

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
BEFORE THE IOWA UTILITIES BOARD

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|------------------------------|--------------------------|
| IN RE:                       |                          |
| SUMMIT CARBON SOLUTIONS, LLC | DOCKET NO. HLP-2021-0001 |

**REPLY TO RESISTANCE**

The Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, hereby replies to the Resistance to Office of Consumer Advocate’s Motion to Require Filing (Resistance) filed with the Iowa Utilities Board (Board) by Summit Carbon Solutions, LLC (Summit) on May 2, 2022.

**Argument**

Summit’s main argument seems to be rest on the following statement: “OCA seeks to add ‘prerequisites’ – effectively Petition requirements – that are not in the express statutory and rule requirements placed upon applicants, and have never been interpreted as prerequisites before by the Board.” (Resistance at 3). In making this argument, Summit wants the Board to overlook the basic fact that no one other than Summit has ever requested the Board to approve a hazardous liquid pipeline permit for the purpose of transporting carbon dioxide.

The novelty of carbon dioxide pipelines means that Board Staff, OCA, other parties, and the public, have very little experience on which to rely when attempting to understand the potential impacts of Summit’s proposed pipeline. Unlike Dakota Access, which carried a substance whose qualities were known, there is little experience anywhere in the country with the consequences of a burst or leak in a carbon dioxide pipeline. The lack of experience with carbon dioxide pipelines, in Iowa and throughout the United States, will necessarily require

additional time for the Board, OCA, other parties, and the public to analyze and understand the impacts. Waiting until Summit files testimony in order to begin understanding basic issues, such as public safety, does not leave the Board, OCA, and other parties sufficient time to find consultants who can evaluate the information. Having this information publicly available is also important to landowners during the easement negotiation process so that they can understand the risks of having a carbon dioxide pipeline on their property. Information relating to landowner communication is also appropriately reviewed before testimony is filed, because at the time of filing testimony, it will be too late to mitigate any deficiencies that could ultimately lead to the denial of eminent domain.

The Iowa legislature gave the Board broad authority in how the Board conducts proceedings. Iowa Code § 474.3 states, “The utilities board may in all cases conduct its proceedings, when not otherwise prescribed by law, in such manner as will best conduce to the proper dispatch of business and the attainment of justice.” With respect to hazardous liquid pipelines, the Board is specifically directed to use its authority “to protect landowners and tenants from environmental or economic damages which may result from the construction, operation, or maintenance of a hazardous liquid pipeline.” Iowa Code § 479B.1.

The broad authority of the Board to carry out its authority to protect landowners in hazardous liquid pipeline cases is further clarified in Board 13.3, which lays out the required exhibits to be filed with a petition for a permit to construct a hazardous liquid pipeline. Rule 13.3(l) states, “The Board may require filing of additional exhibits if further information on a particular project is deemed necessary.” The Board clearly has authority to request any information as an exhibit that it feels necessary to evaluate whether a hazardous liquid pipeline promotes the public convenience and necessity, as required by Iowa Code § 479B.9. Summit’s

proposed pipeline will traverse nearly 700 miles of Iowa land carrying a material that has never been carried by pipeline in Iowa. Additional information about the project is necessary and it is well within the Board's authority to request it as exhibits to Summit's petition.

### **Conclusion**

For the reasons stated above, OCA respectfully requests that the Board grant OCA's Motion to Require Filing and require Summit to file additional exhibits with its Petition for a Hazardous Liquid Pipeline permit.

Respectfully submitted,

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OFFICE OF CONSUMER ADVOCATE