

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

---

IN RE:  MIDAMERICAN ENERGY COMPANY	DOCKET NO. P-875
------------------------------------------	------------------

---

**ORDER ESTABLISHING PROCEDURAL SCHEDULE AND  
PROPOSING TO TAKE OFFICIAL NOTICE AND NOTICE OF HEARING**

(Issued May 8, 2008)

On February 14, 2008, MidAmerican Energy Company (MEC) filed a petition and exhibits with the Utilities Board (Board) for a pipeline permit. MEC proposes to construct, operate, and maintain approximately 14.19 miles of 6-inch diameter steel pipeline in Ida County, Iowa. MEC filed amendments to its petition and exhibits and provided additional information on April 9 and 16, 2008.

The proposed pipeline would transport natural gas from a connection with a Platinum Ethanol, LLC (Platinum) transmission pipeline near Galva, Iowa, to the Platinum Ethanol Plant near Arthur, Iowa. In its petition, MEC requests a maximum allowable operating pressure (MAOP) of 800 pounds per square inch gauge (psig).

The proposed pipeline must have a permit from the Board because it meets the definition of a transmission line. 199 IAC 10.16; 49 CFR § 192.3. The proposed pipeline meets the definition of a transmission line because it will transport natural gas from a transmission line 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 CFR § 192.3.

On April 25, 2008, 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 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, 479.18, and 479.23 (2007).

To obtain a permit, the petitioner must show that the services it proposes to render will promote the public convenience and necessity. Iowa Code §§ 479.12, 479.23; 199 IAC 10.8. The petitioner must also satisfy the financial requirements of Iowa Code § 479.26 and comply with the land restoration plan requirements of Iowa Code § 479.29.

The conduct of this case is governed by Iowa Code chapters 17A and 479, and by Board rules at 199 IAC 9 and 10.

### **THE ISSUES**

Pursuant to Iowa Code §§ 479.7 and 479.8, and 199 IAC 10.6, 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, land restoration plan issues, and issues raised by objectors or any other party.

### **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.

MEC must file prepared testimony and exhibits prior to the hearing in accordance with the procedural schedule set forth in this order. At a minimum, MEC's prepared testimony must address the issues listed above. In addition, MEC should address the issue raised by Mr. Jeffrey L. O'Neal in his April 17, 2008, staff memo whether: "the incorrect operating pressure in the mailed informational meeting notice is a substantive error." MEC should state its position as to whether any corrective action regarding the error should or must be taken at this time.

MEC has the burden to prove that the proposed pipeline meets all of the statutory and regulatory requirements discussed above. Failure to file adequate prepared testimony and exhibits to support the petition for a pipeline permit may result in delays of these proceedings or in denial of the requested permit.

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 set forth in this order.

Parties other than MEC 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**

MEC and the Consumer Advocate are currently the parties to this proceeding. Iowa Code §§ 17A.2(8) and 475A.2(2). As of the date of this order, no objectors have filed an objection to the petition. MEC does not request the right of eminent domain for the proposed pipeline.

Any person who files an objection pursuant to Iowa Code §§ 479.9 and 479.10 and 199 IAC 10.5 will be presumed to be a party to this proceeding unless it is established at hearing that the objector has no right or interest that may be affected by the grant or denial of the petition. Iowa Code § 479.9. Therefore, objectors should be prepared to give evidence that will explain the nature of their specific rights or interests they believe should be protected, and that will show how these rights or interests will be affected by the pipeline or the grant of a permit. 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 are presumed to be parties up to the time of the hearing, objectors will receive copies of all documents filed in this docket by other parties after their own objections have 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 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, and copies of documents may be obtained for a small fee. 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 issues of fact 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 issues of fact 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 9 and 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 Web site at [www.state.ia.us/iub](http://www.state.ia.us/iub). Since the proposed pipeline is more than five miles long and MEC requests an operating pressure exceeding 150 psig, the hearing must be held in Ida Grove, Iowa. Iowa Code § 479.8.

**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 April 17, 2008, concerning MEC's petition. A copy of this report is attached to this order. Pursuant to Iowa Code § 17A.14(4), the undersigned administrative law judge proposes to take official notice of the report 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 report 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 report in prepared testimony and at the hearing. Mr. O'Neal will be present at the hearing and available for cross-examination regarding his report.

**IT IS THEREFORE ORDERED:**

1. Each person who files a letter of objection to MEC'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 pipeline or the grant or denial of the requested permit.

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 June 3, 2008, MEC must file prepared direct testimony and exhibits regarding its petition for a permit as discussed in this order. If MEC chooses to file a prehearing brief, it must be filed by June 3, 2008.

b. Since the hearing must be held in Ida Grove, it is unknown whether telephone conferencing capability exists in the hearing room. Therefore, parties and witnesses will be expected to appear at the hearing in person, unless this presents a particular difficulty. If such difficulty exists, parties must notify the Board on or before June 3, 2008, so that appropriate arrangements may be made.

c. If the Consumer Advocate or any objector chooses to file prepared responsive testimony or a brief, it must do so on or before June 17, 2008.

d. If MEC chooses to file prepared rebuttal testimony, it must do so on or before June 24, 2008.

e. 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 1:00 p.m. on Tuesday, July 1, 2008, in the

Ida Grove Community Hall, Ida Grove City Council Chambers, 403 Third Street, Ida Grove, Iowa 51445. Each party must provide a copy of its prepared testimony and exhibits to the court reporter 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 ten days prior to the hearing to request that appropriate arrangements be made.

f. 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).

4. The undersigned administrative law judge proposes to take official notice of Mr. O'Neal's report dated April 17, 2008, which is attached to this order, and of the facts contained therein. Any party objecting to the taking of official notice of the report should file such objection as soon as possible, and must file such objection no later than ten days prior to the hearing.

5. Pursuant to Iowa Code §§ 17A.12(1) and 199 IAC 10.4, a copy of this order will be served by ordinary mail upon MEC and will be delivered to the Consumer Advocate. No person has filed an objection to the petition as of the date of this order.

6. Board staff will provide MEC with a notice to be published and MEC must publish the notice pursuant to Iowa Code § 479.7 and 199 IAC 10.4. The statute and rule require MEC to file proof of publication prior to or at the beginning of

the hearing. Since the hearing must be held in Ida Grove, MEC must file proof of publication at least seven days prior to the hearing date. Failure to publish notice and file proof of publication as required will result in delay of the hearing.

7. MEC must comply with the additional service of notice and filing requirements contained in 199 IAC 10.4(3) if all required interests in private property have not been obtained.

**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 8<sup>th</sup> day of May, 2008.

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

**TO: Docket No. P-875**

**FROM: Jeffrey L. O'Neal**

**DATE: April 17, 2008**

**SUBJ: Staff Review of MidAmerican Energy Company Petition for Pipeline Permit for Approximately 14.19 Miles of 6-inch Diameter Natural Gas Pipeline in Ida County, Iowa**

On February 14, 2008, MidAmerican Energy Company (MEC) filed a Petition for Pipeline Permit with the Utilities Board (Board). By letters dated March 18, 2008, and April 10, 2008, I advised MEC of petition deficiencies requiring correction, and requested additional information. On April 9, 2008, and April 16, 2008, MEC filed revisions to its petition and exhibits and provided additional information.

In its petition, MEC proposes to construct approximately 14.19 miles of 6-inch diameter steel pipeline. The pipeline would transport natural gas from a connection with a Platinum Ethanol, LLC, (Platinum) pipeline near Galva, Iowa, to the Platinum Ethanol Plant near Arthur, Iowa. Petition Exhibit C shows the proposed pipeline would be designed, constructed and tested for a maximum allowable operating pressure (MAOP) of 800 psig.

Informational meetings were held for this proposed pipeline on January 3, 2008, in Ida and Sac Counties, as required by 199 IAC 10.3. (The proposed route runs near the Ida/Sac county border for a little over 4 miles. An informational meeting was held in Sac County to allow for the possibility that a portion of the route might be located in Sac County. However, the final route proposed in the petition is located entirely within Ida County.) Documentation regarding the informational meetings is included in petition Exhibit G, which includes a copy of the notice of informational meeting that was mailed to affected parties and published in newspapers as required by 199 IAC 10.3(4). The first sentence in the notice of informational meeting that was mailed to landowners indicates that the proposed pipeline will operate at 500 pounds per square inch. (The notices that were published in the newspapers indicate the pipeline will operate at 800 pounds per square inch.) Exhibit C indicates the pipeline will have a maximum operating pressure of 800 psig. The cover letter included with MEC's April 9, 2008, petition filing states the 500 psi reference in the mailed informational notices was incorrect. It states this error was corrected in the published informational meeting notices and was also discussed at the informational meetings by the MEC representatives. Iowa Code 479.5 and 199

IAC 10.3(4)a specify the information required to be included in the notice of informational meeting. The law and rule do not specifically require the notice to include the operating pressure of the pipeline, but they do require the notice to set forth the general description and purpose of the proposed project. Whether the incorrect operating pressure in the mailed informational meeting notice is a substantive error may be an issue to be decided in this case.

The proposed pipeline requires a pipeline permit because it will meet the definition of a transmission line under 49 CFR Part 192. (See 199 IAC 10.16.) It will meet the definition of a transmission line because it will transport gas from a transmission line (and ultimately from gathering lines and/or storage facilities) 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). (See 49 CFR § 192.3.)

I examined the route of the proposed pipeline on April 11, 2008. The route map filed as petition Exhibit B was used as a guide. The route begins at a proposed connection to a Platinum pipeline northeast of Galva, Iowa, and runs south and east to the Platinum ethanol plant west of Arthur, Iowa. Most of the proposed route is on county road right-of-way. About 1-1/3 miles of the route is on private property running along the south side of U.S. Highway 20, and about 3 miles of the route is on private property, running near sections lines where there is not a county road. The proposed route runs through flat to rolling terrain. The portions of the proposed route on private property are on agricultural land, and where the route is on road right-of-way, the land adjacent to the road is agricultural land, except for a few rural residences and other locations with farm buildings or grain bins. It appeared most of the land on or near the route was planted in row crops last year, but it included some pasture or hay. The route crosses U.S. Highway 20, Iowa Highway 175, and several county roads. It also crosses a railroad south of Highway 175, near the ethanol plant. The route crosses several streams, and it crosses three foreign pipelines. The entire route appears to be in a Class 1 location as defined by Federal Minimum Safety Standards in 49 CFR Part 192, as is stated in Exhibit C of the petition filing. Class 1 is a low population density classification. No problems were noted with the proposed route. No conflicts with safety standards or significant impediments to pipeline construction were found.

The proposed route includes agricultural land. MEC filed a land restoration plan as Exhibit I. MEC's Land Restoration Plan appears to comply with the applicable provisions of 199 IAC Chapter 9.

In addition to the pipeline proposed in this docket, another new pipeline is being constructed by Platinum as part of a new pipeline system to provide natural gas to the Platinum ethanol plant near Arthur. MEC's initial petition filing, filed February 14, 2008, included an affidavit of David Yexley regarding Platinum's proposal to construct, and potentially operate and maintain a proposed pipeline

that would supply natural gas to MEC's proposed pipeline in this docket. On March 11, 2008, the Board issued Pipeline Permit No. 1232 in Docket No. P-873, granting to Platinum permission to construct, operate and maintain a pipeline from a connection with a Northern Natural Gas Company pipeline west of Cherokee, Iowa, to near Galva, Iowa. As of the date of this report, the Platinum pipeline is under construction.

Petition Exhibit E consists of copies of permits from Ida County and Sac County allowing construction of the pipeline within county road right-of-way. Exhibit E appears to satisfy the requirements of 199 IAC 10.2(1)e and 10.14(2). The proposed route is entirely in Ida County, but a portion of the route runs along the west side of Adams Avenue, within county road right-of-way. Adams Avenue runs along the county line between Ida and Sac Counties. In its cover letter filed April 9, 2008, MEC explained that MEC applied for a permit from Sac County on an informational or courtesy basis because, as part of a maintenance exchange agreement between Sac and Ida Counties, Sac County performs the road maintenance on a portion of Adams Avenue where the pipeline will be located within the road right-of-way.

Petition Exhibit F states the purpose of the proposed pipeline is to transport natural gas from an interconnection with a proposed Platinum pipeline to the Platinum Ethanol Plant at Arthur, Iowa. Exhibit F describes and compares three possible routes that were considered for this pipeline, and explains why MEC chose the route it is proposing in its petition.

MEC is not requesting the right of eminent domain for this project. MEC's February 14, 2008, petition filing included an Exhibit H requesting use of the right of eminent domain. However, in its April 9, 2008, filing, MEC withdrew Exhibit H and its request for eminent domain.

Natural gas pipelines must comply with the federal pipeline safety standards of 49 CFR Parts 192, which have been adopted by the Board in 199 IAC 10.12(1)b. The information filed by MEC shows the proposed pipeline will be designed, constructed and tested in compliance with these standards.

Subpart O of 49 CFR Part 192 requires pipeline operators to develop and implement an Integrity Management Program for gas transmission pipelines in high consequence areas (HCAs) as defined by the rules. An HCA is an area within the potential impact radius (PIR) for the pipeline that contains an identified site as defined in the rules, or that contains 20 or more buildings intended for human occupancy. MEC already has an Integrity Management Program, because it has existing transmission pipelines that contain HCAs. Based on the pipe diameter and maximum allowable operating pressure specified in the filing, the PIR for this pipeline would be 117 feet. During my inspection of the route I did not note any apparent identified sites within the PIR of the proposed pipeline. MEC will need to conduct a review of the route to look for HCAs after

construction as required by the rules, but it appears the pipeline will most likely not include any HCAs, and most of the requirements under Subpart O will not apply to this pipeline.

In 2007, the federal Department of Transportation adopted a new rule, 49 CFR § 192.476, regarding design and construction features to reduce the risk of internal corrosion. In the cover letter with its April 9, 2008, filing, MEC described how it plans to comply with the requirements of § 192.476, and with its April 16, 2008, filing, MEC provided a copy of MEC's Form No. 63-7 documenting its internal corrosion control design for the proposed pipeline. MEC's design appears to comply with the requirements of § 192.476.

### **Summary and Conclusions**

I have reviewed the petition and exhibits in this docket. The information presented shows the proposed pipeline would comply with all design, construction, and testing requirements set forth by the Board. The filing appears in sufficient order to set a date for hearing.