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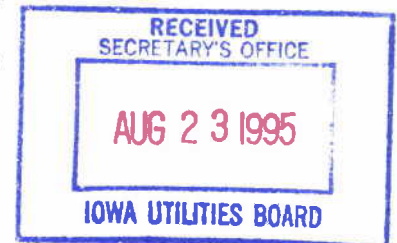


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BY DELIVERY

August 22, 1995



Raymond K. Vawter, Jr.  
Executive Secretary  
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Re: Docket No. P-831  
Dubuque to Davenport Lateral

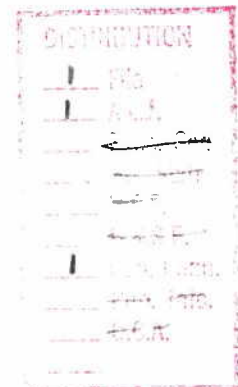
Dear Mr. Vawter:

In accordance with the Administrative Law Judge's Order Establishing Briefing Schedule issued August 1, 1995, enclosed for filing are an original and two copies of MidAmerican Energy Company's Brief in the above Docket. A Certificate of Service is also enclosed.

Sincerely,

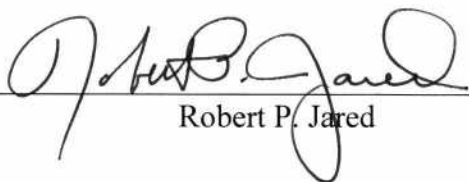
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CERTIFICATE OF SERVICE

I hereby certify that I have on this 22nd day of August, 1995, served one copy of the foregoing BRIEF of MidAmerican Energy Company upon the attached service list by depositing the same in the U.S. mail in postage prepaid envelopes, properly addressed, in accordance with the rules of the Iowa Utilities Board.

  
Robert P. Jared

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## TABLE OF CONTENTS

	<u>Page</u>
I. STATEMENT OF FACTS .....	1
II. PUBLIC CONVENIENCE AND NECESSITY .....	3
A. MidAmerican has shown that the proposed project would promote the public convenience and necessity .....	3
B. Office of Consumer Advocate .....	12
C. Natural .....	16
D. Peoples .....	22
E. Mr. Burke .....	24
III. SAFETY ISSUES .....	30
A. MidAmerican .....	30
B. Board Staff Report .....	32
C. Office of Consumer Advocate, Natural and Peoples .....	33
D. Landowner Objectors .....	34
IV. PIPELINE LOCATION AND ROUTE ISSUES .....	35
A. MidAmerican .....	35
B. Board Staff Report .....	37
C. OCA, Natural and Peoples .....	38
V. FINANCIAL ISSUES .....	39
A. MidAmerican has met its burden of showing proof of solvency and financial ability to pay damages .....	39
VI. THE TAKING BY EMINENT DOMAIN PROPOSED BY MIDAMERICAN IS NECESSARY FOR A PUBLIC USE .....	39

VII. OTHER MIDAMERICAN ISSUES ..... 41

    A. Topsoil ..... 41

    B. Tile ..... 41

    C. Control of Soil Erosion in the Right-of-Way ..... 41

VIII. OTHER ISSUES RAISED BY OBJECTORS ..... 42

IX. REQUEST FOR EXPEDITED CONSIDERATION ..... 47

X. CONCLUSION ..... 48

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

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IN RE:	)	
	)	
PETITION FOR PERMIT FOR A	)	
NATURAL GAS PIPELINE IN DUBUQUE,	)	
JACKSON, CLINTON AND SCOTT	)	
COUNTIES, IOWA.	)	
	)	DOCKET NO. P-831
MIDAMERICAN ENERGY COMPANY,	)	
SUCCESSOR TO IOWA-ILLINOIS GAS	)	
AND ELECTRIC COMPANY,	)	
DAVENPORT, IOWA.	)	
	)	
Petitioner.	)	

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BRIEF OF  
MIDAMERICAN ENERGY COMPANY

COMES NOW, MidAmerican Energy Company (MidAmerican or Company), successor to Iowa-Illinois Gas and Electric Company (Iowa-Illinois), by its attorneys, and submits its post-hearing Brief in accordance with the Administrative Law Judge's Order Establishing Briefing Schedule issued August 1, 1995.

**I. STATEMENT OF FACTS**

1. On March 7, 1995, Iowa-Illinois filed a Petition for a permit to construct, operate

and maintain approximately 62 miles of natural gas pipeline in Dubuque, Jackson, Clinton and Scott Counties, Iowa, to be known as the Quad Cities (Dubuque to Davenport) Lateral. Filed with the Permit were supporting exhibits and Direct Testimony. Informational meetings had previously been held on February 1 and 2, 1995 in each of the four affected counties. Iowa-Illinois requested that it be vested with the power of eminent domain. Iowa-Illinois also requested expedited treatment of the Petition to enable the proposed pipeline to be constructed and placed in-service for the 1995-1996 heating season.

2. On May 25, 1995, the Board assigned this proceeding to an administrative law judge. By order dated June 14, 1995, a procedural schedule was established which set, inter alia, a hearing date of July 27, 1995. On July 1, 1995, the merger of Iowa-Illinois and Midwest Resources Inc. to form MidAmerican became effective. MidAmerican thereby succeeded to the interests of Iowa-Illinois in this proceeding.

3. On May 24, 1995, Natural Gas Pipeline Company of America (Natural) filed a petition to intervene. On June 13, 1995, Peoples Natural Gas Company, Division of Utilicorp United Inc. (Peoples) filed a petition to intervene. These petitions were granted by the administrative law judge on June 29, 1995. A petition to intervene was served by Interstate Power Company (Interstate) on July 26, 1995, one day prior to the hearing. MidAmerican's objection to Interstate's petition to intervene was sustained by the administrative law judge on July 27, 1995, but Interstate was permitted to participate in the hearing. Objections to the Petition were also filed by several landowners.

4. The hearing was held on July 27 and 28, 1995. The prefiled Direct Testimony and Supplemental Direct Testimony of MidAmerican witnesses Sara J. Schillinger, Christian M. Swanson, Kenneth E. Schwarz, Daniel L. Junk, and David W. Sinclair was presented for cross-examination. Prefiled Direct Testimony was also presented by the Office of Consumer Advocate (OCA) (Dr. David S. Habr), Natural (David J. Weeks, John E. Horton), and Charles W. Burke, an objecting landowner. Several other landowners who had not prefiled testimony also testified at the hearing. Peoples did not submit testimony but did conduct limited cross-examination.

As noted in the Board's June 14, 1995 Order, issues addressed at the July 27 and 28 hearings concerned the public convenience and necessity issue, safety issues, pipeline location and route issues, financial issues, and issues raised by objectors. MidAmerican also requested the power of eminent domain.

## **II. PUBLIC CONVENIENCE AND NECESSITY**

### **A. MidAmerican has shown that the proposed project would promote the public convenience and necessity.**

The testimony of MidAmerican witness Sara J. Schillinger establishes that the proposed Quad Cities (Dubuque to Davenport) Lateral Pipeline Project is in the public convenience and necessity. Ms. Schillinger testified that the purpose of the proposed project was to lower the purchased gas costs for MidAmerican's customers and to enhance the value of its distribution system for transportation customers. [Tr. 128.] MidAmerican evaluated the anticipated impact on purchased gas costs of the cost of comparable services from Natural,

Northern Natural Gas Company (Northern) and ANR Pipeline Company (ANR) compared to the cost of service from the proposed Northern Quad Cities Project. This evaluation resulted in the conclusion that customers' purchased gas costs under the proposed Northern Quad Cities alternative would be reduced by an estimated \$2.5-\$4.4 million, annually, when compared to the other service alternatives. [Tr. 129.] Ms. Schillinger testified these customer savings estimates reflected the cost of firm pipeline transportation and the cost of gas supply. Ms. Schillinger used the actual commodity cost of gas transported on the three pipelines in the past two years to perform her comparison. [Tr. 129.]

In addition to the estimated savings in customers' purchased gas costs, Ms. Schillinger also testified that the proposed project would strengthen the Company's negotiating position when acquiring other pipeline services resulting in the lowest cost, most reliable service for the Company's customers. This would occur because competition would be enhanced among Northern, Natural and ANR for service to the Company. The services would include firm transportation, interruptible transportation and leased storage. [Tr. 129-130.]

Ms. Schillinger's testimony made it very clear that this pipeline was not being constructed for the sole purpose of serving a new glass manufacturing plant on the southeast edge of DeWitt, Iowa. Ms. Schillinger noted that discussions concerning this pipeline project dated back as far as 1991, long before there was any indication to the Company that Guardian Industries was considering constructing a facility near DeWitt. [Tr. 130.] It was fortuitous that once the Company and Northern were able to agree on the project, the proposed route was able to

be slightly revised so that it could cross the Guardian Industries property. It is a geographical fact that whether Guardian was to locate a facility in DeWitt or not, it was necessary for the pipeline route to pass in or near DeWitt in order to construct a pipeline from Dubuque to Davenport. The chosen route did have the additional advantage that Guardian will be able to obtain a dual flow of natural gas from the pipeline; from the north and from the south. Natural witness Weeks testified that this should not be a major concern to Guardian. [Tr. 349.] It is noteworthy that although Natural witness Weeks attempted to downplay this concern, he had not discussed this matter with Guardian. [Tr. 357.] The fact remains that this was an extremely serious concern of Guardian. This additional security of supply resulting from the dual flow was represented by Guardian as a serious concern for the facility because of the high temperature glass production process to be utilized at the plant. [Tr. 131.] The fact that Natural attempted to minimize this concern is irrelevant. It is Guardian's plant and it is their concern and call, not Natural's. Ms. Schillinger testified the most economic way for the Company to meet the reliability requirements at the Guardian facility was to utilize this proposed project. [Tr. 131.] The proposed project also had the additional benefit of being a significant factor in Guardian deciding to locate its new facility in Iowa in general and near DeWitt in particular. By locating in DeWitt, it is the Company's understanding that 250-300 new jobs will be created in addition to increasing economic development by attracting other spin-off manufacturers. [Tr. 132.] As further noted by Ms. Schillinger, the City of DeWitt approved a natural gas franchise with the Company on February 21, 1995. [Tr. 132.]

In her Supplemental Direct Testimony, Ms. Schillinger expanded on the reasons why the proposed pipeline is in the public convenience and necessity. Ms. Schillinger reiterated that the use of the Quad Cities Lateral would reduce the Company's purchased gas costs. Ms. Schillinger explained that Natural, ANR, and Northern were all asked to submit bids for providing the service to the Quad Cities. MidAmerican evaluated each pipeline option on its associated total cost of delivered gas with the result that the least-cost option for providing these service requirements was the proposed project.

Ms. Schillinger further testified that the proposed interconnection will strengthen MidAmerican's negotiating position when acquiring pipeline services. Ms. Schillinger testified as to MidAmerican's experience with constructing multiple pipeline interconnections. She testified that the pipelines recognize that portions of MidAmerican's gas needs are not "captive" to any one pipeline and that the pipelines must compete by offering price discounts to MidAmerican when providing pipeline services. [Tr. 141-142.] These cost savings are passed directly to MidAmerican's customers through the operation of the purchased gas adjustment clause (PGA). The Quad Cities Lateral will increase the portion of MidAmerican's gas needs that are not captive to any one pipeline.

In addition to increasing competition among MidAmerican's pipeline suppliers resulting in lower purchased gas costs to the Company's customers, Ms. Schillinger testified that MidAmerican's ability to provide reliable service would also be enhanced by building the Quad Cities Lateral. This additional reliability is in the form of flexibility should Natural, ANR or

Northern experience operational problems. By virtue of the additional Northern pipeline interconnection in the Quad Cities, MidAmerican will be able to maintain gas supply to its customers by utilizing the services of the pipelines which are not experiencing operational problems. [Tr. 141-142.]

In her Supplemental Direct Testimony, Ms. Schillinger also expanded on the economic development impacts of the proposed pipeline. Ms. Schillinger testified that MidAmerican's transportation customers will be able to utilize the existence of this interconnection when negotiating with their pipeline vendors resulting in a reduction of their costs of doing business. This reduction in cost should make the Quad Cities/Eastern Iowa area more attractive to both new and existing customers. In the same manner that MidAmerican benefits from competition among its pipeline suppliers, transportation customers should also benefit from potential cost savings through negotiating with competing transporting pipelines for improved reliability of supply through MidAmerican's distribution system. Ms. Schillinger testified that one new customer interested in these economic benefits and increased supply reliability was Guardian Industries. [Tr. 143-144.]

Even prior to it being argued by Natural as a potential alternative to the Quad Cities Lateral, Company witness Schillinger discussed the possible Northern Border Pipeline Company extension from Harper, Iowa into Indiana. In her Direct Testimony, Ms. Schillinger testified that the Northern Border proposed project did not change the need for Iowa-Illinois' proposed pipeline. [Tr. 145.] Iowa-Illinois was aware of the proposed Northern Border project

and concluded that the Quad Cities Lateral was the more economical means for Iowa-Illinois to provide the service needed. Ms. Schillinger testified that Iowa-Illinois does plan to consider interconnecting with the Northern Border system, if that project is constructed, but that its review of Northern Border's proposed rates indicates that it would not be economical to utilize an interconnection with Northern Border for system supply. [Tr. 134.] Based on Northern Border's filing, purchased gas costs using Northern Border's proposed pipeline would be \$5-\$6 million higher on an annual basis than would be equivalent services from Northern using the project at issue in this proceeding. [Tr. 134.] Ms. Schillinger noted that Iowa-Illinois, now MidAmerican, plans to interconnect with the Northern Border pipeline if and when it is constructed at the request of certain transportation customers who desired the additional pipeline option of an interconnection with Northern Border. MidAmerican notes that this is additional evidence of the fact that transportation customers do desire alternative pipeline options, contrary to the self-serving arguments of Natural. As Ms. Schillinger stated, the Northern Border project is uncertain, both as to its timing and the costs of receiving service at the time the pipeline is placed in service. In her Direct Testimony, she gave five reasons for proceeding with the Quad Cities (Dubuque to Davenport) Lateral pipeline project instead of, or in addition to, the Northern Border project:

1. Building one interconnection does not preclude Iowa-Illinois from building another.
2. The costs of service from the Quad Cities project are estimated to be substantially less than the estimated costs of receiving comparable service

from the proposed Northern Border expansion.

3. The Quad Cities project is anticipated to be in-service in time for the 1995-1996 heating season. The proposed Northern Border project is not projected to be in-service, at the earliest, until November 1997 (the 1997-1998 heating season).
4. There is significant question whether the Northern Border project will succeed given the opposition that has surfaced (primarily from Natural) and that Northern Border has proposed similar projects which did not result in construction.
5. The Company must be prepared to provide natural gas service to the glass plant near DeWitt by the Spring of 1996. [Tr. 135.]

For all these reasons, the proposed Northern Border project is not an alternative to the Quad Cities Lateral. As noted in Ms. Schillinger's Supplemental Direct Testimony, Natural's opposition to the Northern Border project was made very clear when Natural filed a competing application before the Federal Energy Regulatory Commission (FERC) on April 11, 1995. [Tr. 144-145.] It is disingenuous for Natural to be touting the Northern Border project as a potential alternative to the Quad Cities Lateral while Natural is, itself, doing everything in its power to stop the Northern Border project at the FERC.

In addition to the benefits and advantages cited by Ms. Schillinger, Company witness Christian M. Swanson testified that the Company would be installing farm taps on the pipeline so that natural gas service could be extended to farms and other customers along the route of the pipeline who may be presently relying on liquid propane for heating, corn drying and other purposes. [Tr. 258] Mr. Swanson also testified that the Company was evaluating the

economics of extending service to towns and housing developments near the route of the pipeline. [Tr. 258.] Consequently, the proposed pipeline also provides the opportunity for the Company to extend natural gas service to customers not presently receiving natural gas service.

Natural questioned MidAmerican's belief that the proposed interconnection with Northern into the Quad Cities will enhance competition. [C. Tr. 154-155.]<sup>1</sup> MidAmerican's experience, however, leaves no doubt as to what the effect of an additional interconnection can mean to MidAmerican and its customers. Ms. Schillinger noted that six or seven years ago there was only one pipeline serving Iowa-Illinois/MidAmerican in the Quad Cities. That pipeline was Natural. Iowa-Illinois accepted a proposal from ANR to build an interconnection to the Quad Cities. ANR is a competitor of Natural. Natural, as it is doing in the present case, opposed that project. Over Natural's opposition, the ANR interconnection was built. The result of Iowa-Illinois interconnecting with the second pipeline supplier in the Quad Cities was that Iowa-Illinois began receiving transportation discounts from Natural. Iowa-Illinois was not able to attain transportation discounts from Natural prior to constructing that interconnection with the second pipeline company in the Quad Cities. [C. Tr. 198-199.]

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<sup>1</sup>In the opinion of MidAmerican, the references in this and a following section of MidAmerican's Brief to the cross-examination of MidAmerican witness Schillinger and Office of Consumer Advocate witness Habr, while found in the confidential section of the transcript, do not involve issues of a sensitive nature. Consequently, MidAmerican believes it is appropriate to discuss them at this point in its Brief rather than engaging in the administrative complexity of including them in a separate, confidential brief which would only be served on signatories to the Non-Disclosure Agreements. MidAmerican does not, in any other manner, waive the protections and provisions of the Non-Disclosure Agreements that have been executed in this proceeding.

Ms. Schillinger testified that Iowa-Illinois did request discount transportation rates from Natural prior to the interconnection with ANR into the Quad Cities. [C. Tr. 202.]

With no competitive pipeline in the area, Iowa-Illinois' experience was as follows:

Q. The preliminary question was whether Iowa-Illinois ever requested transportation discounts from Natural prior to the construction of the ANR interconnection into the Quad Cities.

A. Yes, we did.

Q. And what was Natural's response to Iowa-Illinois' request?

A. They refused.

There was also cross-examination of Ms. Schillinger concerning MidAmerican's Cedar Rapids District. Similar to the experience Iowa-Illinois had in the Quad Cities with the effect of a new pipeline interconnection, five years ago there was only one pipeline in Cedar Rapids. That pipeline was Natural. Natural was again the sole pipeline transportation supplier to Iowa-Illinois in that district. Iowa-Illinois constructed a second pipeline interconnection, this time with Northern. As was its experience in the Quad Cities, subsequent to that interconnection with the second pipeline company, Iowa-Illinois obtained transportation discounts from Natural in Cedar Rapids. Iowa-Illinois was not able to obtain transportation discounts from Natural prior to constructing that second pipeline. [C. Tr. 199-200.]

Ms. Schillinger testified the availability of multiple pipelines also increases the Company's flexibility in the case of capacity constraints on one of those systems. A capacity constraint on one pipeline creates a potential difficulty in meeting the sales service needs of

MidAmerican's customers. [C. Tr. 201.] Ms. Schillinger also testified that there would be no incremental operating and maintenance costs because MidAmerican did not foresee hiring people because of this line. Existing Staff and equipment will be utilized. Ms. Schillinger further testified that property taxes were included in the study. [C. Tr. 191-192.]

Ms. Schillinger testified MidAmerican does not have an obligation to buy gas at the lowest reasonable cost for a transportation customer. Indeed, since transportation customers purchase their own gas, there is no obligation on the part of MidAmerican to purchase gas for their use. On the other hand, in the case of a sales service customer, MidAmerican does have an obligation to reliably secure natural gas for its customers at the lowest reasonable cost. [C. Tr. 202.] Despite the attempt to minimize the significance, MidAmerican considers a potential annual savings of \$2.5-\$4.4 million to be significant and something that should be pursued to meet its obligations. [C. Tr. 202.]

#### B. Office of Consumer Advocate

Office of Consumer Advocate witness Dr. David A. Habr performed a detailed economic analysis of the estimated costs and benefits of the Quad Cities Lateral. Dr. Habr's analysis found the following:

I found that the project can be beneficial to ratepayers if Company is able to maintain a 75% load factor on its proposed 50,000 MMBtu/day contract with Northern Natural. As I show on Schedule A, the present value of the net savings over the life of the pipeline is about \$1,521,000 with nominal savings of \$56.9 million. [C. Tr. 71.] Dr. Habr concluded that he found nothing in his

analysis to indicate that this pipeline should not be constructed. [C. Tr. 72.]

It is first noteworthy to examine the respective interests of the Office of Consumer Advocate and Natural. The basic purpose of the Office of Consumer Advocate is to represent ratepayers in any matters that come before the Iowa Utilities Board. [Tr. 73.] In other words, the Office of Consumer Advocate represents the customers who will actually be paying the costs, and receiving the benefits, of the proposed project. Unlike Natural, the Office of Consumer Advocate has no vested business interest in either supporting or opposing this project. It is noteworthy that the Office of Consumer Advocate, representing ratepayers, had an economics Ph.D. perform a cost benefit analysis which found that this project is beneficial to ratepayers. In contrast, Natural, who stands to lose business if this project is constructed, not surprisingly performed a much less detailed analysis questioning the project and not surprisingly developed an alternative proposal which would result in it retaining this load.

To confirm the "after the fact" nature of Natural's "alternative," Dr. Habr testified under cross-examination by one of the landowners that there were no other projects filed at the time of his cost analysis. [Tr. 78-79.]

On cross-examination, Dr. Habr agreed that none of the costs of the pipeline will be charged to MidAmerican customers until and unless MidAmerican files for a gas rate increase and seeks to have those costs included in its rates. [Tr. 75.] The costs to be included in rates would depend at least in part on the costs incurred during the utility's test year and in such a rate

case, the reasonableness of the cost of the pipeline would be investigated and analyzed by the OCA and the parties. [Tr. 75.] Anyone not a gas customer of MidAmerican would not pay any of the costs ultimately allowed in rate base.

Natural cross-examined Dr. Habr on his economic cost-benefit study and questioned certain assumptions in his analysis. One assumption was that the Company would be able to maintain a 75% load factor. If the Company was unable to maintain that load factor, the benefits of the project would decrease. [Tr. 82.] Natural neglected to mention that if the Company was able to exceed that load factor, the benefits of the project would increase. OCA Exhibit No. 101, Schedules A, B and D set forth three cost-benefit analyses of the proposed pipeline from the ratepayers' perspective. The principal difference was that each schedule utilized a different rate of return or interest rate. Natural was concerned that the analyses did not include anything for operation and maintenance costs, additional property taxes, or other incidental operating costs. [C. Tr. 82-83.] This was a concern echoed by certain landowners. At no point in the proceeding, however, did Natural ever attempt to calculate the magnitude of these costs. There is no showing that operation and maintenance costs, property tax, or "other incidental operating costs" would be material or have any impact on either Dr. Habr's analysis or the analysis conducted by MidAmerican.

In any event, Ms. Schillinger did testify that operating and maintenance costs were considered by MidAmerican in performing its study and that there would be no incremental operating and maintenance costs because existing staff and equipment would be utilized. [C. Tr.

191-192, 210-211.] Ms. Schillinger also testified on cross-examination by Mr. Burke and Natural that property taxes were included in MidAmerican's study. [C. Tr. 192, 207.] Further, Ms. Schillinger testified that opportunity costs were considered by MidAmerican in performing its study. [C. Tr. 160, 207-208.]

Landowner Burke attempted to place into question Dr. Habr's experience in conducting cost-benefit analyses. As noted in Dr. Habr's confidential testimony and Appendix A, Dr. Habr is extremely experienced in analyzing and testifying on behalf of the Consumer Advocate Staff. He has conducted numerous cost-benefit analyses and holds a Ph.D. in economics. His expertise is in the area of economic analysis. That is the area in which he testified in this proceeding. [C. Tr. 90-91.]

Dr. Habr's analyses assumed that the pipeline costs would go into the rate base immediately in year one. [Tr. 105.] Until the costs of the pipeline go into rate base, ratepayers will not be paying those costs but would receive all the benefits of the pipeline. When he performed his analysis, there were no other alternative pipeline projects before him. [Tr. 106.] MidAmerican's proposed project was evaluated on its own terms. [Tr. 106.] Additional projects would also have to be evaluated on their own terms. [Tr. 106.] Dr. Habr expressed no opinion as to the level or impact of property taxes on this project, and expressed no opinion as to the level or impact of operations and maintenance expenses on this project. [Tr. 106.] He further testified that in evaluating load factor, either current or future, one would also have to take into consideration load growth in that area. [Tr. 106-107.]

### C. Natural

First and foremost, the limited interest of Natural must be placed in its proper perspective. Natural is not a customer of MidAmerican and its only direct interest is as a pipeline transporter to MidAmerican. [Tr. 355.] Natural witness Weeks testified that there currently was no firm capacity available on its Amarillo main line but that Natural projected there would be available capacity after November 30, 1995. On cross-examination, Mr. Weeks agreed that, at least in part, the reason there will be sufficient capacity available after that date is that MidAmerican and other traditional customers of Natural were leaving Natural's system. The reason was not that Natural would be constructing any additional facilities resulting in additional capacity. [Tr. 355-356.]

Natural witness Weeks testified that MidAmerican was not building its pipeline just to serve the Guardian Glass Plant. [Tr. 358.] However, Natural Exhibit 202 clearly shows that Natural's economic analysis for its alternative was simply for the purpose of serving the Guardian Glass Plant:

NATURAL GAS PIPELINE COMPANY OF AMERICA  
  
ESTIMATED INCREMENTAL COSTS OF SERVICE  
ASSOCIATED WITH MIDAMERICAN'S PROPOSED PROJECT  
AN ALTERNATIVE PROJECT TO SERVE GLASS PLANT  
FIRST YEAR OF OPERATION  
(EMPHASIS ADDED)

Natural's own exhibit shows that its alternative was designed to serve only the Guardian Glass Plant, an alternative which, not surprisingly, would use pipeline facilities connected to Natural's

system, not Northern's.

Mr. Weeks sponsored Natural Exhibit No. 203 consisting of charts purporting to show how displacement would work on a portion of MidAmerican's system. He stated the exhibit was a theoretical illustration of what ought to be possible within certain parameters on MidAmerican's system. [Tr. 359.] The charts did not reflect actual knowledge of the operating characteristics of MidAmerican's system.

In another attempt to cast doubt on MidAmerican's proposal, Mr. Weeks suggested that other local distribution companies would be better able to serve this load. There was no support for this statement except to note that another utility offered gas service in the area in which the glass plant would be located. Mr. Weeks ventured his opinion that this other utility could provide service to the plant "with modest effort." [Tr. 350-351.] Mr. Weeks conceded, however, that the other utility was not a party to this proceeding and provided no additional support to his belief. [Tr. 359-360.] In response to the question whether he was implying that MidAmerican should not compete with other LDCs for additional load, he stated he did not have an opinion on that. [Tr. 360.] In reality, the Guardian facility is in MidAmerican's service territory since MidAmerican does have a franchise to serve parts of the City of DeWitt, including the Guardian Industries Plant. [Tr. 360.]

Although his testimony stated that Natural's storage services provide a level of supply security far greater than a connection with a third pipeline supplier, he acknowledged that service on Natural's system was still subject to constraints such as physical pipeline failure. [Tr.

360.]

The bottom line of Natural's opposition to the proposed project is that it poses a competitive risk to Natural. Natural had to either compete or lose a portion of MidAmerican's business. Natural lost this competition for this part of MidAmerican's load. This point was driven home with the discussion of a previous project in which Midwest Resources, also now apart of MidAmerican, sought to add Natural as the alternative pipeline transporter to its Des Moines service area, an area previously served only by Northern. In that situation, the roles of Natural and Northern were reversed; Natural was the pipeline being brought in to serve an area previously served only by Northern. In that case, where Natural benefitted by the proposed interconnection, Natural did not object. As Mr. Weeks testified on cross-examination, "as I understand, we worked very closely with them to get that project built." [Tr. 361-362.]

Natural witness Weeks testified that MidAmerican did not give Natural an opportunity to bid to retain the contract volume to be transported on Northern and delivered on a proposed Dubuque Lateral. [Tr. 352.] This statement is simply incorrect. As Ms. Schillinger testified, MidAmerican requested bids from Natural, Northern and ANR for transportation service options. The fact that Natural not only was invited to submit bids, but actually did so is readily apparent from an examination of Office of Consumer Advocate Confidential Exhibit 102, Attachment A, consisting of the Proposed Quad Cities Interconnection Economic Analysis performed by Iowa-Illinois Gas and Electric Company's Gas Supply Division dated September 13, 1994. Indeed, letters contained within Office of Consumer Advocate's Confidential Exhibit

102 under Attachment III dated June 24, 1994, July 14, 1994, July 26, 1994 and August 22, 1994, Attachment A, consist of bids actually received from Natural, and correspondence between Natural and MidAmerican, which were considered by MidAmerican in deciding to pursue an interconnection with Northern. Examination of those bids clearly indicates Natural's offered rates were significantly higher than those rates offered by Northern for the requested comparable service. Consequently, Natural's statement that it was not provided an opportunity to bid on this project is incorrect.

Finally, Mr. Weeks alleges that MidAmerican's project will result in excess capacity being created on Natural's system. Mr. Weeks acknowledged on cross-examination that not only MidAmerican, but other traditional Natural customers were reducing their contracts with Natural, and at least partially, leaving Natural's system. [Tr. 355-356.] The answer as to why is quite simple; Natural is unwilling or unable to compete to retain the business of MidAmerican and other customers. To the extent that Natural does successfully compete for such business, both now and in the future, Natural can expect to retain or regain either current load or the type of additional load that MidAmerican hopes this proposed project can bring to Eastern Iowa and the Quad Cities area through increased economic development and jobs.

Natural also submitted the testimony of John Horton. Mr Horton's testimony focused on an "alternative" Natural is just now proposing to the Quad Cities Lateral. The simple rebuttal to Mr. Horton's proposal is that it was not presented to MidAmerican when MidAmerican sought bids in July of 1994, and was not presented to MidAmerican until the filing

of Mr. Horton's testimony on July 20, 1995. The transparency of Natural's "proposal" should be obvious. It is simply an attempt to cast doubt on MidAmerican's project. OCA witness Dr. Habr was asked whether he evaluated Natural's proposal. He had not and the reason for him not doing so is obvious; it did not exist and was not available for his review.

Natural is only concerned about retaining the business of MidAmerican. By constructing the pipeline it suggests, which it would have MidAmerican construct, Natural would possibly gain the anticipated new load from the Guardian Plant and retain existing MidAmerican load. As far as retaining MidAmerican's business is concerned, if Natural had submitted acceptable competitive bids in July of 1994 to be included in the September 1994 study, Natural may have retained this load, but it either chose or was not able to do so.

It is misleading and incongruous to even discuss the Natural "proposal" in the same docket as the proposed Quad Cities Lateral. To do so at least implies that the two projects are comparable. They are not. As noted elsewhere, the Natural "proposal" was not submitted to MidAmerican as part of its request for bids in July of 1994 when MidAmerican requested proposals from the three interstate pipelines, negotiated a final contract, and proceeded with the most economical alternative. Rather than compete for MidAmerican's business on the same terms as the other two pipelines, Natural chose to submit a "proposal" over one year later at the eve of the pipeline hearing and claim that its "proposal" was a viable alternative to the proposed project. It is clear the reason Natural chose this time and place to submit its "proposal" was merely to deflect attention away from the analysis performed by MidAmerican and to attempt to

construct a road block to MidAmerican's plans to interconnect with a competitor of Natural. Consequently, it is difficult to discuss the Natural "proposal" because to do so gives it far more credence than it deserves.

However, even assuming arguendo the Natural "proposal" is ripe for discussion, even the most superficial analysis discloses that the Natural "proposal" is not an alternative to the Quad Cities Lateral and fails to provide the ratepayer value that would be provided by the Quad Cities Lateral. Despite assertions to the contrary, the Natural "proposal" would not provide MidAmerican and its customers with the benefits of the Quad Cities Lateral. The Natural "proposal" would only serve to provide a transportation pipeline, and a single-feed transportation pipeline at that, to the Guardian Industries facility in DeWitt. As Company witness Schillinger testified in both her Direct and Supplemental Direct Testimony, MidAmerican is not proposing this project only as a means of serving the Guardian facility. Further, Guardian desires a dual feed pipeline. In its attempt to thwart competition, Natural has focused solely on a project to serve the Guardian plant. That, however, is not the project now in front of the Board. The project at issue is one that will benefit all of MidAmerican's Quad Cities gas customers, including but in no way limited to, Guardian. MidAmerican's proposal would reduce customers' gas costs by \$2.5-\$4.4 million annually. The Natural "proposal" would not. MidAmerican's project would bring a third interstate pipeline into the Quad Cities. The Natural "proposal" would not. MidAmerican's project would provide an alternative to the Natural and ANR pipelines when it comes time to negotiate transportation services for the Quad Cities District.

The Natural "proposal" would not since MidAmerican is already connected to Natural in the Quad Cities. MidAmerican's project would result in a new interconnection with Northern near Dubuque. MidAmerican's project would interconnect the Quad Cities area with supply and transportation facilities to which the Quad Cities is currently not connected. Despite Natural's initial assertions to the contrary, its proposal would not. Natural witness Weeks conceded there are natural gas wells and facilities which are not directly connected to Natural's system. [Tr. 357.]

The true intent of Natural submitting its "proposal" at this time is seen in its reliance on the possibility that Northern Border Pipeline Company may construct a facility through Eastern Iowa. Natural appears to suggest that the Northern Border project would provide at least some of the benefits of the proposed Quad Cities Lateral. This is simply a red herring that Natural is using as an additional means of attempting to thwart competition. On cross-examination, Natural conceded that it is also actively opposing the construction of the Northern Border project. It is ironic, at best, that Natural would point to another pipeline's proposed project that it is also opposing as a means of opposing this project. It is quite apparent that the only similarity between the Quad Cities Lateral and the Northern Border proposed project is that both would pose a competitive threat for Natural, competition that Natural apparently is not willing or is unable to deal with.

#### D. Peoples

Peoples did not oppose MidAmerican's Petition for Permit. Reflecting Peoples'

status as a utility competitor of MidAmerican, Peoples did express some concerns about the project's potential impact on Peoples and its interests.

Peoples cross-examined Company witness Swanson concerning MidAmerican's plans to extend natural gas service to towns or housing developments along the route of the pipeline that do currently receive natural gas service from another local distribution company. Mr. Swanson replied that he knew of no plans to make such an evaluation and that he knew of no current plans to extend such service. [Tr. 263-264.] MidAmerican submits that a competitor's concerns about protecting its own service territory from competition do not rise to the level of questioning the public convenience and necessity of the proposed pipeline.

Peoples implied that the construction of this project would exacerbate a purported pipeline capacity constraint on Northern's East Leg. Peoples presented no witnesses to substantiate the existence of such a constraint, but attempted to do so by cross-examining witnesses for Natural and MidAmerican. Neither witness was able to confirm Peoples' implication. Natural witness Weeks stated he could not say whether the FERC approval of Northern's East Leg expansion filing would relieve any historical capacity constraint. [Tr. 363.] Neither did Mr. Weeks have an opinion as to the effect, if any, MidAmerican's proposed project would have on any such capacity constraint. [Tr. 363-364.]

Similarly, Peoples was not able to establish the existence of a capacity constraint on Northern's system by cross-examining MidAmerican witness Schillinger. To the contrary, People's cross-examination of Ms. Schillinger leads to the opposite conclusion. Ms. Schillinger

testified she was aware that Northern had expanded its system throughout the past few years. [C. Tr. 161.] She was not aware that Peoples had experienced curtailment problems because of capacity constraints and was not aware of any information that would lead her to conclude that MidAmerican's project would exacerbate any constraint problems that there may be. [C. Tr. 161-162.] The record neither supports a finding that a capacity constraint exists on Northern's East Leg system nor does it support a finding that the proposed project would have any effect on such a constraint if one does exist.

E. Mr. Burke

Mr. Burke filed direct testimony contesting several aspects of MidAmerican's proposed project. Before addressing the substantive aspects of his testimony, a preliminary matter must be addressed. A substantial portion of his prefiled testimony consists of an expression of his "frustrations." A review of the record, however, discloses little basis for any frustration. To the contrary, Mr. Burke has had a complete opportunity to participate fully in this proceeding and, in fact, has done so. One only need recognize the 554 pages of non-confidential transcript and an additional 214 pages of confidential transcript to realize that a full opportunity to be heard has been extended to, and accepted by, all participants to the proceeding.

Mr. Burke first complains that he wrote the Company on May 12, 1995 requesting information and received a response on June 19, 1995 with a comment that they intended to address many of his concerns in the additional testimony to be filed prior to the hearing. [Tr. 390.] The inference is that MidAmerican did not respond to his inquiry and merely told him to

wait until the supplemental direct testimony had been filed.<sup>2</sup> Mr. Burke, however, neglected to mention that, even before MidAmerican's Petition had been filed, he had already made several requests for information to MidAmerican and had received a considerable amount of information from MidAmerican. For example, on November 7, 1994, five months before the Petition was filed, MidAmerican provided him with copies of the pertinent provisions of the Iowa Administrative Code which described the permitting procedures required for the pipeline project. This was in response to a telephone request of his. [Tr. 435.]

In addition, Mr. Burke visited Iowa-Illinois' offices on February 14, 1995, for the purpose of obtaining additional information concerning the project. [Tr. 432-433.] MidAmerican provided him with access to the maps that had been used at the public informational meetings. He also took advantage of the meeting to inquire into various aspects of the project such as the timing of the filing and when the hearing would be set, the federal and Iowa regulations governing pipeline construction, and other questions concerning the construction of the project and gas supply sources. [Tr. 433-434.] Mr. Burke acknowledged that he did attend one or more of the informational meetings held on February 1 and 2 at which extensive information was disseminated to the public concerning all aspects of the proposed pipeline project.

Returning to Mr. Burke's prefiled testimony, his May 12, 1995 correspondence to

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<sup>2</sup>MidAmerican notes that Mr. Burke later acknowledged that any concerns he had regarding the timing of MidAmerican's earlier response was no longer a concern of his. [C. Tr. 166.]

Iowa-Illinois was admitted without objection as MidAmerican Cross-Examination Exhibit No. 1. MidAmerican's four page response dated June 19, 1995, was admitted without objection as MidAmerican Cross-Examination Exhibit No. 2. In addition to each item in his May 12 correspondence, MidAmerican's response incorporated appropriate references to the prefiled Direct Testimony of Company witnesses Schillinger and Junk. In addition, MidAmerican Cross-Examination Exhibit No. 2 referenced material which was explained at the public informational meetings. It is, therefore, clear that even before MidAmerican filed its Supplemental Direct Testimony on July 13, it had provided Mr. Burke with a considerable amount of information.

The attentiveness of MidAmerican to Mr. Burke's concerns became even more apparent once MidAmerican's Supplemental Direct Testimony was filed. The day after MidAmerican filed its Supplemental Direct Testimony, Mr. Burke sent a second comprehensive letter to the Company requesting an additional 11 items of information. This second letter was attached to Mr. Burke's Direct Testimony and was admitted without objection as Burke Exhibit No. 303. On cross-examination, Mr. Burke acknowledged that MidAmerican did not receive his July 14 correspondence until the following Monday, July 17. In fact, Mr. Burke admitted he contacted counsel for MidAmerican on July 17 to assure that the Company had received the document. [Tr. 430.] Fully recognizing the importance of providing Mr Burke with timely information pertinent to the project, MidAmerican hand-delivered a comprehensive response to

Mr. Burke on July 19, two days later.<sup>3</sup> Since some of the information requested was confidential, MidAmerican requested a Non-Disclosure Agreement be signed. Mr. Burke signed such an Agreement and acknowledged that he received the information on the evening of July 19. [Tr. 430.] A copy of MidAmerican's written response to Burke Exhibit No. 303, less the confidential attachments and the 800 plus pages of FERC Orders 636, 636A and 636B, was admitted into the record without objection as MidAmerican Cross-Examination Exhibit No. 3. Despite his reference to "frustrations," MidAmerican Cross-Examination Exhibit No. 1, MidAmerican Cross-Examination Exhibit No. 2, Burke Exhibit No. 303, MidAmerican Cross-Examination Exhibit No. 3, and the relevant cross-examination of Mr. Burke make it very clear that MidAmerican has gone to extreme lengths to be responsive to Mr. Burke's relevant inquiries concerning this proposed project.

Mr. Burke's more substantive concerns must first be placed in their proper context. He is not a natural gas customer of MidAmerican nor does he intend to become one. [Tr. 418.] He does not currently receive natural gas service. [Tr. 418.] His interest is that the pipeline is proposed to go across his property. Whether the pipeline results in higher costs, or lower costs, to MidAmerican's customers does not concern him because he will not be paying those utility bills. [Tr. 419.] His concern for MidAmerican customers is very similar to that

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<sup>3</sup>199 Iowa Admin. Code 7.7(1)(c) provides that data requests or interrogatories are to be responded to or objected to within seven days of receipt. MidAmerican, therefore, responded to Mr. Burke's questions five days before it was required to by the Board's own rules. Further, there is no requirement anywhere in the Board's rules that responses be hand-delivered to a party. MidAmerican's conscientious efforts speak for themselves.

expressed by Natural. Whereas Natural is attempting to thwart competition, Mr. Burke is simply attempting to clothe his "not in my backyard" argument with an expression of interest for MidAmerican's customers, an interest he does not share. The record discloses that Mr. Burke's concerns have no basis in fact and have been refuted by MidAmerican.

Although Mr. Burke states there is no real public need for this project, his testimony quickly reverts to an unfounded discussion of his safety concerns. On cross-examination, he conceded he had performed no gas supply or economic analysis of MidAmerican's project. [Tr. 437.] He ignores the extensive testimony filed by MidAmerican witness Schillinger, as well as the confidential studies performed by MidAmerican and the Office of Consumer Advocate, which do show substantial net savings to the public. In addition, his cross-examination of MidAmerican witness Schillinger seemed to accept MidAmerican's estimates of a \$2.5-\$4.4 million annual savings in gas supply costs.

After accepting MidAmerican's cost savings estimate, he then attempted to minimize the magnitude of the savings by placing it on a per customer basis without taking into consideration the impact of weather and other factors which impact individual customer usage. [Tr. 197.] He also failed to recognize that the project was justified on the basis of the savings to Iowa-Illinois' customers, not MidAmerican's, which would have increased the savings on a per customer basis. Even then, however, he admitted on cross-examination that MidAmerican should try to lower its costs to its customers. [Tr. 438-439.] Ms. Schillinger testified MidAmerican does consider annual savings of \$2.5-\$4.4 million to be significant and something

MidAmerican intends to pursue to lower costs to its customers. [C. Tr. 201-202.] MidAmerican is proposing this project to reduce its costs to its customers and to avail itself and its customers of the many benefits an alternative pipeline interconnection has for the Quad Cities. MidAmerican intends to continue to pursue such projects to reduce its costs to its customers and to remain competitive.

Mr. Burke complains that "projections are not actual savings or costs." [Tr. 436.] Obviously, projections of the savings of a pipeline yet to be constructed are just that: projections. However, as a long-time farmer/businessman and certified public accountant, Mr. Burke conceded on cross-examination that he himself utilizes projections and estimates in the normal course of his business and would expect that other businesses would also exercise their best judgment, knowledge and experience in making the same types of projections and estimates. [Tr. 437.]

Mr. Burke also expressed a concern about whether the pricing commitments were of sufficient duration to repay the substantial investment with related costs. He, however, had performed no such economic analyses to support such a concern. MidAmerican and the Office of Consumer Advocate did perform such analyses and reached the same conclusion: the ratepayers will be better off with the proposed project constructed.

### III. SAFETY ISSUES

#### A. MidAmerican

The record is undisputed that MidAmerican's construction, operation and maintenance of the proposed pipeline will meet or exceed all applicable state and federal safety requirements. There is no dispute the pipeline facilities described in the Petition comply with the safety requirements of Iowa Code Chapter 479, Iowa Admin. Code 199-10.12, and 49 C.F.R. Part 192. [Tr. 224-226.]

Company witness Junk further testified that the inspection procedures for the pipeline would be in accordance with standard industry practices and the requirements of the U.S. Department of Transportation. Inspection of materials would consist of a pipe inspector who will be present during the production of the pipe to ensure its proper manufacture. In addition, all aspects of construction and quality control will be reviewed by an inspection team operating independently from the construction contractor. All aspects of the project will meet the applicable codes and regulations. Further, all phases of the project such as clearing, ditching, stringing of pipe, welding, drain tile repair, lowering and backfilling, fence repair, radiographic testing, hydrostatic testing, dewatering, and final clean-up grading and seeding would be monitored. [Tr. 228.] Mr. Junk further testified that several people would be responsible for inspecting the construction of the pipeline, including himself, the county engineers, and the Board Staff. Furthermore, Company personnel would be on-site on a regular, everyday basis.

[Tr. 236.]

Company witness Swanson also testified that the pipeline would be operated and maintained in accordance with all federal and state safety standards. [Tr. 256.] He further testified that Iowa-Illinois, now MidAmerican, would be responsible for the operation, inspection and maintenance of the pipeline after it is placed in-service. Mr. Swanson testified that, at a minimum, the route of the pipeline would be flown twice each year to detect any leakage, construction activity that might endanger the pipeline, or any erosion or washout problems that need attention. In addition, a survey with a leak detector will be conducted twice a year at highway and railroad crossings. Further, postmarkers would be placed along the route of the pipeline at road crossings and fence lines to mark the location of the line. Signs will be placed on these markers with the Company's name and the "800" number that should be called to report any problems with the pipeline. [Tr. 256.]

Mr. Swanson also testified that cover would be maintained over the pipeline once it is installed. Prior to construction of the pipeline, landowners will be questioned as to any future plans that may affect the cover of the pipeline. Low level aerial patrols will be conducted to detect indications of construction activity, washouts or erosion. Any areas not visible from the air will be patrolled by foot at least once a year to detect any indications of loss of cover. Loss of cover reported by survey or by landowners will be investigated to determine corrective action. Areas where loss of cover jeopardizes the safety of the pipeline will be restored at Company expense prior to the next patrol inspection. [Tr. 257.]

Mr. Swanson also testified the pipeline would be protected from damage by excavators. Iowa law mandates that any excavator must call the locate call center in Iowa to request utility locations prior to excavating. MidAmerican belongs to One Call of Iowa and would thereby be notified prior to any excavation occurring over the pipeline. He further noted that the Company provides 24-hour a day emergency locate service and would locate the pipeline prior to the beginning of any excavating activity. In addition, if the excavation would expose the pipeline, the pipeline would be uncovered to determine its location prior to the excavation and a Company representative would remain at the job site during excavation to ensure the safety of the pipeline. He also noted the pipeline would be visibly marked with pipeline markers to provide notice to excavators. [Tr. 257.]

**B. Board Staff Report**

Attached to the Board's June 14, 1995 Order was a copy of the Board's Staff Report on Proposed Iowa-Illinois Quad Cities Lateral Pipeline. Official notice of the report was taken as Appendix A. [Tr. 519.] The report was authored by Donald Stursma, Supervisor of the Engineering & Safety Section of the Board's Bureau of Rate and Safety Evaluation. In addition to discussing the route of the proposed pipeline, Mr. Stursma's report discussed certain safety considerations. As part of the route inspection, Mr. Stursma reviewed the proximity of the pipeline to dwellings. As noted in the report, the route was slightly shifted at several locations to increase the distance from houses. [Appendix A at 2.]

Appendix A also noted that the testimony of Company witnesses Junk and

Swanson addressed many of the safety areas checked by Staff. Appendix A specifically addressed one of the concerns raised by some landowners: that of the thickness of the proposed pipe and noted that the rural portions of the pipeline will be built to a higher standard as an added safety precaution. The main results of the higher class are a thicker walled pipe and a higher test pressure. [Appendix A at 4.]

Appendix A also noted that, although only 30 inches of cover was required in Class 1 areas and 36 inches in Class 2-4 areas, the proposed pipeline would be buried a minimum of 48 inches deep, measured from the top of the pipeline. [Appendix A at 4.] The proposed depth of the pipeline not only substantially exceeded federal requirements, but also satisfied rules adopted by the Board after the Petition had been filed for this pipeline. The Report further noted that the pipe exceeded the specified minimum yield strength (SMYS) requirements and would be pressure tested to 1.5 times the proposed operating pressure. [Appendix A at 4-5.] The Summary and Conclusion Section of Appendix A is particularly enlightening:

The information presented in the petition and in the prefiled testimony indicates compliance, or more, with Part 192 requirements for design and construction. Staff anticipates inspecting this pipeline during construction and periodically thereafter for Code compliance.

C. Office of Consumer Advocate, Natural and Peoples

Neither the Office of Consumer Advocate, Natural nor Peoples expressed any concerns or raised any issues concerning the safety of the proposed pipeline.

#### D. Landowner Objectors

Mr. Burke, and other landowners, expressed concerns about the safety of the proposed pipeline but never identified any deficiencies in MidAmerican's proposal. Their concerns were simply that natural gas pipelines were, per se, dangerous.

Mr. Burke attempted to impune the credibility of the entire United States pipeline industry through a U.S. News and World Report magazine article admitted over objection for a limited purpose as Burke Exhibit No. 301. Cross-examination clearly showed there was little, if any, relevancy of the allegations contained in the magazine article to the project presently before the Board. Contrary to the statements of Mr. Burke and other landowners, the credibility of the U.S. News and World Report is not at issue; the relevancy of the statements in the article is the issue. In a similar vein, Mr. Burke attempted to inject a Quad Cities Times newspaper article concerning a totally unrelated incident into this record. Over appropriate objection, the only three paragraphs of the article admitted as Burke Exhibit No. 303 support the conclusion that MidAmerican inspects, maintains, and oversees not only the construction but also the operation and maintenance of its facilities.

Mr. Burke appeared to contend that the Board will be unable to adequately oversee the construction of the proposed project. MidAmerican first notes this is not a challenge to the proposed project itself, but rather to the adequacy of the Staff's resources. What supervisor would not prefer to have additional resources at his or her disposal? That does not mean, however, that the Board Staff will be unable to adequately perform its oversight function for this

project. The quality and detail of the Staff's report, admitted into the record as Appendix A, proves the contrary. In addition, as discussed by Company witness Junk, Mr. Burke neglects to mention that there will be county inspectors on-site throughout the project, as well as Company personnel at the worksite. [Tr. 236.]

In his testimony, Mr. Burke cites a safety concern concerning the thickness of pipe. The record is clear that the classification of pipe to be used in the project not only meets, but exceeds, state and federal requirements. Indeed, Mr. Junk testified that as an added measure of safety, additional thickness of pipe was included in the project. [Tr. 224-226.] Those concerns were also addressed in Appendix A.

#### **IV. PIPELINE LOCATION AND ROUTE ISSUES**

##### **A. MidAmerican**

Company witness Junk provided extensive testimony concerning the proposed route of the pipeline. Mr. Junk testified that several factors were considered in selecting the route of the pipeline, including concerns for the safety of the general public, constructability of the pipeline, the cost of the pipeline, the design and construction requirements of the Iowa Administrative Code and Federal Pipeline Safety Regulations, and environmental concerns. [Tr. 221-222.]

Mr. Junk testified that consideration was given to placing the pipeline along the public right-of-way along Highway 61 from Dubuque to Davenport. However, Iowa Department

of Transportation policy does not allow pipelines operating above a pressure of 150 psig to longitudinally occupy the public right-of-way. Since the pipeline is to be operated at a maximum pressure of 960 psig, placement along public right-of-way was not possible. In addition, the use of highway right-of-way was avoided due to the increased exposure to relocation, grading and excavating activities by highway personnel within highway right-of-way. Accordingly, it was not possible to route the pipeline along Highway 61 or other public right-of-way. [Tr. 222.]

Mr. Junk also testified that the pipeline was not routed adjacent to highway right-of-way due to the additional length and cost required and to avoid existing and future homes or businesses next to the highway. Mr. Junk testified that placing the pipeline next to highway right-of-way also places the pipeline at risk of future relocation at taxpayer expense due to widening of the highway. [Tr. 222.] Mr. Junk also sponsored Exhibit E pertaining to the possibility of longitudinal construction of the pipeline on, over or under any public highway or railroad right-of-way or at other than an approximate right angle to any highway or track and Exhibit F concerning the possible use of alternate routes for the proposed pipeline, the relationship of the proposed project to the present and future land use and zoning ordinances, and the inconvenience or undue injury which may result to property owners as the result of the proposed project. [Tr. 223.] Both Exhibit E and Exhibit F were admitted into the record without objection.

Mr. Junk also sponsored Exhibit C consisting of the engineering specifications for the proposed pipeline. Exhibit C was also admitted into the record without objection. Exhibit C

also details the number of paved and county roads, railroad and streams and rivers to be crossed by the proposed pipeline. Mr. Junk testified that the affected county engineers' office would be contacted prior to construction and that all road crossings would adhere to Part 192 standards. In his Supplemental Direct Testimony, Mr. Junk testified that the Wapsipinicon River and the Maquoketa River would be directionally drilled rather than open cut to minimize environmental impacts associated with the river crossing. [Tr. 233.]

In his Supplemental Direct Testimony, Company witness Junk also testified that a few minor revisions were made in the route of the proposed pipeline since the Petition was filed. He noted that several concerns had been brought to the Company's attention such as the route passing within 300 feet of existing homes. In certain instances, minor revisions to the route were possible and were made to provide additional clearance of 300 feet or more. [Tr. 231.] In addition, other minor revisions were made by the Company at the request of landowners who brought concerns to the Company's attention such as the existence of wetlands, natural springs and future plans for their property. To accommodate those landowners, where possible, route shifts were made to provide a mutually agreeable routing across those tracts. [Tr. 231.]

#### B. Board Staff Report

The Board Staff Report, of which official notice was taken as Appendix A, also reviewed the proposed route of the pipeline. The Summary and Conclusion of the Board's Staff

Report is enlightening:

From an engineering standpoint the route appears reasonable. There are locations where construction may be difficult, but it did not appear such areas could be entirely avoided. The route usually maintains at least 300 feet of separation from occupied rural residences; the lesser clearances in Class 3 locations are not unusual for developed areas.

The Board Staff Report is also instructive for its discussion of certain objections raised by some landowners. In response to their objections that the line should be placed in road right-of-way, the Board Staff Report states:

There are some serious practical problems with roadside routes for large pipelines. As (Company) Witness Junk correctly notes, Iowa Department of Transportation regulations would not allow this pipeline in state or federal highway right-of-way. Board Staff has worked with the IDOT on its utility accommodation policies, and recalls that their concern was not over pipeline accidents, but that pipeline construction and maintenance activities would be detrimental to traffic safety and roadside maintenance and the presence of a pipeline would interfere with future road widening or other improvements. Smaller, lower pressured pipelines have been placed in county road right-of-way, but it is doubtful county right-of-way could accommodate a 16 inch pipeline. Further, residences are commonly near roads, so a pipeline in road right-of-way would frequently be near homes.

C. OCA, Natural and Peoples

Neither the Office of Consumer Advocate, Natural nor Peoples expressed any concerns concerning the proposed route and location of the pipeline.

## **V. FINANCIAL ISSUES**

### **A. MidAmerican has met its burden of showing proof of solvency and financial ability to pay damages.**

199 Iowa Admin. Code 10.2(1)d requires satisfactory attested proof of solvency and financial ability to pay damages in the sum of \$250,000 or more. One of the methods in satisfying this requirement is to prove that the Company has property subject to execution within the state, other than pipelines, of a value in excess of \$250,000.

Filed with the Petition of March 7, 1995 was MidAmerican Exhibit "D" consisting of a copy of the Company's consolidated balance sheet as of December 31, 1994 attested to by an affidavit of the Company's Controller. Exhibit "D" shows that the Company had assets of over \$1.8 billion, well in excess of the \$250,000 requirement. Exhibit "D" was admitted into the record without objection. The financial issue identified in the Board's June 14, 1995 Order has been satisfied by MidAmerican.

## **VI. THE TAKING BY EMINENT DOMAIN PROPOSED BY MIDAMERICAN IS NECESSARY FOR A PUBLIC USE**

Commencing shortly after the informational meetings on February 1 and 2, 1995, and continuing to the present, the Company has expended considerable efforts in securing voluntary easements for the proposed pipeline. MidAmerican witness Kenneth E. Schwarz sponsored Second Revised Exhibit H. As noted in Mr. Schwarz' Supplemental Direct Testimony, Second Revised Exhibit H updated the listing of parcels for which the power of eminent domain was

requested by eliminating those parcels for which easements had been granted. Second Revised Exhibit H included the legal descriptions of the individual parcels, the legal descriptions of the desired easements across the parcels, specific descriptions of the easement rights being sought over each parcel, the names and addresses of all persons with an ownership interest, and maps of each parcel showing the proposed location of the pipeline in relation to buildings and other pertinent features. [Tr. 276.] As of July 27, 1995, Mr. Schwarz testified that easements had been obtained for 131 of the 167 parcels of land, or 78% of the necessary rights. Consequently, the Company is seeking the power of eminent domain for the 36 remaining parcels.<sup>4</sup> Second Revised Exhibit H was admitted into the record without objection. MidAmerican notes that no party testified in opposition to the granting of the power of eminent domain to the Company.<sup>5</sup> As discussed in Section II of this Brief, the record clearly supports a finding that the construction of this proposed pipeline promotes the public convenience and necessity. Consequently, the authorization of the power of eminent domain is for a public purpose is necessary, and should be granted.

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<sup>4</sup>As noted by Mr. Schwarz, MidAmerican is continuing its discussions with landowners in attempts to secure negotiated easements.

<sup>5</sup>The form petition objections submitted by objecting landowners actually object to the route of the pipeline, rather than the request for eminent domain. The objection filed by Landowner Glahn to the granting of eminent domain was addressed in MidAmerican's July 12, 1995 prehearing brief and was not discussed further at the hearing.

## **VII. OTHER MIDAMERICAN ISSUES**

### **A. Topsoil**

Company witness Junk testified that topsoil will be preserved as required by 199 Iowa Admin. Code Section 9.4. The layer of topsoil extending at least one foot on either side of the trench will be removed to a maximum depth of 12 inches and kept separate from the remaining trench spoil. When the trench is backfilled, the topsoil will be placed in the upper portion of the trench and the backfill crown. [Tr. 227.]

### **B. Tile**

Company witness Junk also testified that tile would be repaired as required by 199 Iowa Admin. Code Section 9.2. Any tile cut, damaged or removed during construction of the pipeline will be marked by placing a highly visible flag in the trench spoil bank opposite the tile. The trench would not be backfilled or the marker removed until permanent tile repairs have been approved and accepted. Permanent repairs of underground drain tile will be made in accordance with the Iowa Administrative Code requirements and replacement tile will be at least of equal quality and size as the damaged tile. [Tr. 227.]

### **C. Control of Soil Erosion in the Right-of-Way**

Company witness Junk further testified that trees and brush will be removed as required but that there will be no unnecessary removal of vegetation. Further, measures to control erosion would be implemented where necessary and may include installing ditch

retardants, surface seeding and soil erosion matting. [Tr. 227.]

## **VIII. OTHER ISSUES RAISED BY OBJECTORS**

Certain objecting landowners made accusations concerning MidAmerican's alleged actions in this case. However, it is clear from the testimony and cross-examination that these accusations are not only unfounded, but are misleading and, in some cases, appear to have been designed for no other reason than to arouse opposition to the project. A few examples are readily apparent:

A. Landowner objector Godes alleged that the Company acted improperly by offering him "free gas" as an inducement to sign an easement. Cross-examination of Mr. Godes, however, makes it very clear that no such offer was made:

Administrative Law Judge:	I want to understand the nature of the offer. Am I to understand that the line was to be run to you with no charge, or the gas was to be supplied at no charge?
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The Witness:	Just the line.
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Administrative Law Judge:	The line was to be run at no charge. . .And then after the line was run, was it your expectation you were going to pay for the gas that you used?
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The Witness:	I assumed that, yes. [Tr. 500-501.]
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It is clear that what was offered was the installation of a gas main and gas service line to the Godes property if such installation could be performed pursuant to the gas main and gas

service line extension policies of the Company as set forth in the tariffs on file with the Iowa Utilities Board. [Tr. 502.] The record shows that no improper offers were made by MidAmerican and Mr. Godes' allegations should be rejected.

B. Another example of an unfounded accusation was when landowner/objector McClimon alleged MidAmerican trespassed on his property. Under oath, Mr. McClimon conceded that he actually gave permission for MidAmerican's agents to conduct the survey they had requested. [Tr. 494.] It is interesting that Mr. McClimon had signed a form petition alleging trespass (see petition dated February 23, 1995 by Rae and Lois McClimon). Obviously, a survey conducted with the consent of the landowner does not constitute a trespass. A similar situation appears to have occurred with Mr. Burke. [Tr. 451.] Matters of alleged trespass, even if supported, are not subject to the Board's jurisdiction, a fact acknowledged by Mr. Burke in his own exhibit.<sup>6</sup>

Company witness Sinclair testified as to the landowner survey permission procedures that MidAmerican did employ prior to the initial surveying work. Representatives of the Company obtained lists of apparent property owners from tax rolls in the respective counties and efforts were made to contact an interest owner from each property anticipated to be impacted by the route of the proposed pipeline. These contacts were predominantly by telephone, but in some cases were by personal contact. [Tr. 299.] Mr. Sinclair testified that efforts were made to contact an interest owner from each parcel and to obtain permission to conduct survey activities.

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<sup>6</sup>Burke Exhibit No. 303, p. 2, para. 7.

Mr. Sinclair testified it was not the intent of the Company to enter onto any property in which permission was not granted. Mr. Sinclair testified there were some instances where permission was rescinded after entry had been made or where inadvertent entry was made on parcels that had not been contacted. In some of these cases, the landowners asked the surveyors to leave and they did. In the remaining cases where the Company was aware that inadvertent entry had been made, efforts were made to contact landowners and notify them that entry onto their land had occurred for surveying purposes. In addition, this issue was addressed at the informational meetings and apologies were made to landowners that felt entry onto their property had occurred in a less than proper manner. [Tr. 300.] MidAmerican submits that this issue has been blown far out of proportion and that the actions taken by MidAmerican have been appropriate and sympathetic to their concerns.

C. Another example was when landowner objector Glahn complained that he had only been contacted by MidAmerican on one occasion concerning the route of the pipeline across his property. Mr. Glahn attempted to utilize the July 28 public hearing to negotiate an alternate route across his property. Under oath, however, Mr. Glahn acknowledged that he did not attend any of the four informational meetings which were conducted to explain routing, easement acquisition and other issues. [Tr. 489.] Mr. Glahn also acknowledged that he had filed an objection to the project even prior to the petition being filed by MidAmerican. [Tr. 489.] Mr. Glahn apparently decided early in the process not to avail himself of the informational opportunities provided by MidAmerican and the Board's rules, to oppose the project, and only at

the very last moment to try and secure a preferential route across his property. The record reflects that other landowners who did choose to negotiate with MidAmerican, and who did attend the informational meetings, found MidAmerican to be receptive to such minor route changes when it was possible to do so. [Tr. 231.]

D. Perhaps the most obvious attempt to mislead the Board and to incite unfounded public opposition to this project was landowner objector Burke's accusation that MidAmerican would, or could, use this natural gas pipeline to transport "hazardous waste" or "nuclear waste." [Tr. 391.] Mr. Burke did attend one or more of the informational meetings at which the purpose of this project was explained in considerable detail. [Tr. 422.] Mr. Burke was familiar with the petition and the extensive testimony filed by the Company. He had reviewed the Company's Petition and testified it said nothing about transporting hazardous waste. [Tr. 440.] He had reviewed the Company's easement. [Tr. 439.] Nowhere in any of the presentations given at the informational meetings, nor in any of the testimony and exhibits filed by the Company, nor in any of the numerous requests for yet additional information from Mr. Burke responded to by the Company, was there any indication that MidAmerican ever intended or sought to transport anything in this pipeline other than natural gas. Mr. Burke's allegations would be ludicrous if not for the possibility that other landowners or members of the public may have taken them seriously.

E. Certain landowners have complained that the Company changed the amount of money offered for an easement. MidAmerican finds this complaint rather perplexing. It would

appear that good faith negotiations encourage changes in a party's basic negotiating position should circumstances change. Indeed if a party does not modify one's initial position, that party could be accused of failing to engage in good faith negotiations. MidAmerican should be recognized for having engaged in good faith negotiations, including recognizing the individual characteristics of individual parcels and modifying easement offers accordingly, rather than being the subject of criticism.

Company witness Sinclair testified concerning the issue of compensation for easements, first raised in MidAmerican Cross-Examination Exhibit No. 1, referenced in MidAmerican Cross-Examination Exhibit No. 2, and discussed by certain landowners at the hearing. Mr. Sinclair testified that the method of compensation was outlined at each of the four informational meetings. He testified the Company was aware that the pipeline may impact each parcel in a different way or that a parcel may have a factor that could render the value of an easement at something higher or lower than what was being initially offered. The agents are instructed to make the offer and obtain the information from landowners as to what they feel is the fair market value of the easement or if there are things on the property such as drain tile or future plans that should be considered by the Company during the easement acquisition phase of the project. This information is considered by the Company and if the Company concurs, an easement is executed. [Tr. 300.] Again, Mr. Sinclair's testimony shows that the Company has been sympathetic to the differences that exist on individual parcels and has recognized those differences in making its easement offers to the landowner. This is only appropriate. Certain landowners' apparent beliefs

that individual characteristics of land along a 62-mile route should not be recognized and taken into consideration is unreasonable and self-serving.

F. In his prefiled testimony, Mr. Burke lists "environmental concerns," but provides absolutely no explanation or support as to what those concerns are. [Tr. 392.] The record is uncontroverted that MidAmerican has been sensitive to environmental issues in the planning of this project. Mr. Junk's testimony is replete with acknowledgements that environmental issues will be addressed and permits, where necessary, will be obtained. [Tr. 249-250.]

## **IX. REQUEST FOR EXPEDITED CONSIDERATION**

MidAmerican requests expedited consideration of its Petition for Permit. It is imperative that construction be completed in time for the pipeline to be placed in-service this heating season. It is self-evident that a significant portion of a pipeline's benefits, including the cost savings to customers, occur during the winter months. A delay in the in-service date beyond the 1995-1996 heating season would deprive MidAmerican and its customers of those benefits and savings for this year.

As noted by counsel in requesting a shortened appeal period, it is also MidAmerican's preference to avoid to the extent possible having to perform cleanup which, if deferred until after the heating season, could conflict with the spring planting season.

## **X. CONCLUSION**

WHEREFORE, MidAmerican Energy Company respectfully requests that its Petition for Permit to construct, operate and maintain a natural gas pipeline in Dubuque, Jackson, Clinton and Scott Counties, to be known as the Quad Cities (Dubuque to Davenport) Lateral, be expeditiously approved. MidAmerican has shown that the proposed pipeline is in the public convenience and necessity, a conclusion supported by the economic analysis conducted by the Office of Consumer Advocate who is charged with the obligation to protect ratepayer interests in the State of Iowa. The only parties opposing such a conclusion are Natural Gas Pipeline Company of America, a pipeline company seeking to avoid competition for MidAmerican's business in the Quad Cities, and certain landowners who oppose the placement of a pipeline on their properties.

The credible evidence in the record clearly shows that the proposed pipeline will be constructed, operated and maintained in accordance with all federal and state safety standards. In addition, the record shows that serious consideration was given to selecting a route of the pipeline to minimize the impact to the general public and the environment while minimizing distance and cost. Further, it is undisputed that all requirements as to topsoil preservation, tile repair and soil erosion practices will be satisfied.

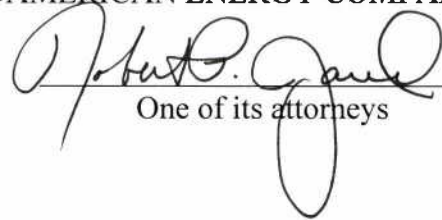
The record also shows that MidAmerican has diligently attempted to secure easements for the construction of the pipeline and has, in fact, obtained easements for over 80% of the parcels involved. The granting of the power of eminent domain over the remaining parcels is to further a

public use, is necessary, and should be granted.

Respectfully submitted,

MIDAMERICAN ENERGY COMPANY

By



One of its attorneys

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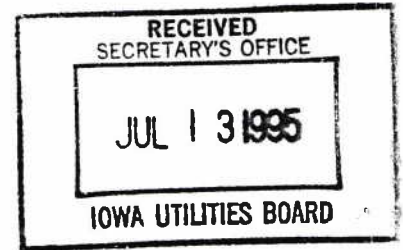
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## MIDAMERICAN ENERGY COMPANY

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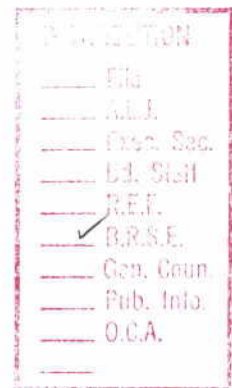


BY DELIVERY

July 12, 1995

Raymond K. Vawter, Jr.  
Executive Secretary  
Iowa Utilities Board  
Lucas State Office Building  
Des Moines, Iowa 50319

Re: Docket No. P-831  
Dubuque to Davenport Lateral



Dear Mr. Vawter:

Enclosed for filing are an original and ten copies of the Supplemental Direct Testimony of Sara J. Schillinger, Christian M. Swanson, Kenneth E. Schwarz and Daniel L. Junk, and the Direct Testimony of David W. Sinclair, to be filed on behalf of Iowa-Illinois Gas and Electric Company in compliance with the Board's June 14, 1995 "Order Establishing Date, Time and Place for Hearing and Proposing to Take Official Notice."

Enclosed for filing are an original and ten copies of the **Prehearing Brief** of MidAmerican Energy Company, successor to Iowa-Illinois Gas and Electric Company, in the above-captioned proceeding. This Prehearing Brief addresses the legal issues raised by the Objections that have been filed as of this date.

Enclosed for filing are an original and ten copies of the Notice of Substitution of Successor Corporation and Entry of Appearance to be filed on behalf of MidAmerican Energy Company.

Page 2

Raymond K. Vawter, Jr.

Letter - 7/12/95

Also enclosed is a Certificate of Service. Copies have been served upon all parties of record, objectors of record, and those who have an interest in a parcel for which the power of eminent domain is being requested.

Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert B. Jarek". The signature is fluid and cursive, with the first name "Robert" and last name "Jarek" clearly distinguishable.

RPJ/caf

Enclosures

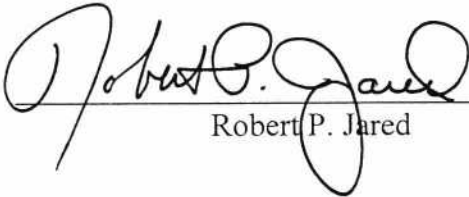
cc: Donald G. Henry, Administrative Law Judge  
Diane Munns  
Service List

CERTIFICATE OF SERVICE

I hereby certify that I have on this 12th day of July, served a copy of the foregoing:

- 1) Supplemental Direct Testimony and Direct Testimony (Sinclair);
- 2) Prehearing Brief; and
- 3) Notice of Substitution of Successor Corporation and  
Entry of Appearance

of MidAmerican Energy Company upon the attached service list by depositing the same in the U.S. mail in postage prepaid envelopes, properly addressed, in accordance with the rules of the Iowa Utilities Board.

  
Robert P. Jared

**SERVICE LIST FOR DOCKET NO. P-831**

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Lucas State Office Building  
Des Moines, Iowa 50319

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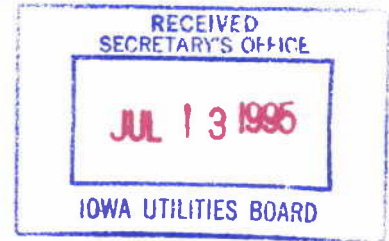
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Dubuque, Iowa 52003

# PREHEARING BRIEF

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD



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IN RE:	)	
	)	
PETITION FOR PERMIT FOR A NATURAL	)	
GAS PIPELINE IN DUBUQUE, JACKSON,	)	
CLINTON AND SCOTT COUNTIES, IOWA.	)	
	)	DOCKET NO. P-831
MIDAMERICAN ENERGY COMPANY,	)	
SUCCESSOR TO IOWA-ILLINOIS GAS AND	)	
ELECTRIC COMPANY, DAVENPORT, IOWA.	)	
	)	
Petitioner.	)	

---

PREHEARING BRIEF  
OF  
MIDAMERICAN ENERGY COMPANY

COMES NOW, MidAmerican Energy Company, successor to Iowa-Illinois Gas and Electric Company (Iowa-Illinois), by its attorneys, and submits its Prehearing Brief in this proceeding.

I. STATEMENT OF FACTS

1. On March 7, 1995, Iowa-Illinois filed a Petition for a permit to construct, operate and maintain approximately 62 miles of natural gas pipeline in Dubuque, Jackson, Clinton and Scott Counties, Iowa, to be known as the Dubuque-Davenport Lateral. Pursuant to the Iowa Utility Board's (Board) June 14, 1995 Order Establishing Date, Time and Place for Hearing and

Proposing to Take Official Notice, the hearing on Iowa-Illinois' Petition for permit will be held July 27, 1995.

2. On July 1, 1995, the merger of Iowa-Illinois Gas and Electric Company and Midwest Resources Inc. to form MidAmerican Energy Company (MidAmerican) became effective. On July 12, 1995, the undersigned counsel served a copy of the Notice of Substitution of Successor Corporation upon all parties of record, and upon all persons filing an objection in this proceeding, notifying them of the succession of MidAmerican to the interests of Iowa-Illinois.

3. Objections to the Petition have been filed by various landowners. On March 8, 1995, Iowa-Illinois was provided a copy of an objection filed by Jon M. Glahn (Glahn Objection). On March 24, 1995, Iowa-Illinois was provided a copy of an objection filed by John R. and Lois G. Schumann (Schumann Objection). On March 31, 1995 and April 21, 1995, Iowa-Illinois was served with copies of two petitions which had been signed by landowners. One petition consisted of four numbered paragraphs and had been signed by 34 persons, some of whom appear to be co-owners of the same land parcels or apparent members of a family (Objector Petition "A"). The second petition consisted of five numbered paragraphs and had been signed by 27 persons, some of whom appear to be co-owners of the same land parcels or members of a family (Objector Petition "B"). On May 4, 1995, Iowa-Illinois was served with a notice that one of the signers of the Objector Petition A had withdrawn his objection to the pipeline.

4. The Objections express both factual and legal disagreements with the Petition. Matters raising factual issues for the Board's determination have been addressed in Iowa-Illinois' prefiled testimony and will likely be addressed further at the hearing. Matters raising legal issues will be addressed in this prehearing brief.

## II. LEGAL ISSUES

1. **Valuation Concerns.** All four objections take issue with the amount of compensation being offered for securing easements. The objectors essentially claim that the amount of compensation being offered for the easements is inadequate or the method of calculating the compensation is deficient in some respect.

Such negotiations are strictly between the landowners and the Company. The fact that a significant percentage of the necessary right-of-way has been obtained through such negotiations is evidence of the justness and reasonableness of the compensation schedules.

What is overlooked by the Objectors is that the determination of the amount paid for easements, or the amount paid pursuant to the exercise of the power of eminent domain if voluntary easements cannot be obtained, is not subject to the jurisdiction of the Board. Such issues are not to be determined at the hearing on the Company's Petition for permit. As was explained at the informational meetings held on February 1 and 2, 1995, the matter of just compensation for property rights taken by eminent domain is not determined by the Board, but is instead determined by a Compensation Commission appointed from the respective counties under Iowa Code Chapter 6B.

2. **Scheduling of Hearing and Request for Multiple Hearings.** Objector Petition A and Objector Petition B request that the permit hearing not be scheduled during the April 15 to May 31 planting season. That request has obviously become moot.

The objectors also requested that several meetings be held at different dates and times. This was indeed done in the case of the informational meetings held in each county, including an evening informational meeting for the benefit of interested persons' work commitments. The Board's Order setting the hearing in this Docket for July 27 is in compliance with Iowa Code Chapter 479. Iowa Code Section 479.8 specifically provides that the hearing be held in the county seat of the county located at the midpoint of the proposed line.

3. **Alleged Trespass Concerns.** Objector Petition B, paragraph 4, alleges as follows:

Iowa-Illinois Gas & Electric Company has started this process in a manner that is not legal and in accordance with Iowa Code Chapter 479. Iowa-Illinois Gas & Electric Company has been guilty of trespassing on my property. They entered my property without permission, and I am very easy to contact.

As noted earlier, Objector Petition B is a form petition signed by 27 interested persons. Paragraph 4, however, seems to be personalized to a particular landowner. It is unclear whether all 27 signees are alleging trespass. Apart from this question, however, is the fact that allegations of trespass are not subject to the Board's determination in the permit hearing.

4. **Glahn Objection.** In addition to expressing concerns about the route of the pipeline and safety and valuation, the Glahn Objection also alleges that this proceeding would be unconstitutional as a taking of private property for a private use. This is incorrect. As was

explained at the informational meetings held on February 1 and 2, 1995, and further addressed in the testimony on file in this proceeding, the proposed pipeline will be devoted to the public use of directly serving the public with natural gas service. Iowa-Illinois will not be using the pipeline to transport its own products solely for its own use.

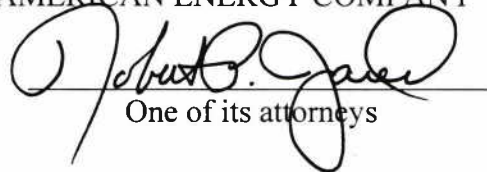
The issue only arises when the power of eminent domain is authorized and exercised. Under Iowa Code Chapter 479, the Board determines whether the Company has shown a need to serve a public use by meeting the public convenience and necessity test. The matter of "just compensation" is determined by the county compensation commissions noted earlier.

The determination whether the pipeline satisfies the public convenience and necessity standard is a factual issue to be addressed at hearing.

Respectfully submitted,

MIDAMERICAN ENERGY COMPANY

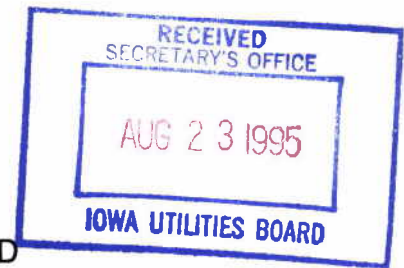
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One of its attorneys

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RECORDS CENTER  
ORIGINAL  
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STATE OF IOWA  
DEPARTMENT OF COMMERCE  
BEFORE THE IOWA UTILITIES BOARD



IN RE:

PETITION FOR PERMIT FOR A  
NATURAL GAS PIPELINE IN  
DUBUQUE, JACKSON, CLINTON  
AND SCOTT COUNTIES, IOWA

MIDAMERICAN ENERGY COMPANY,  
SUCCESSOR TO IOWA-ILLINOIS  
GAS AND ELECTRIC COMPANY,  
DAVENPORT, IOWA

Petitioner.

DOCKET NO. P-831

OFFICE OF CONSUMER ADVOCATE POST-HEARING BRIEF

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August 23, 1995

OFFICE OF CONSUMER ADVOCATE

## **STATEMENT OF THE CASE**

On March 7, 1995, Iowa-Illinois Gas and Electric Company (Iowa-Illinois) petitioned the Iowa Utilities Board (Board) to construct, operate, and maintain a 62-mile natural gas pipeline in several counties in eastern Iowa (Dubuque-Davenport lateral). On July 1, 1995, Iowa-Illinois and Midwest Resources Inc. merged to form MidAmerican Energy Company (MidAmerican), which succeeded to Iowa-Illinois' interest in this case. Pursuant to a procedural schedule set by the Administrative Law Judge assigned by the Board, a hearing was held on July 27 and 28, 1995. In addition to MidAmerican, parties to this proceeding include the Office of Consumer Advocate (OCA), Natural Gas Pipeline Company of America (NGPL), Peoples Natural Gas Company (Peoples), and landowners who either filed written objections or appeared as pro se objectors at the hearing.

MidAmerican maintains that the proposed pipeline will benefit its customers by reducing both gas transportation costs and gas commodity costs. (Tr. 129). The basis for this conclusion was a company study comparing the cost of service of the proposed Dubuque-Davenport lateral pipeline with the cost of comparable services from pipeline competitors. (Tr. 128). This study reflects a reduction in purchased gas costs of \$2.5-\$4.4 million annually over the other service alternatives. (Tr. 129).

Intervenor NGPL maintains that the \$2.5-\$4.4 million annual savings is misleading because it does not reflect facility costs associated with the construction of the pipeline. (Tr. 316). According to NGPL, these annual costs would be approximately \$4.2 million, and would negate MidAmerican's best estimate of annual cost savings. (Tr. 316). In addition, NGPL points to alternatives, using NGPL supply,

that purportedly would be more beneficial to the ratepayers of MidAmerican than the proposed pipeline. (Tr. 318-19).

To independently determine the financial impact of the proposed pipeline on MidAmerican's gas customers, OCA witness Dr. David Habr performed a cost/benefit analysis comparing the savings in gas costs with the projected cost of the proposed pipeline. (Tr. 64). He found nothing in his analysis to indicate that the pipeline should not be built. (Tr. 72).

Objector-landowners have raised concerns about the safety of the pipeline based on specific instances of past pipeline explosions. (Tr. 403, 449, 456, 506). However, Donald Stursma, supervisor of the engineering safety section of the Iowa Department of Commerce (Tr. 516-17), conducted a route inspection of the proposed pipeline and concluded that the proposed route appears reasonable from an engineering standpoint. (App. A 5). In addition, Mr. Stursma concluded that the proposed route indicates compliance, or exceeds compliance, with federal safety standards for design and construction adopted by the Board in Iowa Admin. Code 199-10.12(b). (App. A 5). Finally, Mr. Stursma stated that his office initially will have one or more inspectors on the project full time. (Tr. 523).

## **ARGUMENT**

- I. THE BOARD SHOULD ISSUE A PERMIT TO MIDAMERICAN FOR ITS PROPOSED PIPELINE FROM DUBUQUE TO DAVENPORT BECAUSE THE PIPELINE WILL PROMOTE THE PUBLIC CONVENIENCE AND NECESSITY.**

Before the Board grants a permit to construct a new pipeline, it must find that the

proposed pipeline “will promote the public convenience and necessity.” Iowa Code § 479.12 (1995). Although neither the legislature nor the courts have defined “public convenience and necessity” since Chapter 479 was amended, it is an issue of fact for the Board’s expertise. *Cf. Fischer v. Iowa State Commerce Comm’n*, 368 N.W.2d 88, 98 (Iowa 1985). Despite the absence of a clear definition of the standard for issuing a pipeline construction permit, two factors suggest that MidAmerican’s proposed pipeline will promote the public convenience and necessity. First, the proposed pipeline will result in a net benefit to ratepayers. In addition, the proposed pipeline will move toward promoting competition within the pipeline industry.

A. The Proposed Pipeline Will Result in a Net Savings to Ratepayers.

MidAmerican is proposing the Dubuque-Davenport lateral pipeline in order to provide lower cost natural gas to its customers through reduced gas transportation costs and reduced gas commodity costs. (Tr. 129). Reduced gas transportation costs will result because MidAmerican will be able to use its own pipeline to transport gas rather than purchase transported gas from one of only two pipeline companies, NGPL and ANR, that currently provide natural gas to MidAmerican. (Tr. 128). MidAmerican proposes to purchase gas from Northern Natural Gas Company (Northern), which has provided less expensive gas for the past two years than transported gas from either NGPL or ANR. (Tr. 129). MidAmerican’s customers will benefit because of the reduced gas purchase price to which Northern and MidAmerican have agreed. (Tr. 140-41).

NGPL witness Horton asserted that the proposed savings will be offset by

construction costs of the pipeline. (Tr. 316). However, this analysis is flawed. First, Mr. Horton's analysis focuses on the first year of operation of the pipeline. (Ex. 202). As Dr. Habr pointed out, a negative benefit for the first few years is typical with rate-of-return rate base regulation. (Tr. 86). Despite the negative benefit in the first four years, the overall results of Dr. Habr's independent analysis to compare the savings in gas cost with the projected cost of the pipeline show a net benefit to ratepayers. (Tr. 65).

Second, Mr. Horton's analysis includes over \$1 million per year in additional operating and maintenance expenses. MidAmerican witness Schillinger testified that additional operating and maintenance (O&M) expenses will be zero. (Tr. 191). Schillinger stated that while there will in fact be O&M costs, there will be no *incremental* costs to MidAmerican because it will utilize existing staff, vehicles, and budget to handle the O&M expenses for the proposed pipeline. (Tr. 211). Thus, Mr. Horton's added \$1 million in annual O&M expenses, in addition to his focus on the first year of operation, severely overestimates the annual cost of the proposed pipeline.

B. The Proposed Pipeline Will Foster Competition.

As Ms. Schillinger testified, there will be increased pipeline competition if this proposed pipeline is constructed. (Tr. 141). The number of competitors will increase from two to three, a 50 percent increase. This increased competition will result from pipeline vendors realizing that MidAmerican is not captive to any one pipeline for its gas needs. (Tr. 141). In order to compete, pipelines must offer price discounts to MidAmerican. The savings from those discounts will be passed on to MidAmerican's

customers. (Tr. 141-42). This strengthened bargaining position will allow MidAmerican to obtain the lowest cost, most reliable supply for its customers. (Tr. 129).

**II. THE BOARD SHOULD ISSUE A PERMIT TO MIDAMERICAN FOR ITS PROPOSED PIPELINE FROM DUBUQUE TO DAVENPORT BECAUSE MIDAMERICAN HAS COMPLIED WITH THE STATUTORY SAFETY REQUIREMENTS AND ITS PROPOSED ROUTE IS REASONABLE.**

Objector-landowners oppose the Board's issuance of a permit because of concerns about the safety of the pipeline. At the hearing, objectors pointed to specific incidents of pipeline explosions which either killed or injured people and damaged property. (Tr. 403, 449, 456, 506). However, these concerns are based on past incidents of pipeline accidents rather than on any information or evidence specifically related to MidAmerican's proposed pipeline.

The Board is statutorily vested with the authority to supervise all pipelines, and must inspect the construction of all pipelines. Iowa Code § 479.4 (1995). In accordance with this statutory mandate, Board witness Stursma conducted a route inspection of the proposed pipeline and studied MidAmerican's petition and prefiled testimony to ensure compliance with federal pipeline safety standards adopted by the Board. (App. A). Mr. Stursma concluded that the route appears to be reasonable, and that it complies with, or exceeds compliance with, the safety standards.

Although underground natural gas pipelines involve some safety risks, the safety standards adopted by the Board are designed to ensure that the risks are minimal. MidAmerican has complied with the safety standards to ensure the risks involved are in fact minimal. Absent specific evidence to show that MidAmerican's proposed pipeline

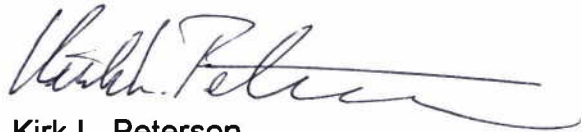
does not comply with safety standards determined by the Board, the Board should not refuse to issue a permit because of safety fears.

### CONCLUSION

MidAmerican has shown that its proposed pipeline will promote the public convenience and necessity through a net savings for its customers and through increased competition. MidAmerican has also complied with standards set by the Board to ensure minimal risk to safety. Based upon the record in this proceeding, OCA believes the proposed pipeline as a whole will benefit ratepayers. MidAmerican's Petition for Permit should be approved by the Board.

Respectfully submitted,

JAMES R. MARET  
CONSUMER ADVOCATE

A handwritten signature in blue ink, appearing to read "Kirk L. Peterson", is written over a horizontal line.

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Attorney

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#### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing document has been served upon all parties of record in this proceeding in accordance with the rules of the Iowa Utilities Board on August 23, 1995.



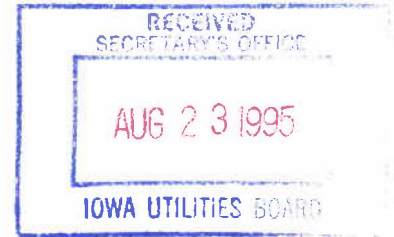
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WILLIAM W. SULLIVAN  
RETIRED

August 23, 1995

Hand Delivered

Mr. Raymond K. Vawter, Jr.  
Executive Secretary  
Department of Commerce  
Utilities Division  
5th Floor  
Lucas State Office Building  
Des Moines, Iowa 50319

Re: Mid American Energy Company, successor to  
Iowa-Illinois Gas and Electric Company  
Docket No. P-831

Dear Mr. Vawter:

Pursuant to the Order Establishing Briefing Schedule issued August 1, 1995, I am enclosing for filing on behalf of Natural Gas Pipeline Company of America, an original and two copies each of the Non-Confidential Brief of Natural Gas Pipeline Company of America and the Confidential Brief of Natural Gas Pipeline Company of America.

The Brief marked confidential contains information which was provided to Natural Gas Pipeline Company of America and submitted into the record under a claim of confidentiality. Natural Gas Pipeline Company of America requests that the Board keep this filing confidential until Mid American Energy Company notifies the Board that the documents need not be kept confidential.

All parties who have signed and are a party to a non-disclosure agreement with Mid American Energy Company will receive copies of the Confidential Brief and all other parties will receive copies of the Non-Confidential Brief, which has the confidential portions redacted.

Very truly yours,

SULLIVAN & WARD, P.C.

  
Dennis L. Puckett

DLP:ph

Enclosures

cc/enc: Emmitt C. House  
Office of Consumer Advocate  
Office of General Counsel

**STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD**

**NON-CONFIDENTIAL**



IN RE:

PETITION FOR PERMIT FOR A NATURAL GAS  
PIPELINE IN DUBUQUE, JACKSON, CLINTON,  
AND SCOTT COUNTIES, IOWA

IOWA-ILLINOIS GAS AND ELECTRIC  
COMPANY, DAVENPORT, IOWA

Petitioner.

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DOCKET NO. P-831

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**BRIEF OF NATURAL GAS  
PIPELINE COMPANY OF AMERICA**

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## TABLE OF CONTENTS

	Page
I. INTRODUCTION .....	1
II SUMMARY OF ARGUMENT .....	4
III ARGUMENT .....	5
A. The Economic Analyses of Both MidAmerican and OCA Are Flawed And The Proposed Project Is Not Economically Justified When All Relevant Costs Are Considered .....	5
1. Proponents' Gas Supply Cost Comparisons are Flawed .....	6
2. Natural's Gas Supply Comparisons Are Sound .....	9
3. Proponents' Pipeline Transportation Cost Comparisons Are Flawed .....	10
4. Natural's Pipeline Transportation Cost Comparison Is Sound ..	10
5. Proponents' Facilities Cost of Service Studies are Flawed In Contrast To Natural's Study Which Is Correct .....	12
6. Under Natural's Updated Study, MidAmerican's Proposed Project Would Increase Annual Costs \$ _-\$ _ Million When All Costs Are Considered .....	17
B. MidAmerican Has Not Shown That Other Benefits Such As Improved Reliability, Enhanced Competition Or Economic Development Are Sufficient To Support The Proposed Project .....	19
1. Improved Reliability Has Not Been Shown To Be A Significant Factor Supporting the Proposed Project .....	19
2. Competition Is Actually Diminished By The Proposed Project And The .....	21
3. MidAmerican Has Not Shown Economic Development Benefits To Be Related Directly To The Proposed Project .....	26
III CONCLUSION .....	27

## TABLE OF AUTHORITY

	Page
<b><u>Statute</u></b>	
Iowa Code §479.12 (1995) . . . . .	4, 9