

There are portions of this Brief which contain blank spaces or pages. The omitted portions of the Brief have been omitted because they contain references to or discussion of information which has been deemed confidential in this proceeding.

NON-CONFIDENTIAL

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

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

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

To: The Honorable Donald G. Henry
Administrative Law Judge

Pursuant to procedures established by the Administrative Law Judge at the public hearing held herein on July 27-28, 1995 (Tr. at 551), Natural Gas Pipeline Company of America (Natural) files this Brief in the above-referenced proceeding. In support hereof, Natural states as follows:

I. INTRODUCTION

On March 7, 1995, Iowa-Illinois Gas and Electric Company, predecessor to MidAmerican Energy Company (MidAmerican), filed a petition for permit to

construct, operate and maintain approximately 62 miles of natural gas pipeline in Dubuque, Jackson, Clinton and Scott counties, Iowa (Proposed Project). In an order issued May 25, 1995, the Iowa Utilities Board (Board) set the matter for hearing. Pursuant to "Order Establishing Date, Time And Place For Hearing And Proposing To Take Official Notice," issued June 14, 1995, a hearing was held on July 27-28, 1995.

Natural is one of the major interstate pipelines interconnecting with MidAmerican and thereby providing service to MidAmerican and its customers. (Tr. at 127.) On July 20, 1995, Natural filed the following testimony and exhibits herein:

- Responsive Testimony of John E. Horton and attendant Exhibit Nos. 201 and 202.
- Responsive Testimony of David J. Weeks and attendant Exhibit No. 203.

It is Natural's position that the cost/benefit study undertaken by MidAmerican and by the Office of Consumer Advocate ("OCA") (collectively, "Proponents") to support the Proposed Project is flawed in several key respects. MidAmerican

improperly represented the gas cost and pipeline transportation costs utilized in their studies. Both parties erroneously calculated the gas spot price differential as being \$.10 and also erroneously assumed it would remain constant over an extended period. MidAmerican utilized maximum transportation rates in its analysis for Natural, notwithstanding the fact that Natural provides service to

MidAmerican at discount rates. In addition, the Proponents failed to appropriately recognize the cost of service impact of the \$18 million Proposed Project. More specifically, the Proponents did not include an appropriate level of operation and maintenance (O&M) expenses or property taxes. In other words, the Proponents essentially disregarded the major elements of costs associated with constructing and operating the Proposed Project. Clearly, studies which fail to consider such a major cost element are worthless as an economic analysis for comparing alternatives.

In contrast, Mr. Horton's study appropriately incorporated the relevant and proper cost components and determined that the Proposed Project did not confer net benefits to MidAmerican's customers as the Proponents had claimed.

Mr. Horton's testimony also demonstrated that there are more cost-effective alternatives to the Proposed Project which would achieve substantially the same service result as the Proposed Project. Specifically, MidAmerican could utilize firm transportation on Natural to transport gas from production areas to its distribution system and construct a 17-mile pipeline to serve the Guardian Industries (Glass Plant).

Mr. Weeks's testimony demonstrates that there is a diverse gas supply available to Natural and, hence, to MidAmerican and a less costly, yet reliable, alternative for serving MidAmerican's customer base, including the Glass Plant. Mr. Weeks explains further that the Proposed Project does not, in fact, enhance reliability or competition as MidAmerican claims.

Based on Natural's evidentiary showing, MidAmerican's Proposed Project must be disallowed because it will not result in net cost benefits to MidAmerican's customers. In fact, under an appropriate cost benefit analysis which includes all relevant factors, the Proposed Project results in a net detriment to MidAmerican's customers. The Proposed Project simply fails to serve the public convenience and necessity. Iowa Code §479.12 (1995).

Section III (A) of this Brief will discuss the economic aspect of the Proposed Project. Section III (B) will address the reliability, competitive and economic development aspects of the Proposed Project. Natural will show in Section III (B) that the Proposed Project is not justified on these non-cost grounds. In practical terms, MidAmerican has not demonstrated a need for increased reliability. With respect to competition, the Proposed Project will actually reduce competition because of the commitments which must be made to secure capacity on Northern's system. Finally, the Proposed Project has no affect on economic development.

II SUMMARY OF ARGUMENT

The analysis used by the Proponents cannot serve as the basis for finding that the Proposed Project meets the public convenience and necessity. The Proponents' analysis does not reflect the necessary gas cost, transportation cost and facilities cost of service. In contrast, Natural's analysis demonstrates that if the appropriate assumptions and cost factors are utilized, the Proposed Project will produce no benefits and, in fact, will result in increased costs.

III ARGUMENT

**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**

The record evidence fails to support MidAmerican's assertion that the Proposed Project will lower costs for its customers. Two Proponents of the Proposed Project, MidAmerican and OCA, performed studies to ascertain the economic impact of the Proposed Project on MidAmerican's customers. Generally, those studies compared the costs of acquiring gas supply and transporting that supply to the Quad Cities under two scenarios - one involving transportation on Northern Natural Gas Company (Northern), which would require the construction of the Proposed Project, the other involving transportation on Natural, which would not require the Proposed Project. MidAmerican witness Ms. Schillinger concluded that utilizing Northern rather than Natural would result in a \$2.5 million to \$4.4 million annual reduction in MidAmerican's pipeline transportation charges and gas costs. Tr. at 129.

OCA Exhibit No. 101. As will be discussed below, both MidAmerican's and OCA's studies are seriously flawed and their results must be disregarded.

Natural's witness, Mr. Horton, on the other hand, performed an economic analysis which contains none of the flaws present in the other studies. Mr. Horton found that when all relevant costs are considered, the Proposed Project would actually significantly increase, not decrease, MidAmerican's annual costs.

1. Proponents' Gas Supply Cost Comparisons
are Flawed

Ms. Schillinger's finding of a \$2.5 to \$4.4 million benefit from the Proposed Project is based on a \$0.10/MMBtu differential between the cost of acquiring gas supply on Northern's system versus the cost of acquiring gas supply on Natural's system. Tr. at 129. That is, Ms. Schillinger's study assumes that it is \$0.10 less expensive per unit to acquire gas on Northern than on Natural.

As discussed in Mr. Horton's testimony (Tr. at 320), and as shown in his accompanying Exhibit No. 201, MidAmerican has selected receipt points on Northern's system in Iowa, Kansas¹ and Texas. More than a third of MidAmerican's gas supply on Northern would be received in Iowa at Northern's interconnect with Northern Border Pipeline Company (Northern Border), a major source of Canadian gas supply.

¹ Northern's Field/Market Demarcation Point is located at Clifton, Kansas.

In
unchallenged testimony, Mr. Horton explained that a proposed expansion and extension by Northern Border to serve Chicago and East Coast markets would, in fact, be likely to reduce the gas supply cost differential between Natural and Northern (Tr. 324), thereby reducing the alleged savings attributable to the Proposed Project.

**2. Natural's Gas Supply Comparisons
Are Sound**

Mr. Horton's analysis of gas supply costs involved a consistent comparison of the gas supply costs at the various regions from which MidAmerican actually proposes to acquire gas on Northern, weighted by the proportion of the supply that MidAmerican proposes to acquire at each region. Mr. Horton compared this weighted average gas price on Northern to the average price of gas available from similar supply regions on Natural, weighted by the same proportions as in the Northern price. Exhibit No. 210. Mr. Horton found that the average cost of gas supply off Natural is approximately three cents per MMBtu higher than gas supply off Northern. This differential would result in a potential savings to MidAmerican of between zero and \$0.6 million per year, depending on the level of MidAmerican's takes up to 55,000 MMBtu/day. Tr. at 320.²

As will be explained below, however, this potential cost savings is more than offset by other costs attributable to the Proposed Project. When all relevant costs are considered, the Proposed Project is clearly not economically justified.

3. Proponents' Pipeline Transportation Cost Comparisons Are Flawed

4. Natural's Pipeline Transportation Cost Comparison Is Sound

Mr. Horton's initial analysis of pipeline transportation costs compared Natural's discounted rate³ to Northern's maximum tariff rate. On that basis, Mr.

³ The Natural discount rate utilized in Mr. Horton's analysis was based on rates offered to MidAmerican in the spring of 1995. Those discount rates did not vary significantly from discount rates offered by Natural to MidAmerican in the summer of 1994. Tr. 331.

Horton determined that when all relevant costs are considered, the Proposed Project would cause the overall costs borne by MidAmerican's customers to increase by approximately \$6 million per year. On cross-examination, Mr. Horton stated that if he had utilized the discount rate that Ms. Schillinger alleges was offered to MidAmerican by Northern, which information was unavailable at the time his Responsive Testimony was filed, instead of Northern's maximum tariff rate, then his conclusion that the Proposed Project was not economically justified would not change. This change in assumption would merely change the amount by which MidAmerican's costs increase as a result of the Proposed Project from \$6 million per year to approximately \$3 million per year. Tr. at 329-331.⁴

Natural's Exhibit No. 201 has been revised to reflect Northern's discounted transportation rate. See Exhibit A hereto. As originally submitted, Exhibit No. 201 showed that gas supply costs and pipeline transportation costs are, in total, eleven cents per MMBtu less expensive on Natural than on Northern. Fixed costs were determined to be fourteen (14) cents higher on Northern than on Natural and variable costs were three (3) cents lower. These differentials amount to between \$2.2 and \$2.8 million per year, depending on MidAmerican's load factor. Tr. at 322, 341-342.

4

Which Is Correct

flawed because neither gives appropriate recognition for the incremental cost of service attributable to the proposed facilities. Only the economic study performed by Mr. Horton gives proper recognition to such costs.

million to construct a 62 mile pipeline connecting the Quad Cities to Northern's pipeline system, Tr. at 71. The Proposed Project will result in increased depreciation expense, return on rate base, income taxes, operation and maintenance expenses, and property taxes. Based on cost factors derived from MidAmerican's 1994 Annual Report to the Iowa Utilities Board, Mr. Horton estimated the incremental cost of service

attributable to the proposed facilities to be approximately \$4.2 million for the first year of operation. Tr. 323 and Exhibit 202.⁵

Ms. Schillinger's calculated savings of \$2.5 to \$4.4 million is based on her evaluation of gas supply costs and pipeline transportation costs on Natural versus Northern.

Therefore,
assuming arguendo that Ms. Schillinger's analysis is correct as far as it goes, it is seriously incomplete. When the \$4.2 million increase in annual cost of service attributable to the facilities is also taken into account, the \$2.5 to \$4.4 million savings calculated by Ms. Schillinger is totally or nearly totally eliminated. Tr. at 316. Thus, Ms. Schillinger's economic analysis is incomplete and cannot justify the Proposed Project.

⁵ Mr. Horton's analysis was based on the \$18 million cost of the proposed pipeline.

Based on cost factors derived from MidAmerican's 1994 Annual Report, Mr. Horton estimated that MidAmerican's annual property taxes and annual O&M expenses would increase by \$432,000 and \$1,026,000, respectively, as a result of the Proposed Project. Exhibit No. 202. These levels proposed by Mr. Horton are reasonable and should be adopted as a proxy for the annual property taxes and annual O&M expenses attributable to the Proposed Project.

In short, under a valid cost benefit analysis of the Proposed Project, which would include appropriate estimates for gas cost differentials, pipeline transportation costs and cost of service, such as Natural has performed, MidAmerican's ratepayers will not realize net benefits under the Proposed Project.

6. Under Natural's Updated Study,
MidAmerican's Proposed Project Would
Increase Annual Costs \$ _-\$ _ Million When
All Costs Are Considered

As a result of receiving information concerning Northern's discount transportation rate subsequent to the filing of Natural's responsive testimony, Natural has updated its Exhibit 201 to reflect the impact of the Northern discount on the Proposed Project. On Exhibit D, Natural has summarized the unit rates and

net annual costs to MidAmerican's customers of MidAmerican's Proposed Project compared to Natural's Alternative Project utilizing (1) Northern's maximum tariff rates (per Mr. Horton's Responsive Testimony) and (2) as revised to reflect Northern's offered discount rates. Utilizing Northern's maximum tariff rates, which was the assumption underlying Mr. Horton's Responsive Testimony, the net annual increased cost to MidAmerican's customers is approximately \$6 million (Lines 1 through 9 of Exhibit D).

B. MidAmerican Has Not Shown That Other Benefits Such As Improved Reliability, Enhanced Competition Or Economic Development Are Sufficient To Support The Proposed Project

Aside from the claimed direct economic benefits associated with lower purchased gas costs, which are non-existent, as discussed above, MidAmerican witness Schillinger asserts that the Proposed Project would provide other indirect benefits in the form of increased reliability, enhanced competition and economic development. Tr. at 140-143. MidAmerican has failed to show that such benefits in fact result from the Proposed Project or that a need exists to warrant construction of the Proposed Project. Accordingly, those claimed indirect benefits must be rejected as unsupported.

1. Improved Reliability Has Not Been Shown To Be A Significant Factor Supporting the Proposed Project

MidAmerican states, but offers little other than anecdotal evidence, that reliability is enhanced by the Proposed Project. This is most clear where Ms. Schillinger states in her direct testimony, Tr. at 131, that the gas supply reliability provided by the Proposed Project enabled "dual flow" of gas and was a "significant factor" in the Glass Plant deciding to locate its new facility near DeWitt. As discussed below, record evidence either flatly contradicts this assertion or suggests that the alleged reliability benefit is exaggerated.

MidAmerican witnesses Swanson and Schillinger reveal in testimony that construction of the Glass Plant has commenced and that its

completion is not dependent on approval of the Proposed Project. Tr. at 262

Moreover,

Clearly, the Proposed Project is not necessary to serve the Glass Plant. This conclusion is further buttressed by the fact that construction on the Glass Plant has begun notwithstanding that the Proposed Project has not been authorized.

MidAmerican attempts to show in its cross examination of Natural witness Weeks that the Proposed Project's access to Northern Natural increases reliability in the event of pipeline outages on ANR or Natural. Tr. at 360. MidAmerican's assumption that a third pipeline would enhance reliability is mere conjecture, especially where, as here, MidAmerican offers no evidence of historical pipeline outages. Such conjecture falls far short of the requisite showing necessary to demonstrate that construction of the Proposed Project will serve the public convenience and necessity. In any event, to the extent Northern Border constructs an extension into MidAmerican's market, Northern Border could serve as the third pipeline supplier to MidAmerican. Ms. Schillinger acknowledges that Northern Border is a potential future interconnect with MidAmerican. Tr. at 134.

In addition, MidAmerican has failed to evaluate reliability or lack thereof of the Northern interconnect and the East Leg of Northern's system which is intended

to serve the Proposed Project. In fact, Northern is only able to meet MidAmerican's requirement by expanding its East Leg. Tr. at 138.

Thus,

the incremental service associated with the Proposed Project cannot contribute significantly towards serving the total Quad Cities market requirement.

Finally, notwithstanding Ms. Schillinger's contrary assertion, Northern does not provide access to greater supply diversity than does Natural. The opposite is, in fact, the case. As Mr. Weeks testifies, Natural offers access to supply regions, Tr. at 349, and storage not available through Northern, Tr. at 351.

In summary, the scant support offered by MidAmerican for reliability benefits associated with the Proposed Project do not reach to the level required to support public need and convenience.

2. Competition Is Actually Diminished By The
Proposed Project And The Quad Cities
Agreement With Northern

Beyond the projected gas cost savings reflected in the economic analysis of the project, no other competitive benefits can be attributed to the Proposed Project. These gas cost savings, which are a part of the economic analysis of the Proposed Project, are not adequate to support the cost of the Proposed Project as demonstrated in Section III A hereof. In addition, the benefit of adding Northern Natural as a third pipeline supplier is limited by the capacity of Northern's East Leg, which is being expanded to serve the 55,000 Mcf per day proposed herein.

Tr. at 154. Thus, all possible competitive benefits are reflected in the economic analysis. MidAmerican has overstated the theoretical competitive benefits to be gained by adding another pipeline supplier to the Quad Cities. In fact, the commitments extracted by Northern to provide needed capacity actually restricts competition.

MidAmerican already has access to the Quad Cities through Natural and ANR. Tr. at 127. Each pipeline already must offer to MidAmerican competitive rates and services to compete with the other pipeline. Therefore, the marginal theoretical benefit, if any, to MidAmerican customers of adding Northern is small. As Natural's witness, Mr. Horton, noted, Tr. at 316-317:

MidAmerican claims that the Proposed Project will enhance competition among the three pipelines which would serve the Quad Cities. Even MidAmerican however, recognizes that this enhanced competition is only a matter of degree since MidAmerican already has access to the Northern system at Cedar Rapids and, therefore, to its Quad Cities market via displacement, as Mr. Weeks describes in more detail in his testimony. Given MidAmerican's existing access to both Natural and Northern and the alternatives on each system discussed below, competition among interstate pipelines is simply not a significant factor for the public interest in this case.

Mr. Weeks also observed, Tr. at 350:

Direct connection or access to multiple interstate pipelines has become a much less significant benefit to end users, such as the Glass Plant. With interstate pipeline unbundling and the prospect of unbundling at the local distribution company level, end users have the ability to buy and transport their gas supply with a great degree of flexibility and reliability. Contracts typically have shorter terms allowing for renegotiation and end

users are gaining the ability to use "wheeling" services through their local distribution companies.

Moreover, the actual effect on competition of adding Northern would be negative, not positive. Because there is no capacity currently available on Northern's system, Northern is expanding its East Leg to serve MidAmerican's 55,000 MMBtu per day of incremental load. MidAmerican was required to enter into a long-term 17 year firm transportation agreement to ship such incremental load on Northern. Tr. at 351. It is reasonable to expect that end users who are transportation customers of MidAmerican will not have access to Northern's system without also signing a similar long-term commitment. This type of long-term, fixed commitment is inconsistent with a competitive environment because it requires customers to lock in their options for an extended period of time and thereby prevents them from responding to the ebbs and flows of the market. By comparison, Natural has available capacity and is motivated to offer discounted transportation rates to market that capacity. The typical term of gas transportation contracts on Natural's system is for three (3) to five (5) years—a period more conducive to fostering competition. Tr. at 351.

Any competitive benefits would have to be measured against the competitive costs associated with commitments made to Northern Natural as a part of the overall Quad Cities Agreement which is the foundation for the Proposed Project. There are several aspects of the Quad Cities Agreement which have the effect of limiting rather than enhancing competition. First, as stated previously,

MidAmerican has agreed to a long-term 17 year firm contract with Northern. Such a long-term contract retards competition.

Natural's only objective here is to assure that its alternative is given a fair opportunity to compete on a heads-up basis. Motivation is a red herring to

obscure the weaknesses of MidAmerican's own proposal. Such reasoning ignores the fact that the feasibility analysis of any particular project must rest on the individual project's own merits. In any event, analogies to other markets in Des Moines and historical pricing decisions are unavailing. MidAmerican has an obligation to select the lowest cost alternative to meet its market requirements for each particular market from time to time. In the particular facts present in Des Moines, that has meant that Natural is the most competitive supplier and wins business. In the case of the Quad Cities interconnect to ANR, that has meant a loss of business to Natural. There has been no demonstration here that Natural is not the low cost supplier for the Quad Cities. Indeed, a careful consideration of all of the relevant costs of the Proposed Project will show it is not the less costly alternative to serve the Quad Cities market.

In summary, notwithstanding MidAmerican's contrary assertions, there are no competitive benefits resulting from the Proposed Project. The only direct benefit claimed, *i.e.*, projected gas cost savings, has been determined by Mr. Horton to be inadequate to support the Proposed Project's costs. In any event, any alleged benefits must be measured against the anti-competitive aspects of the long-term contract commitments between MidAmerican and Northern

**3. MidAmerican Has Not Shown Economic
Development Benefits To Be Related Directly
To The Proposed Project**

MidAmerican, through its witnesses Schillinger and Swanson, contends that there are economic development benefits from the Proposed Project. More specifically, MidAmerican holds out as one of the benefits of the Proposed Project the Glass Plant and the associated economic benefits associated with new industrial growth and employment. Tr. at 132, 137 and 261. Notwithstanding such assertions, Mr. Swanson and Ms. Schillinger have revealed that the Glass Plant will be constructed independent of the Proposed Project. Tr. at 157; 262. Thus, the benefits of the Glass Plant cannot be attributed to the Proposed Project.

Ms. Schillinger also contends that access to a third pipeline supplier (Northern) via the Proposed Project would encourage other industrial development by enhancing transportation service MidAmerican can offer to Quad City industrial customers. Tr. at 143.

Further, such a benefit could be realized if Northern Border constructed its pipeline.

Mr. Swanson, Tr. at 261, alludes to potential benefits of gas service to new communities and farms along the Proposed Pipeline's corridor. However, Mr. Swanson does not show any specific unsatisfied demand. Nor does

Mr. Swanson indicate whether demand could or would be met by alternative gas suppliers at some point in the future.

The alleged economic development benefits have not been shown to be other than incidental or speculative. Nor has it been demonstrated that such alleged benefits would not be realized but for the Proposed Project. Accordingly, given the lack of record evidence, no weight should be accorded MidAmerican's unsupported assertions that the Proposed Project will promote economic development.

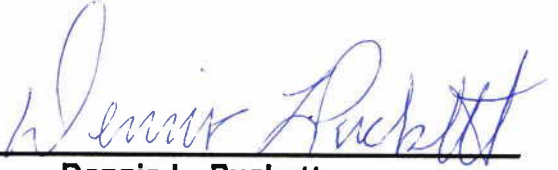
III CONCLUSION

The record evidence supports a finding that, under objective criteria, MidAmerican and the OCA have failed to demonstrate that the Proposed Project will result in lower energy costs to consumers, enhance reliability or promote competition. In fact, under the Proposed Project, MidAmerican's customers will be required to pay higher rates for an indefinite period due to the Proposed Project without enjoying any corresponding benefits, such as enhanced reliability or competition. Natural has submitted persuasive evidence that a more cogent analysis indicates that the Proposed Project fails to offer the alleged benefits claimed by either the OCA or MidAmerican. Accordingly, the Proposed Project fails to meet the requisite convenience and necessity standard.

WHEREFORE, in view of the foregoing, the Proposed Project should not be authorized on this record.

Respectfully submitted,

NATURAL GAS PIPELINE COMPANY
OF AMERICA



Dennis L. Puckett

Dennis L. Puckett
Sullivan & Ward, P.C.
801 Grand Avenue
Suite 3500
Des Moines, IA 50309-2719

DATED at Lombard, Illinois
this 23 day of August, 1995.

Emmitt C. House, Esq.
Paul W. Mallory, Esq.
Georgetta J. Baker, Esq.
701 East 22nd Street
Lombard, IL 60148-5072
Attorneys for Natural Gas Pipeline
Company of America

EXHIBIT D

**SUMMARY OF UNIT RATES AND NET ANNUAL IMPACTS
OF MIDAMERICAN'S PROPOSED PROJECT
VERSUS NATURAL'S ALTERNATIVE PROJECT**

Line No.		(1) Unit Rate Differential (\$/MMBtu)	(2) (3) (4) Annual Savings(Burden) From MidAmerican's Proposed Project (Millions) 3/ Load Factor		
			0%	75%	100%
	<u>Using Northern's Maximum Tariff Rate</u>				
1	Gas Supply Costs	\$0.03 1/	\$0.0	\$0.45	\$0.6
2	Pipeline Commodity & Fuel Costs	\$0.00 1/	\$0.0	\$0.00	\$0.0
3	Total Variable Costs	\$0.03 1/	\$0.0	\$0.45	\$0.6
4	Fixed Costs	(\$0.14) 1/	(\$2.8)	(\$2.8)	(\$2.8)
5	Total Gas Supply and Pipeline Transportation Costs	(\$0.11) 1/	(\$2.8)	(\$2.35)	(\$2.2)
	Incremental Cost of Service:				
6	62-mile Proposed Project		(\$4.2)	(\$4.2)	(\$4.2)
7	17-mile Alternative Project To Serve Glass Plant		\$0.8	\$0.8	\$0.8
8	Cost of Service Savings(Burden)		(\$3.4)	(\$3.4)	(\$3.4)
9	Total Savings (Burden) (Line 5 + Line 8)		(\$6.2)	(\$5.75)	(\$5.6)
10					
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Note 1/ Exhibit No. 201, Line 8. () denotes lower cost under Natural's Alternative.

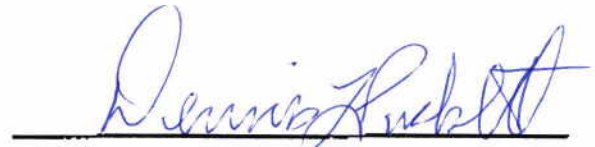
2/ Exhibit A, Line 8

3/ The calculation to convert unit rate differentials to annual impacts on MidAmerican's customers was explained by Mr. Horton on cross-examination. Tr. at 341.

CERTIFICATE OF SERVICE

I hereby certify that I shall cause a copy of the foregoing BRIEF OF NATURAL GAS PIPELINE COMPANY OF AMERICA to be served on each party to this proceeding by depositing the same in the U.S. mail in postage prepaid-envelopes.

Dated at Des Moines, Iowa, this 23rd day of August, 1995.



Dennis L. Puckett
An Attorney for Natural Gas
Pipeline Company of America

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IOWA UTILITIES BOARD

Charles W. Burke
1983 - 290th Ave
DeWitt, Ia 52742
December 14, 1995

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

Re: Docket No. P-831

Dear Mr. Vawter:

Enclosed for filing are an original and ten copies of our Response to Iowa Utilities Board of "Order Concerning Response to Notice of Appeal", to be filed on behalf of Charles W. Burke, an objector, landowner and spokesman for the majority of farmer objectors in the Subject proceedings. Also enclosed is a Certificate of Service.

Thank You,



Charles W. Burke

cc: Mr. Donald G. Henry, Administrative Law Judge
Mr. Donald J. Stursma
Service List

STATE OF IDWA
DEPARTMENT OF COMMERCE
UTILITIES DIVISION



Docket No. P-831
Response To "Order Concerning Response To Notice Of Appeal"
Issued December 4, 1995 By Utilities Board

By Objector, Charles W. Burke
Spokesman For Most Farmer Objectors

1 I, Charles W. Burke, wish to respond to Iowa Utilities Board to
2 the "Order Concerning Response To Notice of Appeal" issued December 4,
3 1995 as follows:

4 (A) I hereby request to participate in oral arguments before the
5 Utility Board and request that other farmers be allowed to
6 participate in oral arguments. We also request that these be
7 held at a location near the proposed pipeline.

8 (B) I would also like to make a few comments about paragraph (2)
9 in my appeal mailed to the Board on 11/22/95 and delivered to
10 the Board on 11/27/95. I believe MidAmerican has the burden of
11 proof as pertains to this case. That could not be accomplished
12 with "key" witnesses missing. There are many unanswered questions.
13 MidAmerican in its response stated "If, in retrospect, Mr. Burke
14 believes he should have called additional witnesses, that is his
15 error." I disagree with their conclusion. I believe it is the
16 responsibility of MidAmerican, the DCA & the Board to present all
17 facts in this matter. There were a number of items that should
18 have raised a lot of questions. The only way to reach a FAIR
19 decision in this case is to have ALL the facts, not just those
20 that MidAmerican wants to allow us to see. I believe the Board
21 has the ultimate responsibility to make certain that ALL the
22 pertinent facts are presented and ALL parties have an opportunity

1 to cross-examine witnesses. In addition, I believe that most everyone
2 knows that I am a farmer, not a lawyer. I phoned the Iowa Utility
3 Board office on July 10, 1995 asking various questions about the
4 upcoming hearing. One of those questions was how could I get
5 witnesses to come to the hearing. I was told by Ms. Munn that
6 those who had submitted testimony would be present; if I wanted
7 others, to request them to the Board office with a copy to MidAmerican.
8 That was done in my testimony. I do not understand why everyone
9 does not seem to want all of the facts out. Are there some facts
10 that MidAmerican or others do not want disclosed? A few possibilities:

11 (1) IES is currently supplying natural gas in the City of DeWitt;

12 They plan to supply electricity to Guardian Glass; why not
13 natural gas? Why have they not intervened in this case?

14 Has IES had any competition to supply Guardian electricity?

15 (2) Are there any agreements/understandings, verbal or written,
16 between MidAmerican & IES or any utility regarding Guardian
17 Glass?

18 (3) IES is currently constructing a 6" natural gas pipeline from
19 just North of DeWitt in Clinton County to a 6" pipeline in
20 City of DeWitt near Guardian's plant for a distance of approxi-
21 mately 1.55 miles. Are any permits required to construct
22 this 6" supply line starting in Clinton County at Northern's
23 distribution station? I have no idea of the cost, but my
24 GUESS would be in excess of \$200,000. Why would IES spend
25 big money like this if they don't plan to serve Guardian?
26 Can this line serve the Guardian plant if this MidAmerican
27 permit is rejected? What additional modifications might
28 be made to create even more capacity and what would they cost?

29 (4) Why wasn't an independent economic study made of the NGPL
30 alternative or other potential alternatives?

1 (5) Northern's responsible official was also among the missing.

2 What can they do on their end to increase capacity to IES
3 if additional capacity is needed?

4 (6) There are at least two large East/West pipelines located just
5 South of DeWitt and within three miles of the Guardian plant.

6 Can they provide a backup source of fuel to Guardian?

7 (7) Guardian responsible officials were also among the missing.

8 A Company that is spending over \$100 million on a plant
9 would have been present if they needed this pipeline.


10 (D) I would like to point out that this system appears to be made to
11 run over the farmer and take care of the big corporation. Please
12 explain why you could locate the proposed line for Deere & Co. along
13 their roadway boundaries, yet that was not possible for farmers?

14 (D) Northern is a big player in this case; why is their line to
15 Cedar Rapids not shown on the Iowa Utilities Board's Iowa Pipe
16 Line Map?

17 (E) Several of my farmer/landowner friends cannot understand how
18 the county compensation commission will address their concerns
19 of granting a voluntary easement based upon misrepresentations
20 or lies of MidAmerican. Maybe the Board can elaborate on their
21 suggestion in this order.

22 (F) I hereby request that all meetings of the Board to discuss this
23 appeal and proposed pipeline be held near the center of the
24 proposed pipeline. I believe if you examine our appeal filed in
25 your office on November 27, 1995 you will find that DeWitt would
26 be the most convenient location for the majority of those who
27 filed an appeal.

Respectfully submitted,


Charles W. Burke, Spokesman
For Most of the Farmer Objectors

CERTIFICATE OF SERVICE

I hereby certify that I have on this 15th day of December 1995 served a copy of the foregoing:

- 1) Letter of transmittal dated 12/14/95 for mailing of Response "To Order Concerning Response To Notice of Appeal" Issued December 4, 1995 by Utilities Board.
- 2) Response To "Order Concerning Response To Notice Of Appeal"

of Charles W. Burke, an objector in Docket No. P-831, 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.

C. J. B.

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Edward & Andrea McClimon
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Charlotte, Ia 52731

Sean Watters
1536 280th Ave
Charlotte, Ia 52731

George Glahn
% Jon Glahn
1721 9th
Camanche, Ia 52730

Spain Farms, Inc.
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Charlotte, Ia 52731

Paul Spain, Pres
Delores Spain
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DeWitt, Ia 52742

Paul L. Spain
1326 5th Ave
DeWitt, Ia 52742

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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

2

RESPONSE TO APPEAL

COMES NOW the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, and for its Response to Appeal, pursuant to 199 IAC 7.8(2)(c) and the Iowa Utility Board's Order dated December 4, 1995, states as follows:

1. This Response concerns an appeal to the Proposed Decision and Order Granting Permit (Proposed Decision) issued on November 9, 1995 by the Administrative Law Judge who heard testimony and received evidence in this case on July 27 and 28, 1995. The appeal was filed by landowner Charles W. Burke on November 27, 1995 and joined by several other interested landowners whose property the proposed pipeline will cross.

2. Following is OCA's response to each of the substantive paragraphs of Mr. Burke's appeal:



A. Paragraph One

Mr. Burke maintains in this paragraph that the Administrative Law Judge (ALJ) admitted his decision contained a "major problem." This is a mischaracterization of the decision. Rather, the ALJ stated that the proposed pipeline at issue in this proceeding clearly meets the current public convenience and necessity standard that must be met before the issuance of a pipeline permit. The ALJ then suggested that when the services proposed to be rendered duplicate services already in existence, perhaps a standard higher than the current public convenience and necessity should be applied. (Proposed Decision at 14).

The kind of duplication at issue in this proceeding is an alternative source of supply into the Quad Cities--MidAmerican is proposing the pipeline to obtain supply from Northern Natural Gas Company even though it already has access to a supply of natural gas in the Quad Cities from both Natural Gas Pipeline Company and ANR Pipeline Company. (Tr. 127-28). OCA's position is that the duplicate facility should meet the public convenience and necessity standard only if it is economically sound and ratepayers are not significantly and detrimentally affected by the addition of such facilities. As OCA demonstrated at the hearing and in its post-hearing brief, the pipeline at issue in this proceeding meets a more stringent public convenience and necessity standard. OCA's expert witness, Dr. David Habr, clearly demonstrated that the construction of this pipeline, whose main purpose is to serve MidAmerican's Davenport customers with an alternative source of gas supply, will likely result in significant savings for those customers. (Tr. 70-72). Moreover, the additional source

of supply will ensure that there will be some form of competition among suppliers of natural gas in the Quad Cities.

Mr. Burke's assertion that there likely will not be any net savings because of the construction of the pipeline is an assertion that Mr. Burke raised both in the hearing and in his post-hearing brief. (Tr. 382, Mr. Burke's post-hearing brief at 1-2). The ALJ had an opportunity to fully consider this position before granting the pipeline permit. Allowing Mr. Burke to raise this same position again in another forum would not serve any useful purpose.

Finally, Mr. Burke is incorrect in asserting that the Office of Consumer Advocate failed to carry out its duties by not considering the best among all possible alternatives. OCA considered fully MidAmerican's petition for a pipeline permit, the only proposed permit at issue in this proceeding. (Tr. 74). The conclusion resulting from OCA's analysis was that ratepayers will benefit under MidAmerican's proposal. Accordingly, OCA supports the issuance of the proposed pipeline permit. This is in keeping with the statutory mandate of the Office of Consumer Advocate--to represent consumers *generally* and the public *generally* before the Iowa Utilities Board.

Paragraph One does not set forth any valid reasons why the Board should reverse the decision of the ALJ.

B. Paragraph Two

Mr. Burke next asserts that either MidAmerican, OCA, or the Board erred in calling witnesses. Mr. Burke apparently believes that because he requested in his direct testimony that officials from Guardian Glass and IES (neither one parties to the

proceeding) be present at the hearing, either MidAmerican, OCA, or the Board should have followed up on this request. First, Mr. Burke's direct testimony was not a proper forum for making this request. Second, it was not the responsibility of either MidAmerican, OCA, or the Board to obtain Mr. Burke's witnesses. Third, and more importantly, Mr. Burke has failed to state why he believes the absence of officials from either IES or Guardian Glass prejudiced the ALJ's decision. It is difficult to see how officials from either IES or Guardian Glass could shed additional light on the proposed pipeline at issue in this proceeding. This paragraph does not set forth any valid reason why the Board should reverse the decision of the ALJ.

C. Paragraph Three

Mr. Burke in his appeal requests that his post-hearing brief be incorporated into his appeal. OCA does not object to this request, but this paragraph does not set forth any valid reason why the Board should reverse the decision of the ALJ.

D. Paragraph Four

MidAmerican's motion filed on October 25, 1995 did not contain the testimony which Mr. Burke is requesting be excluded from the record. Further, the motion has been considered and rejected by the ALJ, and is now moot. Paragraph Four does not set forth any valid reason why the Board should not affirm the decision of the ALJ.

E. Paragraph (5)

This paragraph apparently is a suggestion of the standard of review the Board should use in considering Mr. Burke's appeal and does not set forth any reason why the Board should reverse the decision of the ALJ.

3. Mr. Burke recommends in his concluding paragraph that the Board approve a small low pressure line from Davenport to the Guardian Plant at DeWitt. Neither MidAmerican nor any other utility or pipeline company has such a proposal before the Board. For this reason, the recommendation should be rejected.

4. Mr. Burke in his appeal has failed to raise any valid reasons why the Board should not affirm the decision of the ALJ.

WHEREFORE, the Office of Consumer Advocate respectfully requests that the Board affirm the Proposed Decision and Order Granting Permit issued November 9, 1995.

Respectfully submitted,

James R. Maret
Consumer Advocate

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

Kirk L. Peterson
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 December 18, 1995.



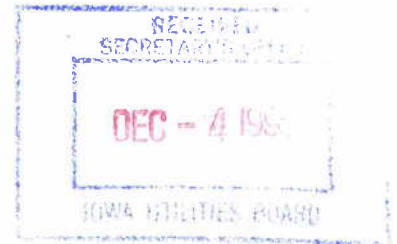


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December 1, 1995

Robert P. Jared
Attorney

BY DELIVERY



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 eleven copies of MidAmerican Energy Company's Response to Notices of Appeal in the above Docket. A Certificate of Service is also enclosed. Please date-stamp and return the extra copy to the undersigned.

Thank you for your assistance.

Sincerely,

RPJ/ckt
Enclosures

DISTRIBUTION	
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<u>1</u>	Gen. Coun.
<u>1</u>	Pub. Info.
<u>1</u>	O.C.A.
<u> </u>	

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD



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

RESPONSE TO NOTICES OF APPEAL

COMES NOW, MidAmerican Energy Company (MidAmerican or Company), successor corporation to Iowa-Illinois Gas and Electric Company (Iowa-Illinois), by its attorneys, and in accordance with 199 Iowa Administrative Code 7.8(2)(c), submits its Response to Notices of Appeal.

1. The Company filed its Petition for Permit on March 7, 1995 for a permit to construct, operate, and maintain approximately 62 miles of natural gas pipeline in Dubuque, Jackson, Clinton, and Scott Counties, Iowa. Hearings were held on July 27 and 28, 1995. On November 9, 1995, the Administrative Law Judge issued the Proposed Decision and Order Granting Permit (Proposed Decision). Appeals from the Proposed Decision were to be filed within 15 days (November 24).

2. On November 27, 1995, an Appeal was filed by landowner Charles W. Burke on his own behalf and purportedly as "spokesman" for certain other landowners (Burke Appeal). MidAmerican was served with a second Appeal on November 28 consisting of two form petitions signed by several landowners stating they wished to "ratify and affirm" the Appeal filed by Mr. Burke (Form Petition Appeal). For all intents and purposes, the two Appeals are one and the same. No other Appeals have been filed.

3. In accordance with 199 Iowa Administrative Code 7.8(2)(c), MidAmerican responds to each of the substantive paragraphs of the Burke Appeal as follows:

(1.) Paragraph No. 1 constitutes the majority of Mr. Burke's Appeal. It begins with a serious misstatement or misunderstanding of the Proposed Decision. Contrary to Mr. Burke's claim, the Administrative Law Judge did not "admit to a major problem in his Proposed Decision." What the Proposed Decision did state, and correctly so, was that "the public convenience and necessity requirement as customarily applied is clearly satisfied by MidAmerican's proposal." (Emphasis added). Proposed Decision at 13. The Proposed Decision then goes on to state, *in dicta*, that perhaps a greater standard is appropriate in proceedings where the services proposed to be rendered duplicate to some extent services already available. The Proposed Decision then affirmed that until a different standard is adopted by the Board, the customary standard should continue to be applied. As found by the Proposed Decision, and as supported by the evidentiary record, MidAmerican's proposal clearly satisfies that standard.

Most of the remainder of Paragraph No. 1 consists of arguments which have already been made at the evidentiary hearing, and which were addressed in the briefs of the parties. As such, these arguments were before the Administrative Law Judge and were considered in arriving at the Proposed Decision. The fact that the Proposed Decision did not adopt Mr. Burke's arguments and characterizations of the evidence presented does not mean they were not considered. Indeed, the Proposed Decision is very clear in that the arguments were considered ... and were rejected.

One item does need to be addressed. Mr. Burke's appeal speaks of an "alternative pipeline proposal." MidAmerican proposed no such project. Natural Gas Pipeline Company (NGPL) spoke of a method that would have utilized the facilities of MidAmerican's competitor, IES Utilities, Inc. IES Utilities, Inc. is not a party to this proceeding. Moreover, even if it made economic sense for MidAmerican to give away business to its competitor (and it does not), NGPL's "back of the envelope" proposal would only result in providing service to one customer (Guardian Industries) which was never, and is not now, the primary purpose of this project. The purpose of MidAmerican's project is to provide additional competitive pipeline service to eastern Iowa. NGPL's "proposal" does nothing to satisfy that purpose. Indeed, it thwarts that purpose. As discussed in detail in MidAmerican's post-hearing brief, NGPL's proposal should be viewed as an attempt to avoid competing for MidAmerican's business. (See, e.g., MidAmerican post-hearing brief at 18-22). MidAmerican sponsored no such alternative proposal, and none was evaluated in terms of location, route, safety, or other considerations.

(2.) In Paragraph No. 2 of his Appeal, Mr. Burke states that "I am convinced that someone erred in calling witnesses." Contrary to Mr. Burke's assertion, all parties participated fully at the hearing. If, in retrospect, Mr. Burke believes he should have called additional witnesses, that is his error. The record clearly shows that neither Guardian Industries nor IES Industries, Inc. are parties to this proceeding. There is no obligation on the part of MidAmerican, or the Office of Consumer Advocate, or the Board for that matter, to require the

attendance of nonparties. Simply requesting the presence of nonparties by stating that desire in one's testimony is not sufficient. MidAmerican has no authority to require the attendance of representatives from Guardian Industries, IES Industries, or any other nonparty. If Mr. Burke had desired the attendance of nonparties, it was his responsibility to obtain their presence. Mr. Burke's complaints in Paragraph No. 2 should be denied. Paragraph No. 2 does not set forth any reason why the Proposed Decision should not be expeditiously confirmed by the Board.

(3.) Paragraph No. 3 of Mr. Burke's Appeal simply requests that the arguments included in his August brief "be included." As Mr. Burke himself noted, that brief (and the briefs of the other active parties) was filed in August. As such, it was before the Administrative Law Judge and was considered in rendering the Proposed Decision. Paragraph No. 3 does not set forth any reason why the Proposed Decision should not be expeditiously confirmed by the Board.

(4.) Paragraph No. 4 of Mr. Burke's Appeal requests that "any additional testimony by MidAmerican and by Guardian Industries in connection with MidAmerican's motion filed on October 25, 1995 be excluded from the record ..." MidAmerican first notes that there was no additional testimony submitted by either itself or Guardian Industries so Mr. Burke's request is unfounded. MidAmerican was within its legal rights in filing a motion for expedited consideration, giving the reason for its request, and supporting its request with an affidavit. MidAmerican notes that the status of Guardian Industries is no more or less relevant to the issue of "need" than the status of any other customer of MidAmerican. However, Guardian Industries' situation is highly relevant to the issue of the "speed" of issuing a decision regarding the permit and that is why the affidavit was provided. Notwithstanding Mr. Burke's complaints, nothing done by MidAmerican was contrary to any ruling of the Administrative Law Judge, regulations of the Board, or provisions of the Iowa Administrative Procedures Act.

More to the point, however, Mr. Burke fails to note that MidAmerican's October 25, 1995 Motion was denied. As such, the relief requested by Mr. Burke has already been granted to him. There is nothing of which to complain. Paragraph No. 4 does not set forth any reason why the Proposed Decision should not be expeditiously confirmed by the Board.

(5.) Paragraph No. 5 of Mr. Burke's Appeal simply alleges, in general terms, certain legal standards for review. There are no citations to briefs or other filed documents where such legal points in the appeal were discussed. There are no citations to pages in the transcript or other documents where the evidence claimed not to have been considered appears. Paragraph No. 5 does not set forth any reason why the Proposed Decision should not be expeditiously confirmed by the Board.

4. In his concluding paragraph, Mr. Burke, *inter alia*, "recommends that approval be granted to construct a small low pressure line." MidAmerican has not proposed such a line, such a line would not satisfy MidAmerican's primary objective or its customers' needs, and there is no such line before the Board for its consideration. Mr. Burke's recommendation should be rejected as unsupported by the evidence of record.

5. Attached to Mr. Burke's Appeal is a one-page document which is apparently intended to be a second Appeal. This document purports to appeal the Administrative Law Judge's ruling on MidAmerican's October 25, 1995 Motion. As noted in Paragraph 3.(4.) of this Response, MidAmerican's Motion was denied, not granted. Consequently, the relief sought by Mr. Burke has already been granted to him. This "second Appeal" should not be allowed to confuse this record and should be summarily dismissed by the Board as moot.

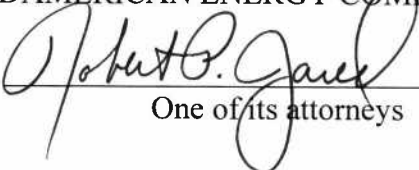
6. Since it merely echoes the Burke Appeal, MidAmerican's Response is equally applicable to, and dispositive of, the Form Petition Appeal. In addition, certain pages of the Form Petition Appeal complain of "the method of payment for those who granted voluntary easements." As specifically noted in the Proposed Decision, MidAmerican responded to each of these complaints at the evidentiary hearing, the Proposed Decision neither required landowners to grant voluntary easements nor did it determine how landowners should be compensated, and the sufficiency of the compensation offered for an easement is of no consequence to the issues that must be addressed in this proceeding. Proposed Decision at 20-21, citing Race v. Iowa Electric Light and Power Company, 257 Iowa 701, 134 N.W. 2d 335, 337 (1965).

7. MidAmerican suggests that this proceeding is complete and that the matter is ripe for the expeditious issuance of a Final Decision. There is absolutely no need or reason to require the filing of additional briefs or to permit additional oral arguments in this proceeding. An extensive two-day public hearing was held at which all parties were given the opportunity to fully present their evidence and arguments. The 554 pages of transcript are a testament to the fact that the parties took full advantage of that opportunity.

In addition, the parties have already briefed the issues in this case. No new issues have been raised. In addition to a prehearing brief submitted by MidAmerican on July 12, the Administrative Law Judge requested and received posthearing briefs from MidAmerican, the Office of Consumer Advocate, NGPL, and Mr. Burke. Thus, the issues have been fully briefed and argued.

In addition to there being no need or reason to require additional argument, there are compelling reasons **not** to since that would only serve to further delay the construction of this pipeline and the provision of the benefits of the pipeline to MidAmerican's customers. Further, it would place in grave peril MidAmerican's ability to supply the natural gas service that is vital to the commencement of operations at the Guardian Industries glass manufacturing plant now under construction in DeWitt. Consequently, any such delay would only serve to harm MidAmerican, its customers, and the State of Iowa.

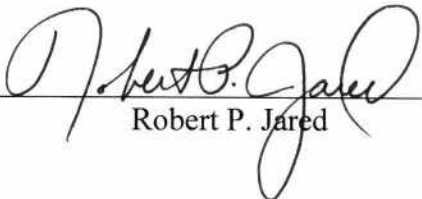
Respectfully submitted,
MIDAMERICAN ENERGY COMPANY

By 
One of its attorneys

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CERTIFICATE OF SERVICE

I hereby certify that I have on this 1st day of December, 1995, served one copy of MidAmerican Energy Company's Response to Notices of Appeal 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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LuAnn Beck
12628 Highway 62
Maquoketa, Iowa 52060

Jack P. Beck
Mary A. Beck
20498 186th Street
Maquoketa, Iowa 52060

Hawkeye Bank of Dubuque
300 North 2nd Street
Bellevue, Iowa 52031

Hawkeye Bank of Dubuque
7th & Locust
Box 148
Dubuque, Iowa 52004-0148

Loras J. Delaney
JoAnn M. Delaney
29772 216th Avenue
LaMotte, Iowa 52054

Leroy Marcus
Madonna Marcus
24118 216th Avenue
LaMotte, Iowa 52054

Tom Marcus
Box 81
Andrew, Iowa 52030

Loren J. Kilburg
RR 2
LaMotte, Iowa 52054

The Estate of Anna M. Dunne
John V. Dunne
21733 216th Avenue
LaMotte, Iowa 52054

Patricia A. Turner
Ralph Turner, M.D.
4215 El Rancho Drive
Davenport, Iowa 52806

John V. Dunne
21733 216th Avenue
LaMotte, Iowa 52054

Joseph P. Wirtz, Estate
Margaret Wirtz, Executor
21869 216th Avenue
LaMotte, Iowa 52054

Joseph Dunne
17935 167th Avenue
Maquoketa, Iowa 52060

John Vincent Dunne, Jr.
21733 216th Avenue
LaMotte, Iowa 52054

Dorothy Stuhr
Darold Stuhr
24992 Highway 61
Zwingle, Iowa 52079

Peter Dunne
22258 216th Avenue
LaMotte, Iowa 52054

Jack P. Beck
Marilyn Ann Beck
20498 186th Street
Maquoketa, Iowa 52060-9079

Dale E. Eggers, Executor of the
Estate of Elma S. Eggers
21600 171st Street
Maquoketa, Iowa 52060

Lorraine Becker
1145 Jefferson
Fennimore, Wisconsin 53809

United States of America,
Acting through the Farmers
Home Administration
U.S. Dept. of Agriculture
Box 1176
Maquoketa, Iowa 52060

Allan A. Deppe
Lucille M. Deppe
21721 167th Street
Maquoketa, Iowa 52060

John R. Deppe
Mary Joell Deppe
21938 150th Street
Maquoketa, Iowa 52060

Paul S. Pillard, Jr.
1564 Highway No. 61
Delmar, Iowa 52037

Mary Louise Wilson
R.R. #2, Box 42
Delhi, Iowa 52223

Allan W. Till
Karen L. Till
7707 Highway 62
Maquoketa, Iowa 52060

Osmond L. Carlson
Evelyn M. Carlson
7580 Highway 62
Maquoketa, Iowa 52060

Shirley M. Henning
24590 Dark Hollow Road
Maquoketa, Iowa 52060

John Leo Costello
Bridget M. Costello
Box 62
Delmar, Iowa 52037

Daniel G. Burke
Karen Burke
2518 238th Street
DeWitt, Iowa 52742

First Central State Bank
P.O. Box 119
DeWitt, Iowa 52742

Burke Family Farms
% Daniel Burke
2518 238th Street
DeWitt, Iowa 52742

Berna L. Scheeder Sagers
121 Waverly
Hollister, Missouri 65672

Double M Farms
1773 270th Avenue
Delmar, Iowa 52037

Rae J. McClimon
Lois K. McClimon
2671 145th Street
Delmar, Iowa 52037

Anna Mae McClimon-Kraus
Dennis R. Kraus
% Rae J. McClimon
2671 145th Street
Delmar, Iowa 52037

Ed McClimon
2636 Highway 136t
Delmar, Iowa 52037

Charles W. Burke
Joan Burke
1983 290th Avenue
DeWitt, Iowa 52742

John W. Watters
1536 280th Avenue
Charlotte, Iowa 52731

Sean Watters
1536 280th Avenue
Charlotte, Iowa 52731

George M. Glahn
% Jon Glahn
1721 9th
Camanche, Iowa 52730

Spain Farms, Inc.
1537 280th Avenue
Charlotte, Iowa 52731

Paul Spain, Pres.
Delores Spain
1116 1st Street
DeWitt, Iowa 52742

Farm Credit Services
Attn: Ken Hanus
Box 328
DeWitt, Iowa 52742-0328

Palco Farms, Ltd.
1698 270th Avenue
Delmar, Iowa 52037

Paul Godes Trust
1698 270th Avenue
Delmar, Iowa 52037

Anna Mae Godes Trust
1702 270th Avenue
Delmar, Iowa 52037

Oliver Roeder
Margaret Roeder
RR 1; Box 7A
Bryant, Iowa 52727

Harold McMain
Dorothy McMain
1822 270th Avenue
Delmar, Iowa 52037

James L. Gannon
Madonna E. Gannon
1797 270th Avenue
Delmar, Iowa 52037

Dean Gannon
P.O. Box 275
Wheatland, Iowa 52777

Jim Hand
1766 280th Avenue
Charlotte, Iowa 52731

Frances J. McAllister
2722 Iowa Street
Davenport, Iowa 52803

Joseph McGuire
Lenore McGuire
2927 230th Street
DeWitt, Iowa 52742

John R. Schumann
Lois G. Schumann
2563 340th Avenue
DeWitt, Iowa 52742

DeWitt Bank & Trust Co.
815 6th Avenue
DeWitt, Iowa 52742

Brad Tobey
260th Street
Low Moor, Iowa 52757

Karl Nelson
Kathleen Nelson
% Metro Realty & Farm Mgt.
P.O. Box 611
Ottumwa, Iowa 52501

William Willrett
1007 Brookview Drive
DeWitt, Iowa 52742

Karl Nelson
Kathleen Nelson
% James H. Jensen
1226 33rd Street
Ft. Madison, Iowa 52625

DAJAT Enterprises, Inc.
1403 3rd Street
Camanche, Iowa 52730

Lewis Schoening
2911 262nd Street
DeWitt, Iowa 52742

Phoenix Farms Co.
1021 11th Street
DeWitt, Iowa 52742

Lawrence L. Harmsen
2933 262nd Street
DeWitt, Iowa 52742

Baustian Farms, Inc.
18349 210th Street
Davenport, Iowa 52804

Deere & Company
John Deere Road
Moline, Illinois 61265

Chicago Northwestern Railroad
1 Northwestern Center
165 N. Canal Street
Chicago, Illinois 60606

Christopher L. Farwell
Farwell & Bruhn
343 Fifth Avenue South
Clinton, Iowa 52732

Steven J. Spain
Paula Spain
602 Market Street
Delmar, Iowa 52037

Terry J. Spain
Helen Spain
1673 280th Avenue
Charlotte, Iowa 52731

Larry Spain
Nancy Spain
1426 280th Avenue
Delmar, Iowa 52037

Mona K. Griep
3237 270th Avenue
DeWitt, Iowa 52742

Harold & Harriet Hand
1826 280th Avenue
DeWitt, Iowa 52742

Guy Ewoldt
2553 110th Street
Maquoketa, Iowa 52060

Gerald J. Farrel
1278 260th Avenue
Delmar, Iowa 52037

Thelma M. Keil
402 State Street
Bellevue, Iowa 52031

Kevin Colan
1970 280th Avenue
DeWitt, Iowa 52742

Gary Marcus
Bradley J. Marcus
19784 Bellevue - Cascade Road
LaMotte, Iowa 52054

Jack Dunne
21696 216th Avenue
LaMotte, Iowa 52054

Kelly Keeney
1321 260th Avenue
Delmar, Iowa 52037

Don McMain
1773 230th Avenue
Delmar, Iowa 52037

Cleona Paysen
2368 300th Avenue
DeWitt, Iowa 52742

Dave Dunne
Sharon Dunne
24552 81st Street
Maquoketa, Iowa 52060

Robert Schwager
22937 150th Street
Maquoketa, Iowa 52060

Richard Gisell
22148 134th Street
Maquoketa, Iowa 52060

Dennis L. Puckett
Sullivan & Ward, P.C.
801 Grand Avenue; Suite 3500
Des Moines, Iowa 50309-2719
LOCAL ATTORNEYS FOR
NATURAL GAS PIPELINE
COMPANY OF AMERICA

Northwestern Bell Telephone
Co.
R-O-W Dept.
2103 E. University
Des Moines, Iowa 50317

American Telephone &
Telegraph Co.
Room 2500; 32 Avenue of the
Americas
New York, New York
10013-2412

Cascade Telephone Co.
108 Philmore Street SE
Cascade, Iowa 52003

Andrew Telephone Co.
P.O. Box 137
Andrew, Iowa 52030

State of Iowa
Department of Transportation
800 Lincoln Way
Ames, Iowa 50010

City of DeWitt, a Municipal
Corp.
P.O. Box 407
DeWitt, Iowa 52742

US Sprint Communications, a
New York General Partnership
P.O. Box 11315
Kansas City, Missouri 64112

Eastern Iowa Light & Power
Cooperative
P.O. Box 3003
Wilton, Iowa 52788-3003

Peoples Natural Gas
P.O. Box 669
Maquoketa, Iowa 52060

Northern Natural Gas Co.
Attn: Gary Smith
Bristol Building
7055 Vista Drive
West Des Moines, Iowa
50266-9311

Interstate Power Co.
Attn: M.F. Jorgensen
1000 Main
P.O. Box 769
Dubuque, Iowa 52001

Preston Municipal Natural Gas
Dept.
12 W. Gillet
Preston, Iowa 50269

Central Iowa Power Cooperative
P.O. Box 2517
Cedar Rapids, Iowa 52406

Maquoketa Municipal Power
201 E. Pleasant Street
Maquoketa, Iowa 52060

IES Utilities, Inc.
261 South 6th Avenue
DeWitt, Iowa 52742

Williams Pipeline Co.
Attn: D.L. Richardson
912 First Avenue
Coralville, Iowa 52241

Long Grove Municipal Light
Dept.
P.O. Box 210
Long Grove, Iowa 52756

Eldridge Municipal Light Dept.
305 N. 3rd Street
P.O. Box 375
Eldridge, Iowa 52748

Dome Pipeline Co.
Attn: Wallace Hill
P.O. Box 1430
Iowa City, Iowa 52244

MAPCO
P.O. Box 1308
Iowa City, Iowa 52244

Maquoketa Valley Rural
Electric Coop.
109 N. Huber
P.O. Box 370
Anamosa, Iowa 52205

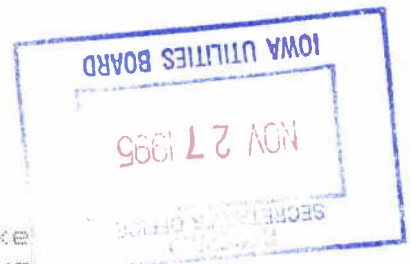
Iowa Electric Light & Power
Co.
P.O. Box 351
Cedar Rapids, Iowa 52406

Enron Liquids Pipeline Co.
Attn: Richard Krejci
4401 Vandalia Road
Des Moines, Iowa 50317

Peoples Natural Gas
701 Locust
Dubuque, Iowa 52001

Williams Pipeline Company
8038 St. Joes Prairie Road
Dubuque, Iowa 52003

Christopher B. Clark
Interstate Power Company
1000 Main Street
P.O. Box 769
Dubuque, Iowa 52004



RECORDS CENTER
ORIGINAL
DO NOT REMOVE

Charles W. Burke
1983 - 290th Ave
DeWitt, Ia 52742
November 24, 1995

Office Closed 11/24/95
Delivered To Office 11/27/95

DISTRIBUTION	
<input type="checkbox"/>	Dir.
<input type="checkbox"/>	Asst. Mgr.
<input type="checkbox"/>	Exec. Sec.
<input type="checkbox"/>	Ad. Staff
<input type="checkbox"/>	R.E.P.
<input checked="" type="checkbox"/>	B.R.S.E.
<input type="checkbox"/>	Gen. Coun.
<input type="checkbox"/>	Pub. Info.
<input type="checkbox"/>	O.C.A.

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

Re: Docket No. P-831

Dear Mr. Vawter:

Enclosed for filing are an original and ten copies of the Appeal to Iowa Utilities Board of Proposed Decision and Order Granting Permit and on Motion For Expedited Consideration and Bifurcation of Permit by Donald G. Henry, Administrative Law Judge, to be filed on behalf of several farmer and/or landowners. Also enclosed is a Certificate of Service.

I might point out that several more farmer and/or landowners would have likely been willing to sign this appeal if we had more time. We only started to obtain signatures on November 22, 1995. With Thanksgiving on November 23, 1995 several were not home, and no effort was made to obtain appeal signatures on land located in Dubuque or Scott counties.

Thank You,

Charles W. Burke

cc: Mr. Donald G. Henry, Administrative Law Judge
Mr. Donald J. Stursma
Service List

DEPARTMENT OF COMMERCE

UTILITIES DIVISION

Docket No. P-831

Appeal to Iowa Utilities Board of Proposed Decision and Order Granting Permit By Donald G. Henry, Administrative Law Judge & Appeal to Iowa Utilities Board of Ruling On Motion For Expedited Consideration and Bifurcation of Permit By The Same Judge Henry Judge Henry Issued On November 9, 1995 By Several Farmer & Landowner Objectors

We, the undersigned, hereby wish to ratify and affirm the Appeal to Iowa Utilities Board of Proposed Decision and Order Granting Permit and Appeal to Iowa Utilities Board of Ruling On Motion For Expedited Consideration and Bifurcation of Permit, both rulings by Judge Henry and both appeals submitted by Charles W. Burke and both appeals attached hereto. This appeal dated November 24, 1995.

In addition, we wish to appeal the method of payment for those who granted voluntary easements to MidAmerican. Those who granted voluntary easements early on were told "sign now and no one will receive any more per acre", yet those who granted easements later in the process received more per acre. We have heard of some receiving over 46% of what the earlier signers received per acre.

Signature	Address	City & State	Zip Code
Mart Connell	1844 230 th Ave	Delmar, Ia.	52037
Lera Connell	1844 230 th Ave	Delmar Ia	52037
Karen Burke	1966 290 th Ave	DeWitt IA	52742
Bob G. Burke	1966 290 AVE	DEWITT IA	52742
Burke Family Farmer & Co. W. P.	Box 119	DeWitt, Ia.	52742
Martin Hartmann	2296 290 th Ave	DeWitt, Ia.	52742
Mary Hartmann	2296 290 th Ave	DeWitt, Ia.	52742
Charles Harrington	2816 234 th St.	De Witt, Iowa	52742
Charles Harrington	2816 234 th St.	De Witt, Iowa	52742
Gerald J. Jarnell	1278 760 th Ave	Palmar Ia	52037-9184
Harold Hand	1826-280 th Ave	De Witt, Iowa	52742
Harriet Hand	1826-280 th Ave	De Witt, Ia.	52742
Green Nolan	1970 280 AVE	DeWitt, Ia	52742
Sarahy Nolan Gattish	1971-280 Ave	De Witt, Ia	52742

RECORDS CENTER
ORIGINAL
DO NOT REMOVE

STATE OF IOWA
DEPARTMENT OF COMMERCE

UTILITIES DIVISION

RECORDS CENTER
ORIGINAL
DO NOT REMOVE

Docket No. P-831

Appeal to Iowa Utilities Board of Proposed Decision and Order
Granting Permit By Donald G. Henry, Administrative Law Judge
& Appeal to Iowa Utilities Board of Ruling On Motion For Expedited
Consideration and Bifurcation of Permit By The Same Judge Henry
Judge Henry Issued On November 9, 1995
By Several Farmer & Landowner Objectors

We, the undersigned, hereby wish to ratify and affirm the Appeal to
Iowa Utilities Board of Proposed Decision and Order Granting Permit
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Consideration and Bifurcation of Permit, both rulings by Judge Henry
and both appeals submitted by Charles W. Burke and both appeals
attached hereto. This appeal dated November 24, 1995.

Signature Address City & State Zip Code

Ralph A. Turner	4215 El Paso Dr. Des Moines	IA	52806
John McLeupen	2163 340th Ave DeWitt, IA	IA	52742
Lori A. Schuman	2563 340th Ave DeWitt, IA	IA	52742
Joan E. Burke	1983-290th Ave DeWitt	IA	52742
Joe M. Gung	2927 230th St DeWitt	IA	52742
Lynne M. Gung	2927-230 St DeWitt	IA	52742
Larry Hornum	2933-262 St DeWitt	IA	52742
W. W. W. W.	1007 1300th Ave DeWitt	IA	52742
Dances & McLeupen	2722 Iowa Davenport-IA	IA	52803

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES DIVISION

Docket No. P-831

Appeal to Iowa Utilities Board of Proposed Decision and Order
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Signature Address City & State Zip Code

John W. Watters	1536-280th Ave	Charlotte Iowa	52731
Raeannary Watters	1536-280th Ave	Charlotte, Ia.	52731
John W. Watters	1536-280th Ave	Charlotte, Ia.	52731
BURKE FAMILY Farms Charles W. Burke	Box 119	De Witt IA	52742
Charles W. Burke	1983-290th Ave	De Witt Ia	52742

DEPARTMENT OF COMMERCE

UTILITIES DIVISION

Docket No. P-831

Appeal to Iowa Utilities Board of Proposed Decision and Order Granting Permit By Donald G. Henry, Administrative Law Judge & Appeal to Iowa Utilities Board of Ruling On Motion For Expedited Consideration and Bifurcation of Permit By The Same Judge Henry Judge Henry Issued On November 9, 1995 By Several Farmer & Landowner Objectors

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Signature	Address	City & State	Zip Code
John V. Dunne	21696-21681	La Motte, Ia.	52054
Mary E. Dunne		La Motte Ia	52054
Joe P. Wirtz Estate (M.R.W. - Executor)	21569-216 th Avenue	La Motte, Iowa	52054-4415
Nadanna Fuggen	28633 216 Ave.	La Motte, Ia	52054
George Fuggen	"	"	"
Dorothy Stuke	24992 Hwy 61	Zwingle, Iowa	52079
Darrell Stuke	24992 Hwy 61	Zwingle Iowa	52079
Suede Carlson	RR #3	Maguoketa, Iowa	52060
Evelyn Carlson	RR #3	Maguoketa, Iowa	52060
Dan Dunne	24552 81ST	Maguoketa, Ia	52060
Peter Dunne	RR	La Motte, Ia	52054
Shaun Dunne	24552 81ST	Maguoketa Ia	52060

STATE OF IOWA
DEPARTMENT OF COMMERCE

UTILITIES DIVISION

Docket No. P-831

Appeal to Iowa Utilities Board of Proposed Decision and Order
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Signature	Address	City & State	Zip Code
Spain Farms Inc	1673 - 280 th Ave	Charlotte Ia	52731
by Steve Spain	602 Market St	Delmar Ia	52037
Spain Bros	1673 - 280 th Ave	Charlotte Ia	52731
by Steve Spain	602 Market St	Delmar, Ia	52037
Spain Farms			
Paul Spain	1116 1 st St	De Witt Ia	52742
Delores Spain	1116 1 st St	De Witt Ia	52742
Paula Spain	602 Market St	Delmar, Ia	52037
Steve Spain	602 Market St	Delmar Ia	52037
Jimmy Spain	1673-280 th Avenue	Charlotte, Iowa	52731
Rolon Spain	1673 280 th Ave	Charlotte, Ia	52731
Mary Spain	1426 280 AVE	Delmar Ia	52037
Nancy Spain	1426 280 AVE	DELMAR IA	52037
Guth Spain	829- Brookview Dr	De Witt IA	52742
Pat Dunlavy	3528 330 Ave	Charlotte Ia	52731
Jeff Dunlavy	1528 330 Ave	Charlotte Ia	52731
Lita Dunlavy	1528 330 th Ave	Charlotte IA	52731
Paul L Spain	1326 5 th AVE	De Witt, Ia	52742

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES DIVISION

Docket No. P-831

Appeal to Iowa Utilities Board of Proposed Decision and Order
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Signature	Address	City & State	Zip Code
-----------	---------	--------------	----------

Margaret Roeder	3919 Hwy 136	Bryant Ia.	52727-9602
	3919 Hwy 136	Bryant, Ia.	52727 -9602

Oliver Roeder

Jim Thomas	1689-330 th Ave	Charlotte	52731
Oliver Roeder	2368 - 300 th Ave	De Witt Ia.	

Dee Lodes	1698 270 th Ave	Delmar IA	52037-9130
-----------	----------------------------	-----------	------------

Bridget Lodes	2109 College St. #46	Cedar Falls IA	50613
---------------	----------------------	----------------	-------

Paul Lodes	1698 270 th Ave	Delmar Iowa	52037
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Lyle McMain	2498 190 th St	Delmar Ia	52037
-------------	---------------------------	-----------	-------

Dorothy McMain	1822 - 270 th Ave,	Delmar, Ia	52037
----------------	-------------------------------	------------	-------

Don McMain	1773 270 Ave	Delmar, Ia	
------------	--------------	------------	--

Harold McMain	1822 - 270 th Ave	Delmar Iowa	
---------------	------------------------------	-------------	--

Lynna M. Lodes	1702 - 270 th	Delmar	
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STATE OF IOWA
DEPARTMENT OF COMMERCE

UTILITIES DIVISION

Docket No. P-831

Appeal to Iowa Utilities Board of Proposed Decision and Order
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Signature	Address	City & State	Zip Code
Don & Glenna	1721 9th St.	CAMANCHE, IA	52130
Edward McClimon	2636 Hwy 136	Delmar IA	52037
Ardis McClimon	2636 Hwy 136	Delmar IA	52037
Louis McClimon	2671-145th	Delmar, Ia	52037
Joe McChinn	2671 145	Delmar Ia	52037

DEPARTMENT OF COMMERCE

UTILITIES DIVISION

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who granted voluntary easements to MidAmerican. Those who granted
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receive any more per acre", yet those who granted easements later
in the process received more per acre. We have heard of some
receiving over 46% of what the earlier signers received per acre.

Signature	Address	City & State	Zip Code
John R. Costello	P.O. Box 62	Delmar, Ia	52037
Bridget Costello	Bx. 62	Delmar, IA.	52037
Chris Gorman	by North Gorman Box 1418	Delmar, IA	52037
Ella Gorman	by North Gorman Box 1418	Delmar, IA	52037
Robert Gorman	29832 Hwy 64	Magueta, IA	52060
Kathy Gorman	29832 Hwy 64	Magueta, IA	52060
Cheryl Haverly-Felten	25745 Hwy 64	Mag. Ia	52060
Ron Felten	25745 Hwy 64	Mag. IA	52060
Leo R. Westphal	1069 252nd Ave	Mag	52060
Louis F. Westphal	1069 252nd Ave	Mag	52060
Paul (Ruckert)	2800 Hwy 136	Delmar, Ia	52037
Paul Ruckert	144 1st Ave	Delmar, Ia	52037
Shirley Keeney	1321 - 260th Ave	Delmar, Ia	52037

DEPARTMENT OF COMMERCE

UTILITIES DIVISION

Docket No. P-831

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Signature	Address	City & State	Zip Code
Rich Henry	1321-260am	Delmar	52037
Todd Westphal	Box 66	Delmar IA	52037
Virginia Zeltner	24940 Hwy 64	Maguoketa	52060
Lyle Zeltner	- 24940 Hwy 64	Maguoketa	52060
Paul Hinton	2568 110 th Street	Maguoketa IA	52060
Margo Christensen	2568 110 th St	Maguoketa IA	52060

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES DIVISION

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Signature	Address	City & State	Zip Code
	1966 290 Ave	NEW T IA	52742
Burke Family Farms 	Box 119	NEW T IA	52742
	1766 280th Ave	Charlotte Ia	52731
	1766 280th	Charlotte, Ia	52731

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES DIVISION

Docket No. P-831
Appeal to Iowa Utilities Board of Proposed Decision and Order
Granting Permit By Donald C. Henry, Administrative Law Judge
Issued On November 9, 1995
By Objector, Charles W. Burke
Spokesman For Most Farmer Objectors

1 I, Charles W. Burke, wish to appeal to Iowa Utilities Board the
2 Proposed Decision and Order Granting Permit by Donald C. Henry,
3 Administrative Law Judge, issued November 9, 1995 for the following
4 reasons:

5 (1) Judge Henry admits to a major problem in his Proposed Decision &
6 Order Granting Permit on Pages 14 & 15 as follows: "While none of
7 the parties articulates a higher standard, their evidentiary pres-
8 entations and arguments certainly suggest that more should be
9 required of the proposed pipeline than customarily has been
10 required of other pipelines. . . .Perhaps a higher standard is
11 appropriate in proceedings like this one where the services
12 proposed to be rendered duplicate to some extent services already
13 available. It is not clear whether MidAmerican's proposal
14 would satisfy a higher standard. Both MidAmerican and Consumer
15 Advocate predict annual gas cost savings based on costs at the
16 time MidAmerican gathered bids. NGPC's analysis, based on dis-
17 counted rates recently offered MidAmerican by NGPC, concludes
18 there are no savings to be had, even when NNG's discounted rates
19 are used in place of its maximum tariff rates. Future savings,
20 which depend on future costs, are even less certain. The net
21 present value of the project is negative if NGPC has sufficient
22 capacity to ship all of the required gas from the Oklahoma

1 . . . supply region, something NGPC claims it will have. (Tr 348) The
2 inclusion of appropriate incremental operation and maintenance
3 expenses into the cost-benefit framework would make the project
4 even less attractive. However, it is for the Board to determine
5 whether sound public policy requires application of a higher
6 standard." It would seem that common sense and Iowa Code 474.3
7 require it. Iowa Code 474.3 states in part "The Utilities
8 Board . . . in such manner as will best conduce to the proper
9 dispatch of business and the attainment of justice." It is
10 certainly logical that you should order the BEST alternative
11 for all. It is even more logical when you consider the likelihood
12 for a true net deficit if the MidAmerican proposal is allowed to
13 be built.

14 There were two alternative methods of meeting the need for natural
15 gas discussed at the hearing and by Judge Henry in his decision.
16 The MidAmerican method calls for the construction of 62+ miles
17 of high pressure 16" pipeline costing \$18,749,000. (Page 7)

18 The NGPC method proposes that the new Guardian plant be supplied
19 from IES Utilities Inc.'s distribution system or from a new 17.3
20 miles of 6-5/8" diameter lateral lowpressure pipeline with a cost
21 of \$3,570,000 (Page 11), giving them the dual sources of gas
22 that MidAmerican stated that Guardian wanted.

23 Judge Henry (Page 8) states that MidAmerican "suggests potential
24 savings of \$2.5 to \$4.4 million per year on its costs for purchased
25 gas. The most appropriate estimate of potential savings is the
26 lower end of that range. . . .MidAmerican's estimate of potential
27 savings does not reflect the costs of constructing the new pipeline
28 or modifying the distribution system, and is based on gas and trans-
29 portation costs as measured at the time MidAmerican's analysis
30 was undertaken." All of this is compared to the current method,
31 not compared to the alternative. Judge Henry noted that MidAmerican

1. failed to include any provision for operation & maintenance in
2 connection with the proposed capital expenditure of \$18,749,000.
3 Can we assume that operation includes depreciation, property taxes
4 etc.? The projected savings uses a constant price differ-
5 ential, yet Ms. Schillinger admitted in questioning that never
6 occurred in the past (Tr.152). The \$4.4 million projection comes
7 from looking at maximum tariff rates which Ms. Schillinger admitted
8 is not likely to occur. (Tr.150)

9 Judge Henry states that the Consumer Advocate predicts annual
10 gas cost savings based on costs at the time MidAmerican gathered
11 bids. Judge Henry points out several potential problems with
12 the Consumer Advocate's expert (economic) witness on Page 10. I
13 believe it is safe to say that there is not likely to be any net
14 savings when the Judge's cautions are considered.

15 On Page 10 & 11 Judge Henry discusses NGPC's analysis of the Mid-
16 American proposal compared to their alternative proposal. In
17 summary "NGPC's conclusion is that natural gas delivered through
18 its system is \$2.2 million per year less expensive than natural gas
19 delivered through NNG's system."

20 When you consider the above facts it is difficult to understand
21 why the Consumer Advocate or the Board would not have wanted an
22 independent expert opinion as to which alternative is BEST.

23 It should be noted, however, that the Consumer Advocate's
24 expert was not even asked to look at the alternative recommended
25 by NGPC. That does not appear to be in line with the duties
26 of the Consumer Advocate outlined in Iowa Code 475A.2.

27 (2) I am convinced that someone erred in calling witnesses for the
28 hearing of July 27 & 28, 1995. It would seem to me that would
29 be the responsibility of either MidAmerican, Consumer Advocate or
30 the Board. Before the hearing there was enough in the record about
31 the Guardian glass plant and IES Industries, Inc. as a potential

1 supplier that common sense would say that they should have been
2 available for cross examination. In addition, in my direct testi-
3 mony filed on July 20, 1995 I requested that responsible officials
4 of Guardian and IES Industries, Inc. be present at the hearing.
5 The Board, MidAmerican and the Consumer Advocate all received this
6 request.

7 (3) I would like to include the information included in my brief filed
8 in August 1995. I see no reason to repeat the information in this
9 appeal as some of it would be repetitious.

10 (4) I also request that any additional testimony by MidAmerican and
11 by Guardian Industries in connection with MidAmerican's motion
12 filed on October 25, 1995 be excluded from the record, because
13 that additional testimony is completely contrary to what Judge
14 Henry stated would be allowed in his instructions at the hearing
15 in July 1995.

16 (5) This decision was unsupported by substantial evidence in the
17 record when that record is viewed as a whole and the decision
18 was unreasonable, arbitrary and capricious, characterized by an
19 by an abuse of discretion or a clearly unwarranted exercise of
20 discretion.

21 WHEREFORE, I, Charles W. Burke as spokesman for most farmer objectors
22 respectfully requests that the recent Proposed Decision and Order
23 Granting Permit, issued on November 9, 1995 be rejected as filed and the
24 Permit and the right of eminent domain requested by MidAmerica be denied.
25 We further recommend that approval be granted to construct a small
26 low pressure line from Davenport to the Guardian Plant at DeWitt if
27 that is legal. Our group would cooperate in a speedy process for
28 that goal.

Respectfully submitted,



Charles W. Burke, Spokesman
For Most of the Farmer Objectors

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES DIVISION

Docket No. P-831
Appeal to Iowa Utilities Board of Ruling On Motion For
Expedited Consideration and Bifurcation of Permit By Donald G. Henry,
Administrative Law Judge, Issued November 9, 1995
By Objector, Charles W. Burke
Spokesman For Most Farmer Objectors

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2 Expedited Consideration and Bifurcation of Permit" by Donald C
3 Henry, Administrative Law Judge, issued November 9, 1995 for the
4 following reasons:

5 (1) This motion includes additional testimony by MidAmerican and by
6 Guardian Industries (Guardian). This additional testimony is
7 completely contrary to what Judge Henry stated would be
8 allowed in his instructions at the hearing in July. Therefore,
9 I request that any additional testimony by MidAmerican and
10 Guardian Industries in connection with MidAmerican's motion filed
11 October 25, 1995 be excluded from the record.

Respectfully submitted,



Charles W. Burke, Spokesman
For Most of the Farmer Objectors

CERTIFICATE OF SERVICE

I hereby certify that I have on this 24th day of November 1995 served a copy of the foregoing:

- 1) Letter of transmittal dated 11/24/95 for mailing of Appeal for Judge Henry's Proposed Decision and Order Granting Permit and Judge Henry's Decision on MidAmerican's motion for Expedited Consideration and Bifurcation of their Permit request for several farmers and/or landowners to Executive Secretary of Iowa Utilities Board.
- 2) Both Appeals of Objector Charles W. Burke as Spokesman for most farmer objectors which were attached to several farmer and/or landowners appeals and mailed to all on the Service Listing.

in Docket No. P-831, 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.



Charles W. Burke

SERVICE LIST FOR DOCKET NO. P-831

Robert P. Jared
MidAmerican Energy Company
P.O. Box 4350
Davenport, Ia 52808

Diane Munns
Iowa Utilities Board
Lucas State Office Building
Des Moines, Ia 50319

Department of Justice
Office of Consumer Advocate
Lucas State Office Building
Des Moines, Ia 50319

Emmitt House
Georgetta Baker
Natural Gas Pipeline Co. of America
701 East 22nd Street
Lombard, Il 60148

All Farmers and/or
Landowners Signing
The Appeal Received
Copy of Both Appeals
Upon Signing

Dennis L. Puckett
Sullivan & Ward, P.C.
801 Grand Ave, Suite 3500
Des Moines, Ia 50309-2719

IES Utilities, Inc.
261 South 6th Ave
DeWitt, Ia 52742

Christopher P. Clark, Attorney
Interstate Power Company
P.O. Box 769
Dubuque, Ia 52004-0769

City of DeWitt
DeWitt, Ia 52742

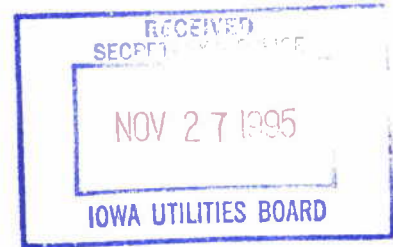
Hawkeye Bank of Maquoketa
120 S Main
Maquoketa, Ia 52060

Maquoketa State Bank
203 N Main
Maquoketa, Ia 52060

Charles W. Burke
1983 - 290th Ave
DeWitt, Ia 52742
November 22, 1995

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

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ORIGINAL
DO NOT REMOVE



Re: Docket No. F-831

Dear Mr. Vawter:

Enclosed for filing are an original and ten copies of the Appeal to Iowa Utilities Board of Proposed Decision and Order Granting Permit by Donald G. Henry, Administrative Law Judge, to be filed on behalf of Charles W. Burke, an objector, landowner and spokesman for the majority of farmer objectors in the Subject proceedings. Also enclosed for filing are an original and ten copies of the Appeal to Iowa Utilities Board of Ruling on Motion For Expedited Consideration and Bifurcation of Permit By Donald G. Henry, Administrative Law Judge, to be filed on behalf of Charles W. Burke, an objector, landowner and spokesman for the majority of farmer objectors in the Subject proceedings. Also enclosed is a Certificate of Service.

Thank You,

Charles W. Burke

cc: Mr. Donald G. Henry, Administrative Law Judge
Mr. Donald J. Stursma
Service List

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STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES DIVISION

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STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES DIVISION

Docket No. P-831

Appeal to Iowa Utilities Board of Ruling On Motion For
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Administrative Law Judge, Issued November 9, 1995

By Objector, Charles W. Burke
Spokesman For Most Farmer Objectors

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For Most of the Farmer Objectors

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of Charles W. Burke, an objector in Docket No. P-831, 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.

CJS

SERVICE LIST FOR DOCKET NO. P-831

Robert P. Jared
MidAmerican Energy Company
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Davenport, Ia 52808

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Agricultural Investments
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Madonna H. Fuegen
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LaMotte, Iowa 52054

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Bellevue, Iowa 52031

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Maquoketa, Iowa 52060

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LuAnn Beck
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Maquoketa, Iowa 52060

Jack P. Beck
Mary A. Beck
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Maquoketa, Iowa 52060

Hawkeye Bank of Dubuque
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Hawkeye Bank of Dubuque
7th & Locust
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Dubuque, Iowa 52004-0148

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LaMotte, Iowa 52054

Leroy Marcus
Madonna Marcus
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LaMotte, Iowa 52054

Tom Marcus
Box 81
Andrew, Iowa 52030

Loren J. Kilburg
RR 2
LaMotte, Iowa 52054

The Estate of Anna M. Dunne
John V. Dunne
21733 216th Avenue
LaMotte, Iowa 52054

Patricia A. Turner
Ralph Turner, M.D.
4215 El Rancho Drive
Davenport, Iowa 52806

John V. Dunne
21733 216th Avenue
LaMotte, Iowa 52054

Joseph P. Wirtz, Estate
Margaret Wirtz, Executor
21869 216th Avenue
LaMotte, Iowa 52054

Joseph Dunne
17935 167th Avenue
Maquoketa, Iowa 52060

John Vincent Dunne, Jr.
21733 216th Avenue
LaMotte, Iowa 52054

Dorothy Stuhr
Darold Stuhr
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Zwingle, Iowa 52079

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Jack P. Beck
Marilyn Ann Beck
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Maquoketa, Iowa 52060-9079

Dale E. Eggers, Executor of the
Estate of Elma S. Eggers
21600 171st Street
Maquoketa, Iowa 52060

Lorraine Becker
1145 Jefferson
Fennimore, Wisconsin 53809

United States of America,
Acting through the Farmers
Home Administration
U.S. Dept. of Agriculture
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Maquoketa, Iowa 52060

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Lucille M. Deppe
21721 167th Street
Maquoketa, Iowa 52060

John R. Deppe
Mary Joell Deppe
21938 150th Street
Maquoketa, Iowa 52060

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Delmar, Iowa 52037

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Delhi, Iowa 52223

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Karen L. Till
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Maquoketa, Iowa 52060

Osmond L. Carlson
Evelyn M. Carlson
7580 Highway 62
Maquoketa, Iowa 52060

Shirley M. Henning
24590 Dark Hollow Road
Maquoketa, Iowa 52060

John Leo Costello
Bridget M. Costello
Box 62
Delmar, Iowa 52037

Daniel G. Burke
Karen Burke
2518 238th Street
DeWitt, Iowa 52742

First Central State Bank
P.O. Box 119
DeWitt, Iowa 52742

Burke Family Farms
% Daniel Burke
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DeWitt, Iowa 52742

Berna L. Scheeder Sagers
121 Waverly
Hollister, Missouri 65672

Double M Farms
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Delmar, Iowa 52037

Rae J. McClimon
Lois K. McClimon
2671 145th Street
Delmar, Iowa 52037

Anna Mae McClimon-Kraus
Dennis R. Kraus
% Rae J. McClimon
2671 145th Street
Delmar, Iowa 52037

Ed McClimon
2636 Highway 136t
Delmar, Iowa 52037

Charles W. Burke
Joan Burke
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DeWitt, Iowa 52742

John W. Watters
1536 280th Avenue
Charlotte, Iowa 52731

Sean Watters
1536 280th Avenue
Charlotte, Iowa 52731

George M. Glahn
% Jon Glahn
1721 9th
Camanche, Iowa 52730

Spain Farms, Inc.
1537 280th Avenue
Charlotte, Iowa 52731

Paul Spain, Pres.
Delores Spain
1116 1st Street
DeWitt, Iowa 52742

Farm Credit Services
Attn: Ken Hanus
Box 328
DeWitt, Iowa 52742-0328

Palco Farms, Ltd.
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Delmar, Iowa 52037

Paul Godes Trust
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Delmar, Iowa 52037

Anna Mae Godes Trust
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Oliver Roeder
Margaret Roeder
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Bryant, Iowa 52727

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Dorothy McMain
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Madonna E. Gannon
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Dean Gannon
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Frances J. McAllister
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Davenport, Iowa 52803

Joseph McGuire
Lenore McGuire
2927 230th Street
DeWitt, Iowa 52742

John R. Schumann
Lois G. Schumann
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DeWitt, Iowa 52742

DeWitt Bank & Trust Co.
815 6th Avenue
DeWitt, Iowa 52742

Brad Tobey
260th Street
Low Moor, Iowa 52757

Karl Nelson
Kathleen Nelson
% Metro Realty & Farm Mgt.
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Ottumwa, Iowa 52501

William Willrett
1007 Brookview Drive
DeWitt, Iowa 52742

Karl Nelson
Kathleen Nelson
% James H. Jensen
1226 33rd Street
Ft. Madison, Iowa 52625

DAJAT Enterprises, Inc.
1403 3rd Street
Camanche, Iowa 52730

Lewis Schoening
2911 262nd Street
DeWitt, Iowa 52742

Phoenix Farms Co.
1021 11th Street
DeWitt, Iowa 52742

Lawrence L. Harmsen
2933 262nd Street
DeWitt, Iowa 52742

Baustian Farms, Inc.
18349 210th Street
Davenport, Iowa 52804

Deere & Company
John Deere Road
Moline, Illinois 61265

Chicago Northwestern Railroad
1 Northwestern Center
165 N. Canal Street
Chicago, Illinois 60606

Christopher L. Farwell
Farwell & Bruhn
343 Fifth Avenue South
Clinton, Iowa 52732

Steven J. Spain
Paula Spain
602 Market Street
Delmar, Iowa 52037

Terry J. Spain
Helen Spain
1673 280th Avenue
Charlotte, Iowa 52731

Larry Spain
Nancy Spain
1426 280th Avenue
Delmar, Iowa 52037

Mona K. Griep
3237 270th Avenue
DeWitt, Iowa 52742

Harold & Harriet Hand
1826 280th Avenue
DeWitt, Iowa 52742

Guy Ewoldt
2553 110th Street
Maquoketa, Iowa 52060

Gerald J. Farrel
1278 260th Avenue
Delmar, Iowa 52037

Thelma M. Keil
402 State Street
Bellevue, Iowa 52031

Kevin Colan
1970 280th Avenue
DeWitt, Iowa 52742

Gary Marcus
Bradley J. Marcus
19784 Bellevue - Cascade Road
LaMotte, Iowa 52054

Jack Dunne
21696 216th Avenue
LaMotte, Iowa 52054

Kelly Keeney
1321 260th Avenue
Delmar, Iowa 52037

Don McMain
1773 230th Avenue
Delmar, Iowa 52037

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MAPCO
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REC'D
FEB - 1 1996
IOWA UTILITIES BOARD

NO. EQ22278

MOTION FOR EXPEDITED
CONSIDERATION ON ITEM
NO. 5 OF RELIEF
REQUESTED IN PETITION

3. It is very unlikely that any irreparable damage will be suffered if the stay is denied.

4. Public interest would support allowing the stay. If construction were to continue and petitioners ultimately prevail MidAmerica will have expended a considerable sum of the expected project cost which has been stated on the record to be \$18,749,000 plus costs of easements, engineering, legal, etc. These costs over time will be paid by their customers. Common sense would tell anyone that the construction costs will be much higher constructing this pipeline in these Iowa winter conditions. The largest number of the public that


5. The highest percentage of the public that will be served by this proposed pipeline already have an alternate source of natural gas and are already being served by the alternate source. There are only a very few farmers along the proposed line who do not now have available natural gas, but they are currently being served by other fuel. During the July hearing there were very few that had contracted for service. MidAmerican can tell us how many have at this time.

6. An objective reading of the record as a whole would lead one to believe that a stay would be doing MidAmerican customers a favor. It would appear that this project, when all extra costs are considered, will cause negative net income (comparing, doing or not doing this project). About the only way that will not happen is if the customers are required to pay a higher gas rate.

7. The largest number of customers that could be served by this proposed pipeline are located in the Quad Cities and already have access to two large interstate pipelines with a third proceeding with plans to build a line that will be able to serve the Quad Cities. Another potential customer is the Guardian Glass plant in DeWitt, and they are currently being served by IES Industries. They are spending over \$100 million on their plant without knowing whether this permit would be approved and chose not to testify at the hearing.

WHEREFORE, Petitioners respectfully moves for the expedited consideration on item no. 5 of relief requested in their petition in this case, "Grant to petitioners a stay of the permit without any construction on this project and a stay of the right of condemnation of respondent, MidAmerican Energy Company, pending final outcome of the judicial review proceedings pursuant to Iowa Code Section 17A.19(5)".

Respectfully submitted for Petitioners,



Charles W. Burke
Not An Attorney
But Spokesman For Petitioners

FEB - 1 1996

IOWA UTILITIES BOARD

Petitioners,

) NO.

IOWA UTILITIES BOARD and
MIDAMERICAN ENERGY COMPANY, SUCCESSOR
CORPORATION TO IOWA-ILLINOIS GAS AND
ELECTRIC COMPANY

) PETITION FOR JUDICIAL
) REVIEW

Petitioners, Daniel G Burke, Karen Burke, Double M Farms

Ed McClimon, Charles W Burke, Joan E Burke, John W Watters,

Inc., Palco Farms, Ltd., Paul Godes, Jr., Anna Mae Godes

Joseph McGuire, Lenore McGuire, Kelly Keeney, Luella Keeney, Chris

Marvin Hartmann, Mary Hartmann & Dorothy Dolan Goettsch hereby petition

dated July 11, 1996 and state:

Page 1.

2. Respondent Iowa Utilities Board is an "agency", pursuant to Iowa Code Section 17A.2(1) and 476.1.

3. Respondent MidAmerican Energy Company successor corporation to Iowa-Illinois Gas and Electric Company was a party of record in a contested case before the agency, and is also a corporation with a place of business in Davenport, Scott County, Iowa. Iowa-Illinois home office was also Davenport, Iowa.

4. Venue is appropriate in Clinton County because all the petitioners reside there and all of the land owned by the petitioners which is the subject matter of the contested case and the petition for judicial review is located in Clinton County, Iowa. Iowa Code Section 17A.19(2) The proposed pipeline which permit is requested in this contested case is planned to be constructed in Scott, Clinton and Dubuque Counties, Iowa.

5. On March 7, 1995, the respondent, Iowa-Illinois Gas and Electric Company, filed a petition with the Iowa Utilities Board of the Department of Commerce for a permit to construct, operate and maintain approximately 62 miles of natural gas pipeline, and further petitioned the respondent Board for the right of condemnation with respect to the petitioners' land herein, and, to which the following chronology of events took place:

	Date Issued or Occurred
(1) Informational meetings held in four affected counties	02/01 & 02/95
(2) Iowa-Illinois Gas & Electric Company filed with the Utilities Board for a permit	03/07/95
(3) Public hearing held in Clinton, Iowa.	07/27 & 28/95
(4) Judge Henry (ALJ) issued "Order Establishing Briefing Schedule"	08/01/95
(5) MidAmerican Energy Company's Brief	08/22/95
(6) Charles W Burke & farmer/landowners' Brief	08/22/95
(7) Natural Gas Pipeline Company of America's Brief	08/23/95
(8) Office of Consumer Advocate's Post-Hearing Brief	08/23/95
(9) MidAmerican Energy Company's Motion for Expedited Consideration and Bifurcation of Permit	10/25/95

- (10) Office of Consumer Advocate's Resistance To Motion For Bifurcation Of Permit 10/27/95
- (11) Charles W Burke & farmer/landowners' Objection To Motion For Expedited Consideration and Bifurcation of Permit 10/30/95
- (12) Natural Gas Pipeline Company of America's Resistance To MidAmerican Energy Company's Motion For Expedited Consideration and Bifurcation of Permit 11/03/95
- (13) Judge Henry's (ALJ) "Ruling on Motion For Expedited Consideration and Bifurcation Of Permit" 11/09/95
- (14) Judge Henry's (ALJ) "Proposed Decision And Order Granting Permit" 11/09/95
- (15) Charles W Burke & farmer/landowners' Appeal 11/22/95
- (16) Ninety-nine Farmer/Landowners Appeal 11/24/95
- (17) MidAmerican Energy Company's "Response To Notices Of Appeal" 12/01/95
- (18) Iowa Utilities Board "Order Concerning Response To Notice Of Appeal" 12/04/95
- (19) Charles W Burke & Farmer/Landowners' Response To Iowa Utilities Board "Order Concerning Response To Notice Of Appeal" 12/14/95
- (20) Office Of Consumer Advocate's Response To Appeal 12/18/95
- (21) Iowa Utility Board "Order Affirming Proposed Decision And Order" granting the respondent MidAmerican Energy Company the permit with respect to the pipeline and the right of condemnation with respect to petitioners' land. 01/11/96

6. Petitioners are entitled to judicial review because they have exhausted all adequate administrative remedies and are adversely affected by the agency's actions. Iowa Code Section 479.32 & 17A.19(1).

7. Substantial rights of the petitioners have been prejudiced because the agency action is:

- (1) Unsupported by substantial evidence in the record made before the agency when that record is viewed as a whole;
- (2) Unreasonable, arbitrary and capricious or is characterized by an abuse of discretion or a clearly unwarranted exercise of discretion;
- (3) In violation of constitutional or statutory provisions;
- (4) In excess of the statutory authority of the agency;
- (5) In violation of an agency rule;
- (6) Made upon unlawful procedure;

- (7) Otherwise contrary to law;
- (8) Safety is a major concern of our farmer/landowners. No one gave any testimony to refute the fact that the addition of this proposed 16" high pressure pipeline creates additional risk to the farmers that they do not presently have. (See Transcript page 456, line 13 to page 457, line 16). Mr Stursma, Safety Officer for the IUB testified that they need additional manpower to adequately cover their safety responsibilities, and he does not expect any additional manpower if this 62 mile line is built. (See Transcript, page 520, line 7 to page 538 line 17). Also, please see Burke Exhibit 301 and Burke Exhibit 303.
- (9) Several farmer/landowners were convinced to grant voluntary easements through misrepresentations or fraudulent methods. MidAmerican misrepresented the terms and conditions of the easement price to several farmer/landowners who subsequently granted voluntary easements based upon a non-negotiable price. After that MidAmerican solicited and obtained easements at higher prices from other farmer/landowners. Thus the legal effect of the initial easement should be null and void. (There were several instances, but for one see Transcript, page page 498, lines 12 through 20).
- (10) In violation of farmer/landowner rights;
- (11) The Utility Board has not conducted these proceedings in such a manner as will attain justice.
- (12) Throughout the entire process MidAmerican Energy Company tried to run roughshod over the farmer/landowners by failing to observe the law and by failure to tell the truth. This is a case of the BIG corporation running over the little farmer/landowners without due process;
- (13) Iowa Utility Board's "Order Concerning Response To Notice of Appeal" asked people to respond if they wished to present oral arguments. Burke and farmer/landowners responded timely requesting the opportunity to participate in oral arguments, but the Board refused to allow them the opportunity. (See Charles W. Burke As Spokesman for Most Farmer Objectors Responce to IUB "Order Concerning Response To Notice of Appeal" issued 12/14/95 page 1, lines 4 through 7).
- (14) Throughout this process it appears that the board did not want to get all the facts; they only seemed to be interested in getting MidAmerican Energy Company's position.
- (15) Respondent failed to produce several witnesses that legal counsel for the Utility Board promised Charles Burke before the hearing. The witnesses were supposed to appear to testify and be cross-examined and their failure to appear rendered the record incomplete and permit approval premature. (See Transcript, page 392, lines 12 through 25).


- (16) MidAmerican Energy Company's stated reason for building this dangerous 16" high pressure pipeline is to save money for their customers. Even Judge Henry doubts that there will be any true net savings. MidAmerican's projected savings, although very "ifly", at best results in a reduction in purchased gas costs of approximately \$2.50 to \$5.00 per year for a customer who pays \$500 per year in purchased gas costs. From that small amount this gas customer would have to pay an increased gas cost rate to cover the costs of interest, operation, maintenance, depreciation, property tax etc. associated with the proposed capital capital expenditure of \$18,749,000 plus easement costs, legal, engineering, etc costs for this pipeline. Why are they wasting everyone's time?
- (17) MidAmerican has ignored the law from the beginning on this project. Early in this project thirtys farmer/landowners filed written objections against them for trespassing with the IUB. On 01/22/96 they were at it again, and two farmers filed charges against them with the sheriff's office.
- (18) Iowa Utility Board staff person in explaining this case to the three board members at the 01/05/96 Iowa Utilities Board meeting stated that Mr. Burke was the only person to appeal when, in fact, ninety plus had appealed. At this meeting less than 15 minutes time was spent discussing this complex case including the time spent by the staff person explaining this case. In addition the written order of the board refers to one appealer, not over ninety;
- (19) A few hours of the 07/27/96 hearing were to be confidential with the media and certain others excluded from the hearing, however, the room where the excluded waited had a speaker that carried the hearing. The purpose of this item is to advise the Court of the confidential nature of certain parts, if it still matters considering the previous sentence;
- (20) Judge Henry, in his proposed order, states "Perhaps a higher standard is appropriate in proceedings like this one where the services proposed to be rendered duplicate to some extent services already available. It is not clear whether MidAmerican's proposal would satisfy a higher standard. Both MidAmerican and Consumer Advocate predict annual gas cost savings based on costs at the time MidAmerican gathered bids. NGPC's analysis, based on discounted rates recently offered MidAmerican by NGPC, concludes there are no savings to be had, even when NNG's discounted rates are used in place of maximum tariff rates. Future savings, which depend on future costs, are even less certain. The net present value of the project is negative if NGPC has sufficient capacity to ship all of the required gas from the Oklahoma supply region, something NGPC claims it will have. (Tr. 348) The inclusion of appropriate incremental operation and maintenance expenses into the cost-benefit framework would make the project even less attractive." (See Judge Henrys proposed order, page 14 & 15)
- (21) As farmer/landowners we were told that the pipeline could not be built in the construction area of Highway 561 or adjacent thereto, yet when a new pipeline almost two miles long was built from North of DeWitt in Clinton County to the new Guardian Glass plant it was installed along what formerly was US 61 and along streets in the City of DeWitt. Why can that be done?

- (22) As farmer/landowners we were told the pipeline could not be built along natural identifiable (for Safety) lines such as section lines, roadways etc. yet when this proposed pipeline comes to Deere & Company property or Scott County Park it makes 90 degree turns and follows the roadways. Why not for the farmer/landowners?
- (23) Existing easements allow the transportation of hazardous or nuclear waste. MidAmerican offered to correct this to include only natural gas. (See Transcript page 280, lines 1 through 14) Yet, the mechanics of this has not occurred.
- (24) The Iowa Utilities Board has not notified all required parties on their orders. Notices that they mailed to me on their orders varies from 21 to over 150. How does one be certain that they received all the notices they should have; and
- (25) The farmer/landowners have been required to try to protect their property rights. We are doing this ourselves; the complexity and time involved made hiring attorneys cost prohibitive. We will do our best to comply with the system, and we appreciate the Court's patience.

WHEREFORE, petitioners pray for the following relief:

1. The Court fix a date, time and place of hearing on petitioners' petition as provided by law;
2. The Court order that the petitioners be permitted to offer additional omitted and promised material evidence at the hearing with appropriate witnesses present;
3. The Court reverse the Utility Board's decision and prevent the issuance of the permit to respondent, MidAmerican Energy Company, to construct operate and maintain a natural gas pipeline across petitioners' land, and, furthermore, not permit respondent, Mid-American Energy Company, to have the right of condemnation over the petitioners' land;
4. Require MidAmerican Energy Company to cancel voluntary easements granted by those farmer/landowners who were deceived or fraudulently convinced to grant their voluntary easements. Some of these farmer/landowners are listed as petitioners in this action, and some are not.
5. Grant to petitioners a stay of the permit without any construction on this project and a stay of the right of condemnation of respondent, MidAmerican Energy Company, pending the final outcome of the judicial review proceedings pursuant to Iowa Code Section 17A.19(5); and

6. The Court grant any other appropriate relief from the Utilitiy Boards action, equitable or legal, including, but not limited to, declaratory relief, as the Court deems just and equitable in this case.



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But Spokesman For Petitioners

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cc: Four Attached Pages of Service List For Docket P-831

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