

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

ENTERPRISE PRODUCTS OPERATING,
LLC,

Petitioner,

v.

IOWA UTILITIES COMMISSION,

Respondent.

CASE NO. CVCV065780

**IOWA UTILITIES COMMISSION'S
MOTION TO STRIKE PETITIONER'S
POST-HEARING BRIEF AND
EXHIBITS**

COMES NOW Respondent Iowa Utilities Commission¹, by and through its undersigned counsel, and hereby moves to strike the above-captioned Petitioner's Post-Hearing Brief and Exhibits.

The Brief

1. Petitioner filed a post-hearing brief in this matter on July 26, 2024, twenty-five days after oral argument.
2. Petitioner did not seek leave from this Court to file a post-hearing brief, nor was there any request made or discussion thereof at oral argument.
3. The Court's original scheduling order of December 21, 2023, provided very specific instructions to the parties regarding briefs to be filed. This included types, format, and content. It contained no provision for post-hearing briefs.
4. Petitioner's attempt to frame its post-hearing brief as a "supplement to our pretrial briefing and argument before the court" does not negate the fact that post-hearing briefs were neither authorized nor requested in this case.

¹ Throughout the entirety of this case the acronym IUB was correct. But as of July 1, 2024, the Legislature has changed the former Iowa Utilities Board's name to the Iowa Utilities Commission. 2024 Iowa Acts. ch. 1170, § 369(2).

5. Since the Petitioner's post-hearing brief was filed without leave or authority to do so, the Commission respectfully requests that it be struck from the record.

The Exhibits

1. Petitioner also attached two exhibits to the post-hearing brief: a "Chronology of Key Events" and an email dated October 5, 2022, from Board staff (now Commission staff) to Quantum Pipeline.

2. It is well settled that in proceedings for judicial review of agency action, the reviewing court is limited to the record before it unless application is made for leave to present additional evidence prior to the hearing. Iowa Code section 17A.19(7). In addition, the moving party must show "that the additional evidence is material and that there were good reasons for failure to present it in the contested case proceeding before the agency."

Id.

3. No such application or showing was ever made by Petitioner, much less in a timely manner, and Petitioner cannot now come forward and introduce new evidence by way of a post hearing brief.

4. The Commission recognizes that Petitioner's Exhibit 2, the email of October 5, 2022, is already part of the record in this case. However, as to Exhibit 1 (the timeline), to the extent it was not formally admitted at the hearing on July 1, 2024, the Commission requests it be struck from the record.

For the reasons and authority discussed above, the Iowa Utilities Commission respectfully requests that both the Petitioner's brief and Exhibit 1 be struck from the record as both are outside the scope of the rules for this proceeding as set forth in the Court's scheduling order of December 21, 2023, and Iowa Code chapter 17A. In the event this

motion is denied, the Commission respectfully requests ten (10) days from the court's order in which to file its own post-hearing brief on the merits.

Respectfully submitted,

/s/ Jon Tack

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**ALL PARTIES SERVED ELECTRONICALLY
THROUGH EDMS.**