈-inch diameter steel natural gas pipeline approximately 7.5 miles long in Plymouth County, Iowa. (petition for permit; testimony of Mr. Lee; O'Neal report.) Plymouth Energy filed an amendment to its petition and exhibits and provided additional information on April 25, 2007. (petition for permit; testimony of Mr. Lee; O'Neal report.) The proposed pipeline will deliver natural gas to the Plymouth Energy ethanol plant

currently under construction north of Merrill. (petition for permit; testimony of Mr. Lee; O'Neal report.)

On May 22, 2007, the Board assigned this case to the undersigned administrative law judge. On May 31, 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 July 10, 2007, as the hearing date and proposed to take official notice of a report concerning the proposed pipeline dated May 9, 2007, prepared by Mr. Jeffrey L. O'Neal, utility regulatory engineer for the Board.

Plymouth Energy filed the prepared direct testimony of Mr. Douglas M. Lee and the affidavit of Mr. D. Craig Arnold on June 20, 2007. Plymouth Energy filed proof of publication of notice on July 2, 2007, and an appearance on July 5, 2007.

The hearing was held on July 10, 2007, in the Le Mars City Council Chambers, Le Mars City Hall, 40 Central Ave. SE, Le Mars, Iowa. Plymouth Energy was represented by its attorney, Mr. Paul E. Horvath. Mr. Douglas M. Lee, Director of Distribution Engineering for Montana-Dakota Utilities Company (Montana-Dakota), and Mr. David Hennen, Senior Environmental Scientist for ProSource Technologies, Inc. (ProSource), testified on behalf of Plymouth Energy. Montana-Dakota is the authorized agent of Plymouth Energy to construct the proposed pipeline and sign on behalf of Plymouth Energy with regard to pipeline matters. (testimony of Mr. Lee.) Plymouth Energy has contracted with ProSource to provide right-of-way and

regulatory permitting services. (testimony of Mr. Hennen.) 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). At the hearing, Plymouth Energy agreed to file an amended affidavit of its Chief Executive Officer, Mr. D. Craig Arnold, notice when it contracts for operation of the proposed pipeline, and a copy of the contract for operation of the proposed pipeline once it is executed.

FINDINGS OF FACT

1. Plymouth Energy is a pipeline company within the meaning of Iowa Code § 479.2. (petition for permit; testimony of Mr. Lee; O'Neal report.)
2. On March 26, 2007, Plymouth Energy filed a petition and exhibits for a pipeline permit with the Board. (petition for permit.) Plymouth Energy proposes to construct, operate, and maintain a new 6⁵/₈-inch diameter steel natural gas pipeline approximately 7.5 miles long in Plymouth County, Iowa. (petition for permit; testimony of Mr. Lee; O'Neal report.) Plymouth Energy filed an amendment to its petition and exhibits and provided additional information on April 25, 2007. (petition for permit; testimony of Mr. Lee; O'Neal report.)
3. The proposed pipeline must have a permit from the Board because it will operate at a pressure greater than 150 pounds per square inch gauge (psig) and because it meets the definition of a transmission line. 199 IAC 10.16; 49 CFR 192.3.

(petition for permit; testimony of Mr. Lee; O'Neal report.) It is a transmission line because it will transport natural gas from another transmission line to a large volume customer that is not downstream from a distribution center. 49 C.F.R. 192.3.

(petition for permit; testimony of Mr. Lee; O'Neal report.) Also, at the requested maximum allowable operating pressure (MAOP) of 720 psig, the proposed pipeline will 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. Lee; O'Neal report.)

4. Plymouth Energy caused notice of the hearing to be published in Plymouth County in the Le Mars Daily Sentinel, a newspaper of general circulation in the county, on June 20 and 25, 2007. (proof of publication; testimony of Mr. Hennen.)

5. The proposed pipeline 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; testimony of Mr. Lee; O'Neal report.) There are no problems with the location and route of the proposed pipeline and no further terms, conditions, or restrictions regarding them need to be imposed pursuant to Iowa Code § 479.12. (petition for permit; testimony of Mr. Lee, Mr. Hennen; O'Neal report.)

6. Plymouth Energy has received or expects to receive all required permits and approvals from the Iowa Department of Natural Resources, US Army Corps of Engineers, Iowa Department of Transportation, Plymouth County, and

railroads prior to beginning construction of the proposed pipeline. (testimony of Mr. Lee, Mr. Hennen; petition for permit.) Plymouth Energy has not yet executed a required railroad approval document and has not yet obtained a required National Pollutant Discharge Elimination System (NPDES) stormwater discharge permit from the Iowa Department of Natural Resources. (testimony of Mr. Lee, Mr. Hennen.) The grant of this petition assumes that Plymouth Energy will have executed and obtained all required approvals and permits prior to beginning construction.

7. The proposed pipeline will deliver natural gas from a proposed Northern Natural Gas delivery and metering station approximately 6 miles east of Merrill, Iowa, to the Plymouth Energy ethanol plant currently under construction north of Merrill. (petition for permit; testimony of Mr. Lee; O'Neal report.) The pipeline is necessary to serve the new ethanol plant. (petition for permit; testimony of Mr. Lee; O'Neal report.) The pipeline will help to ensure the successful operation of the ethanol plant, which will produce up to approximately 100 million gallons of ethanol per year. (testimony of Mr. Lee; petition for permit.) The proposed ethanol plant will provide a new delivery point for area corn farmers and is expected to increase the price of corn in the area. (testimony of Mr. Lee; petition for permit.) Approximately 40 jobs will be created at the ethanol plant and the construction phase of the project will have a significant positive economic impact on the local economy. (testimony of Mr. Lee; petition for permit.) Therefore, the proposed pipeline will promote the public convenience and necessity. (petition for permit; testimony of Mr. Lee; O'Neal report.)

8. The proposed pipeline 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. Lee; O'Neal report.) Plymouth Energy has contracted with Montana-Dakota to acquire easements and other necessary rights in land, secure a permit from the Board, secure other necessary permits and agreements, construct the proposed pipeline, and settle any construction damage claims. (testimony of Mr. Lee; petition for permit; O'Neal report.) Montana-Dakota has contracted with InfraSource, a construction firm with whom it has worked before, to construct the proposed pipeline. (testimony of Mr. Lee.) The grant of this pipeline permit assumes that this contractual arrangement will continue and will not be significantly modified. If this is not the case, Plymouth Energy must notify the Board as ordered below. In addition, Plymouth Energy intends to award a contract for operation of the proposed pipeline but had not yet done so as of the date of the hearing. (testimony of Mr. Lee.) Once it has awarded a contract for operation of the proposed pipeline, Plymouth Energy must file notice and a copy of the contract with the Board for approval as ordered below. Other than these requirements, no further safety-related terms, conditions, or restrictions need to be imposed pursuant to Iowa Code § 479.12. (petition for permit; testimony of Mr. Lee; O'Neal report.)

9. Plymouth Energy 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; affidavit of Mr. Arnold; testimony of Mr. Lee, Mr. Hennen.)

10. 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-868 file.) Plymouth Energy has obtained all required easements for the proposed pipeline. (testimony of Mr. Lee.)

11. Plymouth Energy filed a land restoration plan and will restore disturbed agricultural land in conformance with the plan. (petition for permit; testimony of Mr. Lee; 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 Plymouth Energy 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 Plymouth Energy for issuance of a permit for the natural gas pipeline 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 Plymouth Energy 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 May 9, 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 Plymouth Energy in this docket is granted. A permit will be issued if this proposed decision and order becomes the final order of the Board.

3. Plymouth Energy must file an amended affidavit of its Chief Executive Officer, Mr. D. Craig Arnold, as agreed at the hearing.

4. Once it has executed and received all required approvals and permits as discussed in the body of this decision, Plymouth Energy must file notice that it has done so with the Board.

5. Plymouth Energy 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.

6. After Plymouth Energy 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.

7. Within 180 days after completion of the construction of the new pipeline, Plymouth Energy 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.

8. If Plymouth Energy does not continue its contractual relationship with Montana-Dakota, or if it significantly modifies its contractual relationship, Plymouth Energy must notify the Board at least 30 days prior to discontinuance or modification of the contract and must explain how it will comply with applicable state and federal requirements regarding the pipeline contained in Iowa Code Chapter 479, 199 IAC 10.12, and 49 C.F.R. Parts 192 and 199.

9. Once it has awarded a contract for operation of the proposed pipeline, Plymouth Energy must file the contract with the Board for approval within 10 days of execution of the contract. The contract must specify how Plymouth Energy will comply with all applicable state and federal requirements regarding operation of the pipeline contained in Iowa Code Chapter 479, 199 IAC 10.12, and 49 C.F.R. Parts 192 and 199.

10. Once Plymouth Energy has entered into a contract for operation of the pipeline and the Board has approved the contract, if Plymouth Energy does not continue its contractual relationship, or if it significantly modifies its contractual relationship, Plymouth Energy must notify the Board at least 30 days prior to discontinuance or modification of the contract and must explain how it will comply

with applicable state and federal requirements regarding operation of the pipeline contained in Iowa Code Chapter 479, 199 IAC 10.12, and 49 C.F.R. Parts 192 and 199.

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

12. 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/ Judi K. Cooper
Executive Secretary

Dated at Des Moines, Iowa, this 12th day of July, 2007.