

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: DAKOTA ACCESS, LLC	DOCKET NO. HLP-2014-0001
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ORDER SETTING PROCEDURAL SCHEDULE

(Issued June 8, 2015)

On January 20, 2015, Dakota Access, LLC (Dakota Access), filed with the Board a petition for a hazardous liquid pipeline permit, pursuant to Iowa Code ch. 479B. As is contemplated by rule and by practice, the petition did not include the final form of Exhibit H, specifying information that is necessary if the petitioner seeks the power of eminent domain. Commonly, petitioners do not submit the property-specific eminent domain exhibit with the petition; instead, they continue to negotiate easements with affected landowners after filing the petition, typically reducing the number of parcels that must be included in the final Exhibit H. The petitioner files a final Exhibit H when it appears the matter is otherwise ready to go to hearing.

Normally, the Board sets the procedural schedule only after the petition, including Exhibit H, is complete. In fact, the Board's rules at 199 IAC 13.2(1)(h) provide, in relevant part, that "the exhibit [H] must be in final form before a hearing is scheduled." Thus, the Board cannot set the formal hearing date at this time, but it will be beneficial to the public and to Dakota Access to have a procedural schedule and a

tentative hearing date, with the understanding that this schedule is subject to change. Accordingly, the Board is establishing the following procedural schedule.

The first step in the process will be an intervention deadline of July 27, 2015. Petitions to intervene filed after that date will be granted only for good cause shown. It is likely that owners of land that may be affected by the proposed pipeline may petition for, and be granted, intervention after the deadline, and up to the date of the hearing, but those who delay intervention beyond the established deadline may be required to accept the procedural schedule and the record as they find it.

The tentative procedural schedule begins in the traditional two-track approach, starting with the petition and then adding the condemnation documentation at a later date. The two tracks are merged prior to the hearing so that all issues can be heard and decided at the same time. The first track is as follows:

1. On or before July 27, 2015, any person wishing to intervene in this proceeding must file a petition for intervention. All such petitions must comply with the requirements of 199 IAC 7.13. The Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, is not required to file a petition to intervene; it is a party to all proceedings before the Board, pursuant to Iowa Code § 475A.2(2).
2. On or before August 21, 2015, Board staff will prepare and issue a report on the petition (except for matters related to Exhibit H) identifying any additional substantive matters that Dakota Access should address in its

testimony. This date is contingent upon the ability of Dakota Access to provide complete and timely responses to all substantive questions and requests for information that may be identified in staff letters relating to the petition.

3. On or before September 8, 2015, Dakota Access and any interveners supporting issuance of a permit shall file prepared direct testimony and exhibits addressing all issues other than those related to Exhibit H and including those matters identified in the staff report of August 21, 2015.

4. On or before October 12, 2015, OCA, along with any interveners not supporting issuance of a permit, shall file prepared direct testimony and exhibits responding to the September 8 and September 23, 2015, filings by Dakota Access. (See below for information related to the September 23 filing.)

5. On or before October 26, 2015, Dakota Access and any interveners aligned with it may file rebuttal testimony and exhibits responding to the October 12, 2015, filings by OCA and by any interveners not supporting issuance of a permit.

Meanwhile, a separate track will be set for matters related to Exhibit H. These dates are predicated on the idea that Dakota Access will be ready to file its Exhibit H in August of 2015. However, the actual filing date for that exhibit is a matter that is within the discretion of Dakota Access; if the company believes that a later filing date would be better, then these dates will have to be adjusted. Further, the time required

for Board staff to review the final Exhibit H will depend upon the number of parcels included, so the indicated time frame for that review is subject to change.

1. On or before August 10, 2015, Dakota Access may file its final Exhibit H.
2. On or before September 14, 2015, Board staff will prepare and issue a report addressing the final Exhibit H filed by Dakota Access and identifying any substantive matters that Dakota Access should address in its prefiled testimony addressed to Exhibit H.
3. On or before September 23, 2015, Dakota Access and any interveners supporting issuance of the permit will file prepared direct testimony and exhibits addressing all matters and issues relating to Exhibit H.

The two tracks will merge with the October 12, 2015, filings by OCA and any interveners who are opposed to the petition for permit.

This schedule is designed so that this entire matter will be ready for hearing in November of 2015. The Board has blocked out the weekdays of November 12 through December 2, 2015, for that purpose, although the hearing may not take that long. In any event, the Board does not expect interveners to sit through the entirety of a hearing that is potentially two weeks long if they do not want to; instead, the agency intends to set aside specific time frames, by county, for addressing specific landowner concerns. However, all issues in this case, including but not limited to the determination of (a) whether the proposed pipeline will promote the public

convenience and necessity, (b) whether the location and route of the proposed pipeline should be approved, and (c) whether and to what extent the power of eminent domain should be granted, will be submitted to the Board at the same time.

The Board notes that even with post-hearing briefs, this schedule may allow for a Board decision in late December of 2015 or early January of 2016, roughly consistent with the statutory decision deadlines in the Dakota Access proceedings before the Illinois Commerce Commission (ICC Docket No. 14-0754) and South Dakota Public Utilities Commission (SDPUC Docket No. HP14-0002).

IT IS THEREFORE ORDERED:

1. On or before July 27, 2015, any person wishing to intervene in this proceeding must file a petition for intervention. All such petitions must comply with the requirements of 199 IAC 7.13. The Office of Consumer Advocate, a division of the Iowa Department of Justice, is not required to file a petition to intervene; it is a party to all proceedings before the Board, pursuant to Iowa Code § 475A.2(2).
2. On or before August 10, 2015, Dakota Access, LLC may file its final Exhibit H.
3. On or before August 21, 2015, Board staff will prepare and issue a report on the petition (except for matters related to Exhibit H), identifying any substantive matters that Dakota Access, LLC should address in its direct testimony. This date is contingent upon the ability of Dakota Access, LLC to provide complete

and timely responses to all substantive matters identified in staff letters relating to the petition.

4. On or before September 8, 2015, Dakota Access, LLC and any interveners supporting issuance of a permit shall file prepared direct testimony and exhibits addressing all issues other than those related to Exhibit H and including those matters identified in the staff report of August 21, 2015.

5. On or before September 14, 2015, Board staff will prepare and issue a report addressing the final Exhibit H (if it was filed by Dakota Access, LLC by August 10, 2015) and identifying any substantive matters that Dakota Access should address in its prefiled testimony addressed to Exhibit H.

6. On or before September 23, 2015, Dakota Access, LLC shall file prepared direct testimony and exhibits addressing the staff Exhibit H report (if it was issued on September 8, 2015).

7. On or before October 12, 2015, the Office of Consumer Advocate, a division of the Iowa Department of Justice, along with any interveners opposing the issuance of a permit, shall file prepared direct testimony and exhibits responding to the September 8 and 23, 2015, filings by Dakota Access, LLC.

8. On or before October 26, 2015, Dakota Access, LLC and any interveners supporting issuance of the permit will file prepared reply testimony and exhibits.

UTILITIES BOARD

/s/ Geri D. Huser

/s/ Elizabeth S. Jacobs

ATTEST:

/s/ Joan Conrad
Executive Secretary

/s/ Nick Wagner

Dated at Des Moines, Iowa, this 8th day of June 2015.