

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: INTERSTATE POWER AND LIGHT COMPANY	DOCKET NO. P-770
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**ORDER ESTABLISHING PROCEDURAL SCHEDULE AND
PROPOSING TO TAKE OFFICIAL NOTICE AND NOTICE OF HEARING**

(Issued August 7, 2008)

On March 21, 2008, Interstate Power and Light Company (IPL) filed a petition and exhibits with the Utilities Board (Board) for amendment of Pipeline Permit No. 1070 for the Northrup King Lateral in Muscatine and Johnson Counties, Iowa. IPL requests an increase in the maximum allowable operating pressure (MAOP) for the pipeline from 235 to 275 pounds per square inch gauge (psig). IPL filed amendments to its petition for amendment on May 15 and June 6, 2008.

Iowa Electric Light and Power Company (Iowa Electric), a predecessor company of IPL, constructed the Northrup King Lateral in 1982. Iowa Electric did not seek a permit for the pipeline when it was constructed. On January 17, 1989, the Board issued Pipeline Permit No. 1070 to Iowa Electric for the Northrup King Lateral. The permit specified an expiration date of January 17, 2014.

The primary purpose of the Northrup King Lateral is to transport natural gas from a regulator station fed by IPL's Conesville-West Branch Lateral to a Syngenta (formerly Northrup King) seed corn plant near Lone Tree, Iowa. The Northrup King

Lateral consists of approximately 2.9 miles of 4.5-inch diameter steel pipeline. It must have a pipeline permit from the Board because it operates at a pressure greater than 150 psig and because it meets the definition of a transmission line. 199 IAC 10.16; 49 CFR 192.3. The pipeline meets the definition of a transmission line because it transports natural gas from another transmission line to a large volume customer that is not downstream of a distribution center. 199 IAC 10.16; 49 CFR 192.3. In addition, due to a connection with the Lone Tree Lateral, the Northrup King Lateral may also transport part of the natural gas delivered to the distribution center in the town of Lone Tree. 199 IAC 10.16; 49 CFR 192.3.

On August 5, 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 an amendment of Pipeline Permit No. 1070, the petitioner must show that the services it proposes to render will promote the public convenience and necessity and that the pipeline meets the applicable requirements of Iowa Code

chapter 479 and 199 IAC 10. Iowa Code §§ 479.12, 479.23; 199 IAC 10.9. The petitioner must also satisfy the financial requirements of Iowa Code § 479.26.

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

THE ISSUES

Pursuant to Iowa Code §§ 479.7 and 479.8, and 199 IAC 10.6 and 10.9, 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, 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.

IPL must submit prepared testimony and exhibits prior to the hearing in accordance with the procedural schedule set forth in this order. At a minimum, IPL's prepared testimony must address the issues listed above. In addition, in its prepared testimony, IPL must address the issues listed in Mr. Jeffrey O'Neal's staff report dated July 14, 2008. IPL must file petition Exhibit D with its prepared testimony. In his federal safety inspection report dated May 29, 2008, on page 12, Mr. O'Neal refers to a grade 3 (non-hazardous) leak on a 2-inch valve at a connection between the Northrup King Lateral and the Lone Tree Lateral. Mr. O'Neal states in the report

that IPL intends to replace the valve. In its prepared testimony, IPL must address what it has done or plans to do regarding this leak and the timetable for such action.

IPL 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 amendment may result in delays of these proceedings or in denial of the requested permit amendment.

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 IPL 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 petitions, 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

IPL 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 petitions. IPL does not request the right of eminent domain for the 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 amendment. 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. 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) and 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 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.

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 July 14, 2008, concerning IPL'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 ten 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 IPL's petition in this docket will be presumed to be a party in the proceeding unless it is established at the 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 amendment.

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 August 28, 2008, IPL must file prepared direct testimony and exhibits regarding its petition for amendment of Pipeline Permit No. 1070 as discussed in this order. If IPL chooses to file a prehearing brief, it must be filed by August 28, 2008.

b. If any party wishes to be connected to the hearing by telephone conference call, or to have a witness connected by telephone conference call, the party must notify the Board as soon as possible, and no later than August 28, 2008, so that appropriate arrangements can 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 September 11, 2008.

d. If it chooses to file prepared rebuttal testimony, IPL must file it on or before September 18, 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 10 a.m. on Tuesday, September 23, 2008, in Conference Room 3, Iowa Utilities Board offices, 350 Maple Street, Des Moines, Iowa 50319. 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 five days prior to the hearing to request that appropriate arrangements be made.

4. 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).

5. The undersigned administrative law judge proposes to take official notice of Mr. O'Neal's report dated July 14, 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.

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

7. Board staff will provide IPL with a notice to be published and IPL must publish the notice pursuant to Iowa Code § 479.7 and 199 IAC 10.4. The statute and rule require IPL to file proof of publication prior to or at the beginning of the hearing. It would be helpful if IPL filed proof of publication prior to the hearing. Failure to publish notice and file proof of publication as required will result in delay of the hearing.

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 7th day of August, 2008.

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

TO: Docket No. P-770

FROM: Jeffrey L. O'Neal

DATE: July 14, 2008

SUBJ: Staff Review of Interstate Power and Light Company Petition for Pipeline Permit Amendment for the Northrup King Lateral in Muscatine and Johnson Counties, Iowa.

On March 21, 2008, Interstate Power and Light Company (IPL) filed a petition for amendment of Pipeline Permit No. 1070 pursuant to Iowa Code Chapter 479 for its Northrup King Lateral in Muscatine and Johnson Counties, Iowa. Pipeline Permit No. 1070 specifies a maximum operating pressure of 235 psi. The petition requests an increase in the maximum operating pressure for the pipeline from 235 psig to 275 psig. By letters dated April 16, 2008, and May 29, 2008, I advised IPL of petition deficiencies requiring correction, and requested additional information on certain items. On May 15, 2008, and June 6, 2008, IPL filed revisions to the petition and exhibits.

Informational meetings were not held regarding the proposed amendment. Informational meetings were not required because no new construction is planned and no new right of way is needed, and because the pipeline is less than 5 miles long. (See 199 IAC 10.3.)

The petition filing included the Petition for Pipeline Permit Amendment, plus Exhibits A, B, C (with attachments), and F, and a copy of the written procedure for the uprating test.

As stated in the petition filing, exhibits E, G, H and I and a Statement of Damage Claims were not filed because they are not applicable, since no new construction is planned.

Section V of the petition states an Exhibit D is attached to the petition and incorporated by reference. However, no Exhibit D was included with the petition filing. *It is my understanding IPL is compiling updated financial information, and intends to file an Exhibit D in this docket.* 199 IAC 10.9(2) does not list specific exhibits that are required with a petition for amendment that does not include any new construction. It appears processing of the petition could proceed pending receipt of Exhibit D.

The Northrup King Lateral consists of approximately 2.9 miles of 4.5-inch diameter steel pipeline. The Northrup King Lateral's primary purpose is to transport natural gas from a regulator station fed by IPL's Conesville-West Branch Lateral (P-517, Pipeline Permit No. R1061) to a Syngenta (formerly Northrup King) seed corn plant near Lone Tree, Iowa. The Northrup King Lateral is one of three IPL pipelines that are fed by the same regulator station and operate at a common pressure. IPL's Lone Tree Lateral transports natural gas from this regulator station to IPL's distribution system in Lone Tree, Iowa. The Northrup King Lateral runs roughly parallel to a portion of the Lone Tree Lateral, and the two pipelines are connected through a 2-inch valve near the Syngenta facility. IPL's Nichols Lateral transports natural gas from this regulator station to IPL's distribution system in Nichols, Iowa.

The Lone Tree and Nichols Laterals are included in the pipeline permit for the Conesville-West Branch Lateral. Pipeline Permit No. R1061 for the Conesville-West Branch Lateral specifies a maximum operating pressure of 712 psig, so an amendment of Pipeline Permit No. R1061 is not required for the uprating of the Lone Tree and Nichols Laterals. On May 15, 2008, IPL filed a notice of reportable change in Docket No. P-517 regarding the proposed uprating and increase in operating pressure of the Lone Tree and Nichols Laterals, as required by 199 IAC 10.18(1)c.

The Northrup King Lateral was constructed in 1982 by Iowa Electric Light and Power Company (Iowa Electric) (a predecessor to IPL). Iowa Electric did not seek a pipeline permit at the time the pipeline was built because Iowa Electric's legal department construed Iowa Code Chapter 479 to not require a permit if a pipeline operating in excess of 150 psig did not extend five miles or more.¹ During a 1987 inspection, board staff discovered the pipeline and found it to be operating without a permit. Staff inquired further into the nature of the pipeline, and Iowa Electric agreed that the pipeline should be under permit. On May 16, 1988, Iowa Electric filed a petition for pipeline permit for this existing pipeline. On December 20, 1988, a "Proposed Order Granting Petition for Permit" was issued in Docket No. P-770. On January 17, 1989, Pipeline Permit No. 1070 was issued in Docket No. P-770, granting to Iowa Electric permission to construct, operate and maintain a pipeline for the transportation of natural gas at a maximum operating pressure of 235 psi. The permit specified an expiration date of January 17, 2014.

The Northrup King Lateral requires a pipeline permit because it operates at a pressure greater than 150 psig, and because it meets the definition of a transmission line under 49 CFR § 192.3. (See 199 IAC 10.16.) It meets the definition of a transmission line because it transports gas from another transmission line (and ultimately from gathering lines and/or storage facilities) to a large volume customer that is not downstream of a distribution center. Due to

¹ Proposed Order Granting Petition for Permit, Issued December 30, 1988

a connection with the Lone Tree Lateral, the Northrup King Lateral may also transport part of the natural gas delivered to the distribution center in the town of Lone Tree.

Natural gas pipelines must comply with the federal pipeline safety standards of 49 CFR Part 192, which have been adopted by the Board in 199 IAC 10.12(1)*b*. The petition filing shows IPL plans to conduct an uprating under the provisions of 49 CFR 192 Subpart K to increase the maximum allowable operating pressure (MAOP) established in compliance with 49 CFR Part 192 for the pipeline system that includes the Northrup King Lateral from 235 psig to 275 psig.

If the petition for amendment is granted, IPL will need to complete an uprating test as required by 49 CFR Part 192 before it can operate the pipeline at the higher pressure. *It is recommended IPL be asked to describe the status of the uprating test in its prefiled testimony. It is also recommended IPL be required to file a copy of the documentation of the uprating and the documentation for the new MAOP after the uprating has been completed.*

On May 13-14, 2008, I inspected IPL's Northrup King Lateral, Lone Tree Lateral and Nichols Lateral for compliance with pipeline safety standards adopted by the Board. This included a field inspection of the routes of the pipelines. On May 29, 2008, I filed a report regarding this inspection. No probable violations of Board rules were found. IPL records reviewed during the inspection showed the MAOP of the Northrup King Lateral, Lone Tree Lateral and Nichols Lateral pipeline system was 235 psig.

The Northrup King Lateral runs through agricultural land. Much of the route roughly follows an abandoned railroad right of way. The field inspection included inspection of portions of the route visible from roads, plus inspection of the regulator station that supplies this pipeline and the meter set at the Syngenta facility. Exhibit B appears to accurately show the location of the pipeline. The entire route appears to be in a Class 1 location as defined by Federal Minimum Safety Standards in 49 CFR Part 192. Class 1 is the lowest population density classification. Petition Exhibit C lists the entire route as a Class 2 location, which appears to be more conservative than required by the pipeline safety rules. Class 2 is a higher population density classification than Class 1.

Before uprating a pipeline, § 192.553(c) requires a pipeline operator to establish a written uprating procedure that will ensure compliance with the requirements of the safety standards. IPL filed a copy of its written plan with its petition filing on March 21, 2008. IPL's written plan appears to comply with the requirements of the pipeline safety standards adopted by the Board.

The procedure provides the pressure in the pipeline will be increased in approximately 45 psig increments from the current 235 psig maximum operating

pressure up to a final test pressure of 413 psig. Before the initial pressure increase, and after each pressure increase, the pipeline will be surveyed for leaks, and any potentially hazardous leaks will be repaired before the next pressure increase. The uprating test activities must be documented, and MAOP records for the pipeline must be revised to document the new MAOP.

The proposed test pressure is higher (more conservative) than required to support the proposed new MAOP in its current Class location. With a test pressure of 413 psig, the new MAOP will be limited by the test pressure to not more than 375 psig in a Class 1 location (413 psig divided by a factor of 1.1), not more than 330 psig in a Class 2 location (570 psig divided by a factor of 1.25), and not more than 275 psig in a Class 3 location (413 psig divided by a factor of 1.5.) See § 192.619(a)(2)(ii).

Exhibit F states the uprating is necessary to enable IPL to supply enough gas to serve an increase in load requested by Syngenta due to an expansion of the Syngenta facility. The expansion will include additional corn drying capacity at the Syngenta plant, which will allow Syngenta to double its current production.

I have reviewed the petition for amendment of pipeline permit and the included exhibits. It appears from the information presented that the proposed pressure increase would comply with the pipeline safety requirements adopted by the Board. The filing appears in sufficient order to set a date for hearing. This report identifies, in *italic type*, items it is recommended IPL be asked to address prior to hearing or in its prefiled testimony. If the petition for amendment is approved, IPL will need to satisfactorily complete an uprating test procedure meeting the requirements of 49 CFR Part 192 before it can operate the pipeline at the increased maximum operating pressure approved in the amended permit.