

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  LOUIS DREYFUS COMMODITIES GRAND JUNCTION, LLC	DOCKET NO. P-878
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**PROPOSED DECISION AND ORDER GRANTING PERMIT**

(Issued September 30, 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 Louis Dreyfus Commodities Grand Junction, 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 June 23, 2008, Louis Dreyfus Commodities Grand Junction, LLC (Louis Dreyfus) filed a petition and exhibits for a pipeline permit with the Utilities Board (Board). (petition for permit.) Louis Dreyfus proposes to construct, operate, and maintain a new 6<sup>5</sup>/<sub>8</sub>-inch diameter steel natural gas pipeline approximately 8.5 miles long in Greene County, Iowa. (petition for permit; testimony of Mr. Yexley; O'Neal report.) Louis Dreyfus filed amendments to its petition and exhibits and provided additional information on July 17, 2008. (petition for permit; O'Neal report.) The proposed pipeline will transport natural gas from a connection with a Northern Natural

Gas Company (NNG) transmission pipeline southeast of Grand Junction, Iowa, to the Louis Dreyfus Ethanol Plant currently under construction north of Grand Junction. (petition for permit; testimony of Mr. Yexley; O'Neal report.)

On July 18, 2008, Mr. Jeffrey L. O'Neal, regulatory engineer for the Board, filed a report regarding the petition and proposed pipeline (O'Neal report). On August 12, 2008, the Board assigned this case to the undersigned administrative law judge. On August 19, 2008, the undersigned issued an order establishing a procedural schedule, proposing to take official notice, and providing notice of the hearing.

Louis Dreyfus filed the prepared direct testimony of Mr. David P. Yexley on September 4, 2008. Louis Dreyfus filed proof of publication of notice on September 19, 2008.

The hearing was held on September 25, 2008, in the City Council Chambers, City Hall, 220 N. Chestnut Street, Jefferson, Iowa. Louis Dreyfus was represented by its attorney, Mr. Paul E. Horvath. Mr. Yexley testified on behalf of Louis Dreyfus. Mr. Yexley is employed by Montana-Dakota Utilities Company (MDU) as a senior staff engineer and manager over pipeline projects and assets. (testimony of Mr. Yexley.) MDU is the authorized agent of Louis Dreyfus to construct the proposed pipeline. (testimony of Mr. Yexley.) Mr. Allen Sievertsen also testified on behalf of Louis Dreyfus. 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, Louis Dreyfus agreed to file the following documents with the Board after the hearing: a) a copy of the contract for operation and maintenance of the proposed pipeline between Louis Dreyfus and MDU; b) a copy of the contract for operation and maintenance of the proposed pipeline between MDU and another party, if one is executed, once the contract is awarded and executed; c) permission from the Union Pacific Railroad (Union Pacific) for the railroad crossing; d) road crossing permissions from Greene County and the Iowa Department of Transportation (IDOT); e) a copy of the letter regarding the proposed pipeline received from the U.S. Army Corps of Engineers (Army Corps); f) a copy of any letter regarding the proposed pipeline or route received from the Iowa Department of Natural Resources (IDNR); and g) notification once Louis Dreyfus has obtained all required easements for the proposed pipeline.

### **FINDINGS OF FACT**

1. Louis Dreyfus is a pipeline company within the meaning of Iowa Code § 479.2. (petition for permit; testimony of Mr. Yexley; O'Neal report.)
2. On June 23, 2008, Louis Dreyfus filed a petition and exhibits for a pipeline permit with the Board. (petition for permit.) Louis Dreyfus proposes to construct, operate, and maintain a new 6<sup>5</sup>/<sub>8</sub>-inch diameter steel natural gas pipeline approximately 8.5 miles long in Greene County, Iowa, with a maximum allowable operating pressure of 960 pounds per square inch gauge (psig). (petition for permit;

testimony of Mr. Yexley; O'Neal report.) Louis Dreyfus filed amendments to its petition and exhibits and provided additional information on July 17, 2008. (petition for permit; testimony of Mr. Yexley; 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 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. Louis Dreyfus caused notice of the hearing to be published in Greene County in the Jefferson Herald, a newspaper of general circulation in the county, on September 4 and 11, 2008. (proof of publication.)

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. Louis Dreyfus has received all required permits and approvals from Greene County, IDOT, IDNR, the Army Corps, and the Union Pacific railroad for the proposed pipeline. (testimony of Mr. Yexley; petition for permit; O'Neal report.)

7. The proposed pipeline will transport natural gas from a connection with an existing NNG transmission pipeline southeast of Grand Junction, Iowa, to the Louis Dreyfus Ethanol Plant currently under construction north of Grand Junction. (petition for permit; testimony of Mr. Yexley; O'Neal report.) The proposed pipeline is necessary to serve the new ethanol plant. (petition for permit; testimony of Mr. Yexley; O'Neal report.) 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 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.) Louis Dreyfus has contracted with MDU for construction of the proposed pipeline. (testimony of Mr. Yexley; petition for permit.) MDU is the authorized agent of Louis

Dreyfus to construct the proposed pipeline, and to sign on behalf of Louis Dreyfus with regard to pipeline matters. (testimony of Mr. Yexley.) Louis Dreyfus has awarded a contract for the operation and maintenance of the proposed pipeline to MDU. (testimony of Mr. Yexley.) MDU may assign its contract for operation and maintenance to either the Black Hills Corporation (formerly known as Aquila, Inc.) or Utility Safety and Design. (testimony of Mr. Yexley; petition for permit.) At the hearing, Louis Dreyfus agreed to file a copy of the operation and maintenance contract it has with MDU with the Board. (testimony of Mr. Yexley.) In addition, Louis Dreyfus agreed to file a copy of the assignment of the operation and maintenance of the contract if MDU executes such an assignment. (testimony of Mr. Yexley.) Prior to operation of the proposed pipeline, Louis Dreyfus 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. Louis Dreyfus 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, Mr. Sievertsen.)

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-878 file.) Louis Dreyfus does not request the right of eminent domain. (testimony of Mr. Yexley; petition for permit.) Louis Dreyfus has obtained all but two of the voluntary easements needed for the proposed pipeline, and has verbal commitments that the owners of the remaining two parcels will grant voluntary easements. (testimony of Mr. Yexley; petition for permit.) At the hearing, Louis Dreyfus agreed that it would file notice with the Board once it has obtained all the required easements. (testimony of Mr. Yexley.)

### **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 Louis Dreyfus 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 Louis Dreyfus 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 Louis Dreyfus complies with the requirements of Iowa Code § 479.29 and 199 IAC 9. (petition for permit; O'Neal report; testimony of Mr. Yexley.)

**IT IS THEREFORE ORDERED:**

1. Official notice is taken of the report dated July 18, 2008, 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 Louis Dreyfus in this docket is granted. A permit will be issued if this proposed decision and order becomes the final order of the Board.

3. Louis Dreyfus 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.

4. After Louis Dreyfus 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.

5. Within 180 days after completion of the construction of the new pipeline, Louis Dreyfus 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.

6. Louis Dreyfus must file the documents discussed in this order with the Board.
7. Prior to operation of the proposed pipeline, Louis Dreyfus 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.
8. The Board retains jurisdiction of the subject matter in this docket.
9. 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:

Judi K. Cooper  
Executive Secretary

Dated at Des Moines, Iowa, this 30<sup>th</sup> day of September, 2008.