

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on April 28, 2004

COMMISSIONER PRESENT:

William M. Flynn, Chairman

CASE 04-T-0315 - Notice of Intent Filed by Belden & Blake Corporation for a Certificate of Environmental Compatibility and Public Need to Construct a Natural Gas Transmission Line, Containing Approximately 19,500 feet of six-inch Steel Pipeline, in the Towns of Caton and Lindley, Steuben County.

ORDER GRANTING CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED

(Issued and Effective April 29, 2004)

INTRODUCTION

On March 10, 2004, Belden and Blake Corporation (BBC or the Company) filed a Notice of Intention (NOI) pursuant to §121-a(2) of the Public Service Law (PSL) to construct approximately 19,500 feet of six-inch coated steel pipeline, in the Towns of Caton and Lindley, Steuben County. The NOI was reviewed by Department of Public Service (DPS) Staff and was found deficient. Staff notified BBC of the deficiencies by letter dated March 23, 2004. The Company responded by letter filed March 26, 2004. The Company also supplemented this NOI filed on April 2, 2004, and the NOI complied with PSL §121-a(2) as of the latter date.

ENVIRONMENTAL REVIEW

Facility Description

The pipeline is composed of a six-inch grade X-52 coated steel pipe that will connect one newly producing gas well, the Maxwell #1B (API# 31-101-22963-02), to a point on the existing Dominion Gas Transmission 30-inch transmission pipeline, located in the Town of Lindley, Steuben County. The Company plans to begin construction of the pipeline ten days after a Certificate of Environmental Compatibility and Public Need (Certificate) is granted.

The Maxwell Well is located east and south of the Maxwell Metering Site (project starting point) and is connected to this point with a six-inch coated steel pipeline. The Company will operate this portion of pipeline under 125 psig (pounds per square inch gauge). After the construction of this project the Company intends on adding compression downstream of the existing metering site (Corning Natural Gas Tap) to raise the MAOP (Maximum Allowable Operating Pressure) to 1440 psig.

Commencing at the Corning Natural Gas Tap the pipeline will proceed in a westerly direction for an approximate distance of 3,000 feet that will parallel along the south side of Caton/Lindley Road. At this juncture the pipeline will cross Caton/Lindley Road and head west for approximately 350 feet, then turn and head in a northerly direction for an approximate distance of 1,300 feet. The pipeline will then turn and cross Martin Hill Road proceeding in a westerly direction for approximately 3,100 feet. The pipeline will then turn and head in a northerly direction, approximately 900 feet. The pipeline will turn and head in a westerly direction, approximately 875 feet and continue in a generally northerly direction for approximately 2,250 feet. At this juncture, the pipeline will head in a slightly northwesterly direction for an approximate

distance of 2,275 feet crossing Cheese Factory Road. After crossing this road, the pipeline will turn and head west approximately 3,250 feet. At this juncture, the pipeline will turn and travel in a northeast direction for approximately 1,500 feet and head in a northerly direction for approximately 700 feet, where it will connect to an existing tap on the Dominion Gas Transmission Line.

The pipeline will pass through a variety of land uses including areas of light to medium woods, overgrown, abandoned fields, and areas of active agriculture. This project will cross three streams (non-protected), two tributaries of Tannery Creek and Barnard Creek. Four town roads, Harris, Martin Hill, Cheese Factory and Johnson/Coleman and one county road, Caton/Lindley, will be crossed by this project. The Company indicates that all roads crossed will be bored. Prior to clearing at these road crossings, consideration will be given to maximizing vegetative screening. BBC has confirmed that, if it is required, it will obtain road crossing permits and will supply a copy of the road permits to DPS Staff before construction commences.

Access to the proposed pipeline will be along existing well or landowner access roads, town and county roads or granted right-of-way (ROW). In addition, BBC has been granted rights from Fortuna Energy, Inc. for ingress and egress from Ryers Creek Road for continued access to the Dominion Gas Pipeline Tap. This off ROW access road into the tap point crosses the TEPPCO gas line and the Company indicates that it has obtained clearance by TEPPCO to cross this pipeline. There are several off ROW access roads on the south side of Caton/Lindley Road. Prior to construction these off ROW access roads will be reviewed to determine which ones will be used for construction.

Upon initial review, it appears that this project may cross some U.S. Army Corps of Engineer (ACOE) wetland(s). Prior to pipeline construction, BBC has committed to delineate these wetland(s) in the field (by staking and flagging) and to give DPS Staff a map showing the locations of any wetland(s) that will be crossed by this project. The Company indicates in its NOI that its proposed line will cross and parallel existing underground utilities as follows:

The pipeline will parallel a Verizon fiber optic line along the south side of Caton/Lindley Road and will cross this line once. The project will cross two Verizon telephone lines, one at Martin Hill Road and another at Cheese Factory Road. This project will cross under several NYSEG overhead electric transmission lines.

BBC states that it is a member of Dig Safely New York (the one-call notification system, formerly UFPO) and that it will comply with the requirements for the protection of underground facilities found in 16 NYCRR Part 753. The project is located in a rural area, on or adjacent to existing road and electric line ROW.

The pipeline will be constructed within a maximum ROW width of 50 feet during construction (unless shown otherwise on the project NOI map), 10 feet of which will only be temporary, so the final easement width will be 40 feet. A maximum width of 50 feet may be cleared during construction, but the Company is encouraged to minimize clearing to 40 feet to keep ROW disturbance to a minimum. In addition, the approximate location of 20 feet by 50 feet stacking areas are shown on the NOI project map and the dimensions of larger stacking areas are also shown on this map. If any additional stacking areas are needed, the Company will have to acquire these additional areas through

the minor change process as outlined in ordering clause 1(b) below. All construction equipment will cross any perennial streams or intermittent stream/drainage ditches on a wooden mat bridge.

DPS Staff met with the Company and the NYS Department of Agriculture and Markets (Ag&Mkts) at the project site to review construction issues regarding the pipeline crossings of perennial streams, intermittent drainages, wetlands, active agricultural fields, road crossings and the project route in general. The project route has been selected to minimize impacts on the above resources as well as on private property and public roads. The pipeline will be buried to a minimum depth of 36 inches and 48 inches in active agricultural fields. Also, the pipeline will be buried to a minimum depth of 60 inches, under all perennial and intermittent stream channels. If solid rock conditions exist in the pipe trench, then the Company will meet the depth conditions of 16 NYCRR Part 255. BBC indicates that blasting may be used in consolidated rock formations. The Company has adopted the blasting procedures in the DPS Revised Interim Environmental Management and Construction Standards and Practices (EM&CS&P). At least 10 days before blasting is initiated on this project, a meeting will be held between DPS Field Staff, BBC and its blasting contractor to discuss the blasting procedures being used and other pertinent information related to this operation.

Agricultural Resources Comments

The route of the proposed pipeline encounters a variety of soil types ranging from level to steep slopes. Hayland and open pasture dominates the agricultural soils. BBC indicates the project will be crossing two agricultural districts, Steuben County Agricultural Districts #8 and #18.

The project crosses approximately 9,000 feet of active agricultural and open pasture. By letter dated April 5, 2004, Ag&Mkts provided comments on the proposed pipeline. Key comments included discussions about field tiles and proper installation, full width and ditch width topsoil stripping, deep ripping and rock picking, pipeline burial depth, construction of off ROW access roads in active agricultural fields, use of temporary livestock fencing on the pipeline ROW and agricultural supervision during pipeline construction and restoration. BBC has committed to follow all the recommendations contained in its letter. The Company will hire a full time or part time agricultural specialist/inspector for this project to be present on site during all phases of construction and restoration in active agricultural fields. Officials from the Steuben County Natural Resource Conservation Service (NRCS) have no comments with regard to the project and are in agreement with comments made by Ag&Mkts.

Streams and Wetlands Comments

The Company has provided a copy of a Freshwater Wetland Permit from the New York State Department of Environmental Conservation (DEC). In view of PSL §130, however, DEC may not require such a permit in connection with this project, though the Company is not precluded from seeking such a permit in connection with this project, if it chooses to do so. By letter dated April 2, 2004, DEC states that the Company applied for a Freshwater Wetland Permit because BBC originally indicated that it would operate this pipeline under 125 psig, which required a permit from DEC.

DEC states that the project will cause disturbance to the 100 foot adjacent area next to the NYS Freshwater Wetland CT-2. It appears that the location of this wetland is on the

north side of Johnson/Coleman Road and that the 60 feet by 100 feet stacking point may be within the 100 foot adjacent area next to the State Wetland. Prior to construction, the Company will submit a contour map showing the location of the NYS DEC Freshwater Wetland CT-2, the 100 foot adjacent area, the proposed pipeline route and the 60 feet by 100 feet stacking point. If this stacking point falls within the 100 foot adjacent area, the Company should try to obtain an alternate stacking point. If this cannot be obtained, BBC should minimize clearing and stock piling of logs to keep the construction activity within this area as far away from the wetland boundary as possible. If this stacking area is used at the present location, the outside boundaries will have silt fence installed.

DEC indicates that the project does not cross any NYS Protected Streams. DEC states that the project does cross three streams (a tributary of Barnard Creek and two tributaries of Tannery Creek) that all have a Class C Stream Classification. DEC recommends that the work being done should not violate the Class C Water Quality Standards, specifically turbidity. DEC recommends that BBC be required to implement adequate measures to protect against erosion when working in or near any drainages or streams.

Also, DEC states that under its General Permit for Stormwater Discharges from Construction Activities (GP 02-01) the Company will need to obtain this permit because this project will result in disturbance of an acre or more of soil. To obtain coverage under the General Permit, all conditions of the permit must be met, including the preparation and implementation of an appropriate Stormwater Pollution Prevention Plan (SWPPP) and the filing of a Notice of Intent with DEC. Before construction begins, a copy of BBC's NOI to DEC will be sent to DPS Staff.

Additionally, DEC reports that their database contains no records of threatened or endangered species in the vicinity of the project site.

The Company will implement measures from the New York State Department of Public Service's EM&CS&P, which meet or exceed the recommendations contained in the DEC letter. The Company has requested that a Water Quality Certification under Section 401 of the Federal Clean Water Act be issued in conjunction with this Certificate; it will be issued after the Certificate has been granted in this proceeding. The Company will use a dry stream crossing method for pipe installation for the streams and intermittent drainages that the project crosses and has committed to directionally boring the three major streams on this project. Since these streams are going to be directionally bored, there must be no clearing for a distance of 200 feet on either side of these three streams until the entrance/exit points of the directional bore are determined. The clearing width over the directional bore should be minimized to a width of 20 feet or less. If these streams cannot be bored, the Company will notify DPS Field Staff to discuss alternative dry stream crossing methods.

Ten days prior to constructing the stream and intermittent stream/drainage pipeline crossing, a meeting will be held between DPS Staff, the Company, and the Company's contractor to determine the stream crossing methods and techniques and restoration methods that will be used to cross the stream.

Comments and Analysis Concerning Other Resources

BBC indicates there are no existing or officially approved planned residential, commercial, industrial, institutional or recreational land uses; it is not aware of the existence of vulnerable ecosystem features or resources such as highly erodible soils, wetlands, floodplains, streams, springs, wells, unique old growth forest, active sugar bushes, productive timber stands or trees listed in the State Registry of Big Trees. Company officials indicate that there are no designated visual resources including scenic areas, roads, vistas, and overlooks that will be affected by this project.

The pipeline will cross light to medium woods and impacts will be minimized by reducing the clearing required for construction as well as by letting a portion of the ROW re-vegetate naturally after construction. BBC will leave all tree length firewood and timber neatly stacked along the edge of the ROW for landowners, if its landowner agreements permit the Company to do so. The brush will be chipped and stacked along the edge of the ROW. No open burning will be authorized since environmentally superior disposal alternatives are available.

BBC's initial archeological review did not reveal any archeologically sensitive areas. A copy of a letter of "No Impact" from the Office of Parks, Recreation and Historic Preservation (OPR&HP), dated April 7, 2004, to the Company has been received by DPS Staff. This letter states that this project will have "no impact" upon cultural resources in or eligible for inclusion in the State and National Register of Historic Places. Should any archaeological resources be uncovered during construction, the Company will be required to stop work and contact the OPR&HP.

The Company indicates that it has contacted all applicable municipal, county and state entities which have

jurisdiction over portions of this project and found that no applicable rules, ordinances or laws apply to this project which BBC finds unreasonably restrictive.

The Towns of Caton and Lindley have not expressed any concerns to DPS Staff or to BBC regarding the proposed pipeline. DEC officials indicated to the Company that there were no designated floodplains on this project.

ENVIRONMENTAL MANAGEMENT AND CONSTRUCTION STANDARDS

In accordance with PSL §121-a(1), BBC has certified that, in constructing fuel gas transmission lines less than ten miles long, it will follow the standards and practices set forth in the New York State Department of Public Service's revised, interim EM&CS&Ps (February 18, 2003) as approved in PSC Case 02-T-1162 (effective date February 21, 2003). BBC has identified general and site-specific measures and techniques to be employed in connection with this project. In order to minimize disruption and environmental impacts associated with construction, the Company should use its best efforts to coordinate pipeline construction with other known construction activities in the immediate vicinity of the project.

GAS SAFETY REVIEW

The intended MAOP of 1,440 pounds psig is unique to the gathering lines in Steuben County and the surrounding counties. Operating pressures for gathering lines located in the western and central counties of New York State are typically less than 300 psig. More recently, operating pressures of gathering lines associated with the Trenton-Black River gas production field are greater than 1,000 psig. The higher pressures for gathering lines operating in excess of 300 psig will require additional measures to ensure their safe operation.

Accordingly, this pipeline will be required to be designed, constructed, tested, operated, and maintained in accordance with the provisions of 16 NYCRR Part 255 applicable to steel transmission lines. In addition, all downstream piping connected to this pipeline will also be considered transmission piping and be subject to requirements found in 16 NYCRR Part 255 for the operations and maintenance, operator qualifications, and emergency plans for transmission pipelines and shall be subject to the requirements of 16 NYCRR Part 753.

PSL §119-b(1)(d) exempts gathering lines from this class of underground facilities that must be protected from damage. It is appropriate, however, due to the high operating pressure and location of this pipeline, that BBC be required to be a member of Dig Safely New York in the area where the line is located and be required to comply with the requirements of 16 NYCRR Part 753 regarding the protection of underground facilities.

CONCLUSION

Since no substantial interest warrants additional review, the Certificate will be granted pursuant PSL §121-a(6).

It is ordered:

1. Belden and Blake Corporation (the Company) is granted a Certificate of Environmental Compatibility and Public Need, pursuant to Public Service Law §121-a(6), to construct the fuel gas transmission line described in its Notice of Intention filed March 10, 2004, and supplemented on March 26, and April 2, 2004, and in this Order, subject to the following conditions:

- (a) the Company shall apply the measures and techniques for environmental management and

construction of this project indicated in its Notice of Intention and reflected herein;

- (b) the Company shall report to Department of Public Service (DPS) Staff any proposed changes to the approved project, including proposed changes to the approved measures and techniques to be applied to the environmental management and construction of this project; DPS Staff shall refer to the Director of the Office of Electricity and Environment (OEE), for approval, those proposed changes that will not cause substantial change in environmental impact or a change in the location of any portion of the certified site or right-of-way (ROW) of the project and shall refer all other proposed changes to the Commission. The Company shall not execute any proposed changes until it receives oral or written notification from the Director of OEE or the Commission;
- (c) the Company shall file as-built drawings with the Commission, should the pipeline deviate from the centerline of the proposed ROW; any change in the location of the proposed ROW shall be reported as set forth in the preceding condition;
- (d) the Company shall provide construction contractors with complete copies of the Certificate, the EM&CS&P, updated construction drawings and any site specific plans;
- (e) the Company shall designate a full-time supervisor with stop-work authority over all aspects of this project; the supervisor and agricultural specialist/inspector shall be on-

site during all phases of construction and restoration. The environmental monitor/agricultural specialist and construction inspector shall be equipped with sufficient documentation, transportation, and communication equipment to monitor effectively contractor compliance with the provisions of this order, applicable sections of the Public Service Law and the EM&CS&P. The name and qualifications of the environmental monitor and other environmental specialists shall be submitted to DPS Staff at least one week prior to the start of construction;

- (f) any fines, penalties or environmental damage resulting from actions performed by contractor personnel working on this project (from work directly or indirectly associated with this project) shall be the responsibility of the contractor. The Commission may also seek appropriate penalties from or take other appropriate action against, the Company as a result of its contractor's action;
- (g) the Company shall notify DPS Staff of the proposed commencement date at least one week prior to the start of construction;
- (h) before pipeline construction begins, both edges of the ROW shall be staked and flagged and all wetland boundaries within and in close proximity to the pipeline ROW shall be staked and flagged;
- (i) the Company shall confine clearing and subsequent mechanical treatment of vegetation to the minimum

extent necessary for construction, operation and maintenance of the certified facility;

- (j) the Company shall exercise all necessary and reasonable precautions to minimize sedimentation and soil erosion in work areas and on the ROW; further, the Company shall take prompt and effective action to control sedimentation and erosion, in the event it does occur;
- (k) at least ten days prior to pipe installation across any perennial or intermittent stream on this project the Company shall meet with DPS Staff - Field Compliance Unit and its contractor to determine the type of crossing method, erosion control and materials used to install the stream crossing. Field meeting notes shall be taken by the company of issues discussed at this meeting and a copy of these notes shall be distributed to the attendees;
- (l) clearing is prohibited on either side of the streams that will be bored until the entrance and exit points for the bores have been determined;
- (m) in areas of the ROW subject to soil erosion (including stream approaches), the Company shall install temporary erosion control devices as soon as practicable, but in no event later than the end of the work day;
- (n) if dry conditions exist such that dust from construction or restoration activities become a nuisance or hazard to adjacent homeowners, pedestrians, livestock or motorists or others, the Company shall direct that these dry areas be

dampened by water truck or other appropriate means;

- (o) the Company shall seed and mulch the ROW no more than five days after final grading;
- (p) no open burning is permitted;
- (q) the certified work is subject to inspection by authorized representatives of DPS;
- (r) the maximum pressure of the pipeline shall not exceed 1,440 psig. BBC shall design, construct, test, operate and maintain the pipeline in accordance with the provisions of 16 NYCRR Part 255, applicable to steel transmission lines. BBC shall be a member of the one-call notification system in the area where the line is located. BBC shall comply with the requirements for the protection of underground facilities set forth in 16 NYCRR Part 753. At least one week before construction commences, the Company shall submit an Appendix 7-D to the DPS Albany Gas Safety Offices;
- (s) the Company shall amend its Operation and Maintenance and Emergency Procedures, as required by 16 NYCRR §§255.603(b) and 255.615 to reflect the addition of this pipeline and all interconnected pipelines to its system. In addition, the Company shall amend its program for operator qualification, as required under 16 NYCRR §255.604, to include covered tasks and qualifications of personnel related to operations and maintenance of this pipeline and all interconnected pipelines;

- (t) in the event culturally significant resources are found on or near the pipeline ROW, the Company shall immediately contact the OPR&HP and follow any recommendations it makes. Disputes shall be referred to the Commission;
- (u) the Company shall notify the Secretary prior to construction that all necessary local, state, and federal permits in connection with this project have been obtained and shall file a copy of these permits with DPS Staff. In addition a copy of all other pre-construction plans and documents that are required above shall be given to DPS Staff before construction commences;
- (v) at least one week prior to the start of construction, the Company shall hold a pre-construction meeting. An agenda, location and attendee list shall be agreed upon between DPS Staff and the Company. The Company shall supply draft minutes from this meeting to all attendees, the attendees may offer corrections or comments and the Company shall issue the finalized meeting minutes to all attendees. If, for any reason, the pipeline contractor cannot finish the construction of this project, and a new pipeline contractor is needed, then there will be another pre-construction meeting with the same format as outlined above in this ordering clause;
- (w) the Company shall consult with each local department or agency having jurisdiction over public roads that will be crossed or paralleled by the pipeline or used for direct access to the ROW. At least 10 days before the Company begins

construction within the ROW limits of such roads or takes direct access from them, it shall notify each such department or agency of the approximate date work will begin, the crossing locations or uses, depth of facilities crossings, details and specifications for re-paving (if any), and related considerations;

- (x) at least 10 days prior to any blasting operations on this project a meeting will be held with DPS Field Staff, the Company and the Company's contractor to discuss blasting procedures that will be used along with any other pertinent information;
- (y) within ten days after the ROW is completely restored, the Company shall so notify DPS Staff in writing;
- (z) the Company shall promptly notify DPS Staff in writing should it decide not to complete construction of all or any portion of this project, and it shall serve a copy of such notice upon all parties; and,
- (aa) if construction of the project hereby certified is not commenced within eight months, this Certificate may be vacated without further notice.

2. This proceeding is continued.

(SIGNED)

Commissioner