

BEFORE THE IOWA UTILITIES BOARD

IN RE:)
) Docket No. HLP-2021-0001 and
SUMMIT CARBON SOLUTIONS LLC) Docket Nos. HLP-2024-0001-0014

**MOTIONS TO REOPEN RECORD AND TO CONSOLIDATE OR STAY
RELATED DOCKETS**

INTRODUCTION

This case addresses Summit’s petition for a permit to construct and maintain a carbon dioxide pipeline. The main line would traverse from east to west across northern Iowa and then proceed into South Dakota and North Dakota. The project as presented in this docket would also include 12 lateral pipelines connecting 12 ethanol plants to the main line.

A hearing was held on this permit request from August 22, 2023 to November 8, 2023. At the end of the hearing the evidentiary record was closed. The parties submitted post-hearing briefs. The briefing period ended on January 19, 2024. A decision by the Board is pending.

On June 19, 2023, at Summit’s request, a new docket, HLP-2023-0004, was opened to begin the permit process for a lateral pipeline from Summit’s main line from Floyd County to the Absolute Ethanol plant in Mitchell County. On June 20, 2023, Sierra Club filed a motion to consolidate the new docket with the existing docket regarding Summit’s primary project. That motion was denied by the Board.

Now, on March 4, 2024, Summit has requested that 14 new dockets be opened regarding lateral pipelines from Summit’s initial main lines and laterals to accommodate 14 additional ethanol plants. Those dockets are HLP-2024-0001, HLP-2024-0002, HLP-

2024-0003, HLP-2024-0004, HLP-2024-0005, HLP-2024-0006, HLP-2024-0007, HLP-2024-0008, HLP-2024-0009, HLP-2024-0010, HLP-2024-0011, HLP-2024-0012, HLP-2024-0013, HLP-2024-0014. Informational meetings on these new dockets are tentatively scheduled to occur between April 22, 1024 and May 9, 1024.

MOTION TO REOPEN THE RECORD

The Board's rule, 199 I.A.C. § 7.24, states:

The board or presiding officer, on the board's or presiding officer's own motion or on the motion of a party, may reopen the record for the reception of further evidence. When the record was made before the board, a motion to reopen the record may be made any time prior to the issuance of a final decision.

In addition, 199 I.A.C. § 7.23(6) provides that at "any stage during or after the hearing, the board or presiding officer may order a party to present additional evidence and may conduct additional proceedings as appropriate."

In this case, the addition of the 14 new lateral pipelines are clearly a significant major addition to the original project. The impact of these additional pipelines merit the Board's consideration of whether the entire project, including the 14 additional pipelines, promotes public convenience and necessity. Just as the original project included lateral lines and was treated as a single project, the currently proposed project that includes the 14 additional lines is a single project. This is not a situation where a pipeline is already constructed and years later a single lateral pipeline is proposed. This is a situation where the original pipeline project has not even been permitted yet and the 14 additional lines make this an entirely new and different project. So this is indeed a situation where the presentation of additional evidence is appropriate.

As noted above, the informational meetings for the additional pipelines have been scheduled and would be concluded by early May. But they should be conducted as part of this docket, not the 14 new dockets. Most, if not almost all, of Summit's evidence regarding the additional lines would be the same as the evidence already submitted for the original project. Although there would be additional landowners who would be allowed to present evidence, reopening the record in this case would be more efficient than holding 14 separate hearings on the new additional lateral lines. It would make no sense, either in terms of efficient use of the Board's time and resources or of the impacted landowners, to have 14 separate proceedings when the evidence can be produced and considered in this case.

Nor will Summit be prejudiced by reopening the record in this case. Neither South Dakota nor North Dakota have granted a permit to Summit for the portions of the project in those states. Summit has said that it will not begin construction on any of the pipeline in Iowa until it has permits from the Dakotas. So any delay due to reopening the record here would not prejudice Summit.

MOTION TO CONSOLIDATE OR STAY RELATED DOCKETS

Based on the foregoing argument, the dockets HLP-2024-0001 through HLP-2024-0014 should be consolidated with HLP-2021-0001 or stayed pending the consideration of additional evidence in the reopened record in HLP-2021-0001.

Pursuant to 199 I.A.C. § 7.14(1) the Board may consolidate in one docket any or all matter at issue in two or more dockets. In doing so, the Board must consider: (1) whether the matters at issue involve common parties or common questions of fact or law;

(2) whether consolidation is likely to expedite or simplify consideration of the issues involved; (3) whether consolidation would adversely affect the substantial rights of any of the parties to the proceedings; and (4) any other relevant factors.

Regarding the first consideration, many of the parties in a consolidated docket HLP-2021-0001 would be the same as in the original proceeding. There might be some additional counties that would intervene and additional landowners. But the issues would be the same. And certainly the questions of fact and law would be the same. And the rule relies on common parties **or** common questions of fact or law. So all of those factors do not need to be present.

The second consideration is definitely present. One existing proceeding would certainly expedite or simplify consideration of the issues as opposed to 14 separate new dockets. In fact, the Board has already heard most of the evidence that would be presented in a consolidated proceeding.

The only party's substantial rights that could possibly be adversely affected by consolidation would be Summit's. But even Summit's rights would be benefited by a more efficient and simpler proceeding. Fourteen separate proceedings would force Summit to present evidence in each of those proceedings and would delay final resolution.

Based on the foregoing, consolidation of all the pending Summit dockets is appropriate.

WHEREFORE, the record in HLP-2021-0001 should be reopened to accept evidence regarding the 12 new lateral pipelines proposed by Summit and to undertake

informational meetings regarding the additional routes for those new lateral pipelines. Based on reopening the record in HLP-2021-0001, the dockets in HLP-2024-0001 through HLP-2024-0014 should be consolidated with HLP-2021-0001 or stayed pending resolution of the consolidated docket in HLP-2021-0001.

/s/ *Wallace L. Taylor*

WALLACE L. TAYLOR AT0007714
Law Offices of Wallace L. Taylor
4403 1st Ave. S.E., Suite 402
Cedar Rapids, Iowa 52402
319-366-2428;(Fax)319-366-3886
e-mail: wtaylorlaw@aol.com

ATTORNEY FOR SIERRA CLUB
IOWA CHAPTER