



Iowa Utilities Commission Pipeline Procedures



Iowa Utilities Commission

Statutory Authority

Overview of IUC Jurisdiction

- Iowa Code chapter 476 - Rate-Regulated and other Electric, Gas, Water, Sanitary Sewer, and Storm Water Drainage Utilities
- Iowa Code chapter 476A - Electric Generation Facilities with 25 Megawatts of Capacity or More
- Iowa Code chapter 478 - Electric Transmission Lines
- Iowa Code chapter 479 - Intrastate Natural Gas Pipelines
- Iowa Code chapter 479B - Interstate Hazardous Liquid Pipelines

Administrative Rules

The IUC's rules regarding pipeline construction and operation are in the Iowa Administrative Code (199).

- Chapter 9 - Agricultural Land Restoration
- Chapter 10 - Natural Gas Pipeline Permits
- Chapter 13 - Hazardous Liquid Pipeline Permits

Statutory Requirements

Iowa Code chapters 479 and 479B are very similar.

- Both require informational meetings if the proposed pipelines have pressure of more than 150 psig and are five miles or more in length.
- The pipeline company can negotiate with landowners after the informational meeting is held in each affected county.
- Landowners and other interested persons may file comments, objections or letters of support about the proposed pipeline.
- By IUC rules, a natural gas pipeline only requires a permit from the IUC if the pipeline meets the requirements of a transmission line.
- All hazardous liquid pipelines require a permit from the IUC.

Statutory Requirements

Iowa Code chapters 479 and 479B both also:

- require the pipeline company to file a petition for a permit with the IUC,
- have similar requirements for the information that needs to be provided in the petitions, and
- require that the petition address “the relationship of the proposed project to the present and future land use and zoning ordinances.”

Statutory Requirements

The IUC has interpreted this statutory provision to mean that the IUC needs to review the current and future zoning ordinances, but that compliance with local zoning ordinance is not required for the issuance of a permit.

The IUC considers the location of the pipeline in relation to the county zoning ordinances and may ask the pipeline company for zoning ordinances that may affect the route of the pipeline and whether the pipeline company has made any accommodation to address the ordinances.

Petition for Permit

IUC rules at 199 IAC 10.3 and 13.3 require the filing of exhibits with the petition that provide:

1. a legal description
2. maps of the proposed pipeline route
3. engineering specifications for construction
4. authorization by Iowa DOT for road and highways and from any railroads to be crossed
5. the need for the pipeline
6. any request for eminent domain
7. land restoration plan for construction in agricultural land
8. permits required by other state and federal regulatory agencies
9. additional information about the proposed pipeline

IUC Review of Petition

- A petition cannot be filed until at least 30 days after informational meeting.
- IUC staff reviews each of these exhibits and sends review letters requiring revisions or more information.
- IUC staff does a route inspection by traveling the proposed route.
- IUC staff reviews all objections and parcels where eminent domain is requested.
- When review is complete, IUC staff file a report, or reports, addressing the petition.

IUC Hearing Procedures

- As part of the IUC hearing procedures, the IUC holds a scheduling conference to set dates for the IUC staff report, an intervention deadline, the filing of prepared testimony by the parties, and a hearing date. For larger projects, the number of days required for hearing may also be set.
- Hearing for a pipeline that exceeds 150 psig and is over 5 miles in length is to be held in the county seat of the midpoint of the pipeline.
- IUC staff reviews the petition and exhibits and files its report and parties file prepared testimony and exhibits in compliance with the procedural schedule established by the IUC.
- The hearing is conducted for the purpose of cross-examination.

IUC Hearing Procedures

- The IUC conducts the evidentiary hearing in conformance with the Iowa Administrative Procedures Act. Evidence is presented and witnesses are cross-examined. IUC Commissioners may ask questions.
- Parties are required to submit prefiled testimony. Landowners where eminent domain is requested are considered parties and are not required to submit prefiled testimony. This is the opportunity for those landowners affected by the proposed pipeline to make statements.
- Usually, after the hearing briefs are filed, the IUC deliberates and issues an order granting the permit, modifying the requested route, or denying the permit. In the order, the IUC addresses issues raised by the parties and addresses parcels where eminent domain is requested.

Construction Process

- After the IUC issues the pipeline permit, the pipeline company is authorized to begin construction of the pipeline, subject to any conditions established by the IUC.
- The IUC order and rules establish requirements for providing notice to landowners and county inspectors when construction will begin in a county and on the landowner's property. Each county is required to have a county inspector present during the construction of the pipeline to insure that construction meets the IUC rules and order requirements.
- Landowners may be present during construction on their property.

Construction Process

- The IUC agricultural land mitigation requirements in 199 IAC chapter 9 set out the minimum standards for construction through agricultural land. Landowners may negotiate with the pipeline company for different standards.
- The county inspector has the authority to stop construction when the inspector finds the construction is not complying with IUC rules, an IUC order, or a landowner agreement.

Safety

- The IUC has safety jurisdiction over natural gas pipelines, which are to comply with the safety requirements in 49 CFR 191 and 192 and IUC rules in 199 IAC chapter 10. IUC inspectors inspect the pipeline during and after construction.
- The IUC does not have safety jurisdiction over hazardous liquid pipelines. The Pipeline and Hazardous Materials Safety Administration (PHMSA), a federal agency under the U.S. Department of Transportation, has safety jurisdiction.

Easements and Eminent Domain

- The pipeline company may begin negotiations with landowners after the informational meeting in each affected county is completed, if an informational meeting is required.
- At the informational meeting, the pipeline company describes the negotiation process, easements requirements, payment, and damages. Each landowner where the pipeline is proposed to be located should receive a map showing the location of the proposed pipeline on the landowner's property.

Easements and Eminent Domain

If a voluntary easement cannot be negotiated, the pipeline company will either relocate the route of the pipeline or file a request with the IUC for the power of eminent domain over the property as part of the petition.

The request for eminent domain then becomes an issue to be decided by the IUC.

Easements and Eminent Domain

The pipeline company attempts to obtain voluntary easements from landowners. A landowner should be prepared to negotiate for any specific requests to be included in the easement and should not agree to an easement if the landowner does not agree with conditions requested by the pipeline company.

Landowners may retain legal counsel or have family members assist with negotiations.

Notice to Counties

The county inspector is the point of contact with the pipeline company, or construction company, during construction in a county.

The county inspector is present during construction and ensures that construction meets the requirements of the statute, the IUC rules, and any landowner agreements. This includes, for example, topsoil separation, temporary and permanent tile line repair, and depth of pipeline.

Notice to Counties

If the county has specific requirements for construction on county property, the county should try to reach an agreement with the pipeline company, or bring the issue to the IUC before signing an easement.

If the issue is a county ordinance, the county should inform the pipeline company about the ordinance and negotiate for a resolution of any issues. If negotiations are not successful, the county may want to file comments, request intervention, and bring the issues to the IUC through witness testimony.

Notice to Counties

For county roads, the pipeline company is required to show it has Iowa DOT permission to cross the county road. Pipelines are bored under the road or highway.

Iowa Code sections 479.6(9) and 479B.5(8) only require the pipeline company to address the relationship of the proposed pipeline to the present and future land use and zoning ordinances.

Communication with County

The pipeline company should contact county board or supervisors and planning and zoning officials when the company determines it will locate a pipeline in a county.

The IUC requires notice of the informational meeting be sent to the board of supervisors. The board of supervisors may file comments at any time during the permitting process.

Completion of Pipeline Project

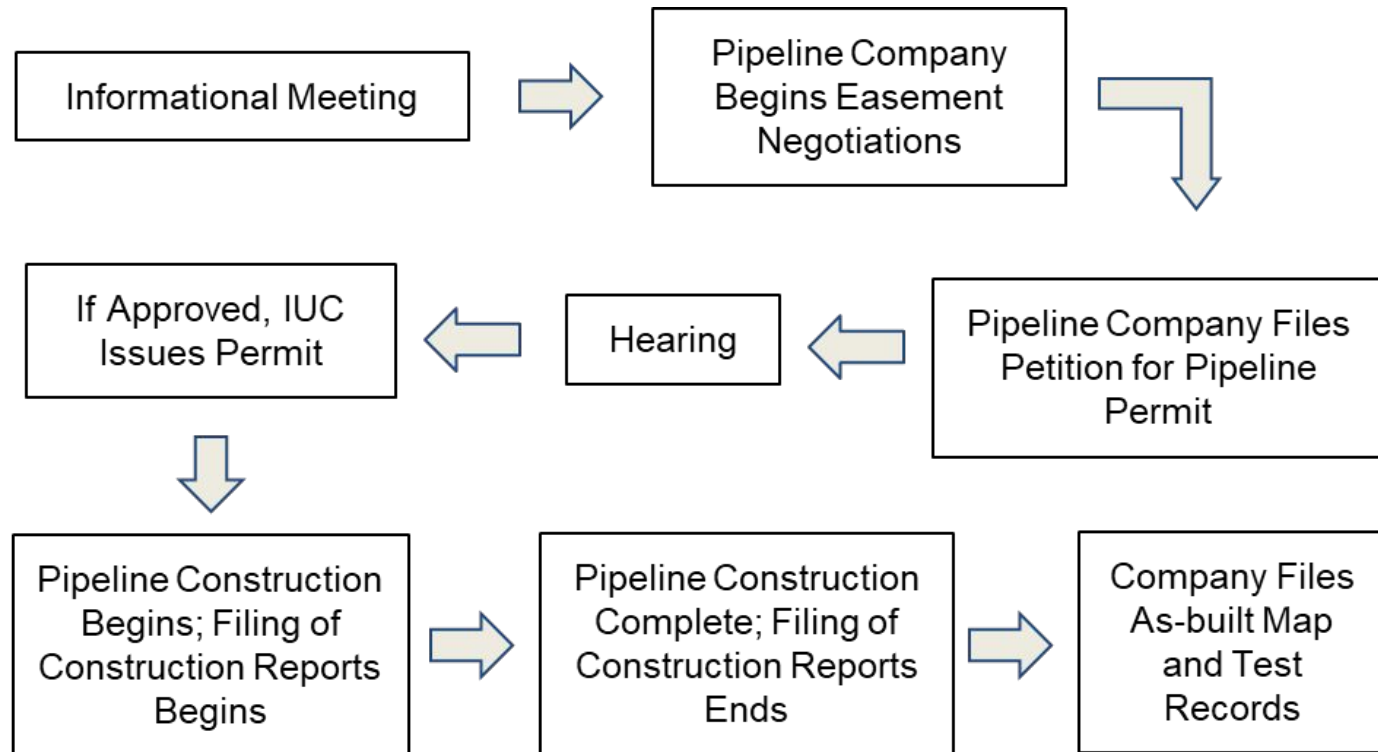
- The county inspector will recommend that construction is complete when final restoration of all agricultural land has been completed and vegetation growth across the project has reached 70% of its growth. The pipeline company is to confirm completion of these requirements.
- The board of supervisors will determine when construction of a pipeline has been completed in that county. A resolution finding that construction of the pipeline is complete in a county is necessary for landowners to petition the board of supervisors to appoint a compensation commission to determine damages from construction.
- After the board of supervisors adopts a resolution that pipeline construction is complete, the county inspector will finalize all project documentation in preparation for turnover to the board of supervisors.

Request for Damages

- Landowners or pipeline company must wait 90 days after the board of supervisors determines construction is complete before requesting the appointment of a compensation commission to determine damages associated with construction of the pipeline.
- If the board of supervisors approves the request by resolution, the landowner or pipeline company may commence the proceeding by filing an application with the chief judge of the judicial district to appoint a compensation commission.
- The remainder of the process is set out in Iowa Code sections 479.46 and 479B.30.

Pipeline Permitting Process

General sequence of events in the IUC's Pipeline Permitting Process



Questions?

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