

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: PLATINUM ETHANOL, LLC	DOCKET NO. P-873
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PROPOSED DECISION AND ORDER GRANTING PERMIT

(Issued February 29, 2008)

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 Platinum Ethanol, 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 October 24, 2007, Platinum Ethanol, LLC (Platinum Ethanol) filed a petition and exhibits for a pipeline permit with the Utilities Board (Board). (petition for permit.) Platinum Ethanol proposes to construct, operate, and maintain a new 8 $\frac{5}{8}$ -inch diameter steel natural gas pipeline approximately 22 miles long in Cherokee and Ida Counties, Iowa. (petition for permit; testimony of Mr. Yexley; O'Neal report.) Platinum Ethanol filed amendments to its petition and exhibits and provided additional information on November 28, 2007, and on February 20 and 21, 2008. (petition for permit; O'Neal report.) The proposed pipeline will transport natural gas from a connection with a Northern Natural Gas Company (NNG) pipeline west of

Cherokee, Iowa, to a connection with a proposed MidAmerican Energy Company (MEC) pipeline near Galva, Iowa. The MEC pipeline, if approved by the Board, will transport natural gas to the Platinum Ethanol Plant near Arthur, Iowa. (petition for permit; testimony of Mr. Yexley; O'Neal report.)

On December 12, 2007, Mr. Jeffrey L. O'Neal, regulatory engineer for the Board, filed a report regarding the petition and proposed pipeline (O'Neal report). On December 24, 2007, the Board assigned this case to the undersigned administrative law judge. On January 10, 2008, the undersigned issued an order establishing a procedural schedule, proposing to take official notice, and providing notice of the hearing.

Platinum Ethanol filed the prepared direct testimony and exhibits of Mr. David P. Yexley on January 29, 2008. Platinum Ethanol filed proof of publication of notice on February 18, 2008.

The hearing was held on February 27, 2008, in the Board of Supervisors Room, lower level, Cherokee County Courthouse, 520 West Main Street, Cherokee, Iowa. Platinum Ethanol was represented by its attorney, Mr. Paul E. Horvath. Mr. Yexley testified on behalf of Platinum Ethanol. Mr. Yexley is employed by Montana-Dakota Utilities Company (MDU) as a senior staff engineer and is the project manager for the proposed pipeline. (testimony of Mr. Yexley.) MDU is the authorized agent of Platinum Ethanol to construct the proposed pipeline. (testimony of Mr. Yexley.) 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, Platinum Ethanol agreed to file two documents with the Board after the hearing. These include: a) a copy of the contract for operation and maintenance of the proposed pipeline, once the contract is awarded and executed; and b) either a copy of the Cherokee County road crossing permit signed by Platinum Ethanol, if one exists, or a notice to the Board that the copy filed with Mr. Yexley's prefiled testimony is the final version Platinum Ethanol obtained from the county.

FINDINGS OF FACT

1. Platinum Ethanol is a pipeline company within the meaning of Iowa Code § 479.2. (petition for permit; testimony of Mr. Yexley; O'Neal report.)
2. On October 24, 2007, Platinum Ethanol filed a petition and exhibits for a pipeline permit with the Board. (petition for permit.) Platinum Ethanol proposes to construct, operate, and maintain a new 8⁵/₈-inch diameter steel natural gas pipeline approximately 22 miles long in Cherokee and Ida Counties, Iowa, with a maximum allowable operating pressure of 1440 pounds per square inch gauge (psig). (petition for permit; testimony of Mr. Yexley; O'Neal report.) Platinum Ethanol filed amendments to its petition and exhibits and provided additional information on November 28, 2007, and on February 20 and 21, 2008. (petition for permit; O'Neal report.)

3. The proposed pipeline must have a permit from the Board because it will operate at a pressure greater than 150 psig and because it will meet the definition of a transmission line. 199 IAC 10.16; 49 CFR 192.3. (petition for permit; testimony of Mr. Yexley; O'Neal report.) It is a transmission line because it will transport natural gas from a transmission line to another transmission line (and ultimately to a large volume customer that is not downstream from a distribution center), and because it will operate at a hoop stress of more than 20 percent of specified minimum yield strength (SMYS). 49 C.F.R. 192.3. (petition for permit; testimony of Mr. Yexley; O'Neal report.)

4. Platinum Ethanol caused notice of the hearing to be published in Cherokee County in The Chronicle Times, a newspaper of general circulation in the county, on January 31 and February 6, 2008. (proof of publication.) Platinum Ethanol caused notice of the hearing to be published in Ida County in the Ida County Courier, a newspaper of general circulation in the county, on January 30 and February 6, 2008.

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. Yexley; 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. Yexley; O'Neal report.)

6. Platinum Ethanol has received all required permits and approvals from Cherokee and Ida Counties, the Iowa Department of Transportation, and the Iowa Department of Natural Resources for the proposed pipeline. (testimony of Mr. Yexley, Mr. O'Neal; petition for permit; O'Neal report.)

7. The proposed pipeline will transport natural gas from a connection with an existing NNG pipeline west of Cherokee, Iowa, to a connection with a proposed MEC pipeline near Galva, Iowa. (petition for permit; testimony of Mr. Yexley; O'Neal report.) The proposed MEC pipeline, if approved by the Board, will transport natural gas to the Platinum Ethanol Plant currently under construction near Arthur, Iowa. (petition for permit; testimony of Mr. Yexley; O'Neal report.) With the MEC pipeline, the proposed pipeline is necessary to serve the new ethanol plant. (petition for permit; testimony of Mr. Yexley; O'Neal report.) The existing NNG pipeline that currently serves the town of Arthur does not have the capacity to serve the new ethanol plant. (testimony of Mr. Yexley.) The ethanol plant is expected to produce approximately 110 million gallons of ethanol per year, will provide a new delivery point for area corn producers, and is expected to increase the price of corn in the area. (testimony of Mr. Yexley; petition for permit.) Approximately 40 to 60 new 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. Yexley.) Therefore, the proposed pipeline will promote the public convenience and necessity. (petition for permit; testimony of Mr. Yexley; 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. Yexley, Mr. O'Neal; O'Neal report.)

Platinum Ethanol has contracted with MDU for construction of the proposed pipeline. (testimony of Mr. Yexley; petition for permit.) MDU is the authorized agent of Platinum Ethanol to construct the proposed pipeline, and to sign on behalf of Platinum Ethanol with regard to pipeline matters. (testimony of Mr. Yexley.) MDU has contracted with InfraSource Underground of Des Moines to construct the proposed pipeline with MDU providing inspection and oversight of the pipeline construction. (testimony of Mr. Yexley; petition for permit.) Platinum Ethanol has not yet awarded a contract for the operation and maintenance of the proposed pipeline. (testimony of Mr. Yexley.) At the hearing, Platinum Ethanol and MDU agreed to file a copy of the operation and maintenance contract with the Board once it is executed. (testimony of Mr. Yexley.) Prior to operation of the proposed pipeline, Platinum Ethanol must: a) file an operation, maintenance, and emergency plan as required by federal pipeline safety standards with the Board; and b) ensure that personnel who are qualified under applicable federal pipeline safety standards, including local personnel, are available for operation and maintenance of the pipeline. No further safety-related terms, conditions, or restrictions need to be imposed pursuant to Iowa Code § 479.12. (petition for permit; testimony of Mr. Yexley, Mr. O'Neal; O'Neal report.)

9. Platinum Ethanol 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; testimony of Mr. Yexley.)

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-873 file.) Platinum Ethanol does not request the right of eminent domain. (testimony of Mr. Yexley; petition for permit.) Platinum Ethanol has obtained all voluntary easements needed for the proposed pipeline. (testimony of Mr. Yexley; petition for permit.)

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, 479.18, and 479.29; 199 IAC 10.

2. The Board has jurisdiction over Platinum Ethanol 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, 479.18, and 479.29; 199 IAC 9 and 10.

3. The petition of Platinum Ethanol 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 Platinum Ethanol complies with the requirements of Iowa Code § 479.29 and 199 IAC 9. (petition for permit; O'Neal report.)

IT IS THEREFORE ORDERED:

1. Official notice is taken of the report dated December 12, 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 Platinum Ethanol in this docket is granted. A permit will be issued if this proposed decision and order becomes the final order of the Board.

3. Platinum Ethanol must file either a copy of the Cherokee County road crossing permit signed by Platinum Ethanol, if one exists, or a notice to the Board that the copy filed with Mr. Yexley's prefiled testimony is the final version of the road crossing permit that Platinum Ethanol obtained from Cherokee County.

4. Platinum Ethanol 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 Platinum Ethanol 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, Platinum Ethanol 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. Once it awards and executes a contract for operation and maintenance of the proposed pipeline, Platinum Ethanol must file a copy of the executed contract with the Board.

8. Prior to operation of the proposed pipeline, Platinum Ethanol must:

a. File an operation, maintenance, and emergency plan as required by federal pipeline safety standards with the Board; and

b. Ensure that personnel who are qualified under applicable federal pipeline safety standards, including local personnel, are available for operation and maintenance of the pipeline.

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

10. This proposed decision will become the final decision of the Board unless, within five (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 29th day of February, 2008.