



U.S. Department
of Transportation

Pipeline and Hazardous Materials
Safety Administration

1200 New Jersey Avenue SE
Washington DC 20590

OCT 17 2019

Mr. Magid Yousif
Utilities Regulation Engineer
Safety and Engineering Section
Iowa Utilities Board
1375 E. Court Avenue
Des Moines, IA 50319-0069

Dear Mr. Yousif:

In a July 19, 2019, letter to the Pipeline and Hazardous Materials Safety Administration (PHMSA), you asked whether the Iowa Utilities Board (Board) has the authority to grant a deviation from the atmospheric corrosion inspection frequency requirements in 49 CFR §192.481, as provided for in §192.1013.

In your letter, you provided that on June 16, 2017, Alliant Energy-Interstate Power and Light Company (IPL) filed a request with the Board to revise its atmospheric corrosion inspection frequency for its gas distribution system. If granted, you stated that IPL requested approval to deviate from the periodic inspection requirements of §192.481 by performing atmospheric corrosion inspections from at least once every three calendar years, but with intervals not exceeding 39 months to at least once every four calendar years, but with intervals not exceeding 51 months. You further stated, that IPL also proposed to maintain or improve safety by accelerating the frequency of distribution system leak surveys from every five years to every four years.

According to your letter, IPL filed a response with the Board on May 6, 2019, clarifying that it sought a deviation to inspection intervals under 49 CFR §192.1013. You stated that IPL noted that §192.1013 allows the Board to accept a pipeline operator's proposal to reduce the frequency of periodic inspections under its own authority. In response to this clarification, the Board issued an "Order Addressing Waiver and Directing Letter to the Pipeline and Hazardous Materials Safety Administration" on June 27, 2019, directing Board staff to send a letter to PHMSA requesting a response regarding the authority of the Board to grant a deviation pursuant to §192.1013. You stated that the Board wants to ensure the approved waiver does not violate its agreement with PHMSA, nor does the Board want to require IPL to comply with conditions that may not be necessary for the deviation in the frequency of periodic inspections.

Section 192.1013 states:

The Pipeline and Hazardous Materials Safety Administration, Office of Pipeline Safety provides written clarifications of the Regulations (49 CFR Parts 190-199) in the form of interpretation letters. These letters reflect the agency's current application of the regulations to the specific facts presented by the person requesting the clarification. Interpretations do not create legally-enforceable rights or obligations and are provided to help the public understand how to comply with the regulations.

§192.1013 When may an operator deviate from required periodic inspections under this part?

(a) An operator may propose to reduce the frequency of periodic inspections and tests required in this part on the basis of the engineering analysis and risk assessment required by this subpart.

(b) An operator must submit its proposal to the PHMSA Associate Administrator for Pipeline Safety or, in the case of an intrastate pipeline facility regulated by the State, the appropriate State agency. The applicable oversight agency may accept the proposal on its own authority, with or without conditions and limitations, on a showing that the operator's proposal, which includes the adjusted interval, will provide an equal or greater overall level of safety.

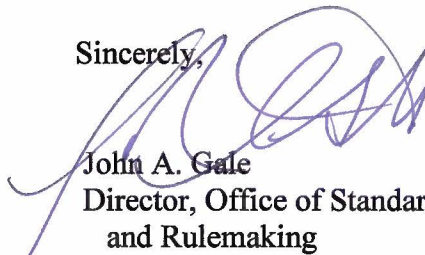
(c) An operator may implement an approved reduction in the frequency of a periodic inspection or test only where the operator has developed and implemented an integrity management program that provides an equal or improved overall level of safety despite the reduced frequency of periodic inspections.

First, the regulations in subpart P of part 192, including §192.1013, prescribe the minimum requirements for a gas distribution integrity management program (DIMP). In connection with an operator's DIMP, §192.1013(a) is clear in allowing an operator to propose a reduction in the frequency of inspections and tests required in part 192, provided that the operator completes an engineering analysis and risk assessment required by subpart P and ensures an equivalent or improved level of safety through its DIMP. Second, §192.1013(b) specifies that such a proposal must be submitted to PHMSA or the appropriate State agency. In the present case, the Board may accept IPL's proposal on its own authority, with or without conditions or limitations, on a showing that IPL's proposal will provide an equal or greater level of safety and otherwise complies with §192.1013. Third, PHMSA's review of the Board's acceptance of any such proposal is not required, differentiating it from the requirements of 49 USC 60118(d).

Therefore, it is PHMSA's interpretation that as the appropriate State agency for the intrastate pipeline, the Board may accept or deny IPL's proposal on its own authority in accordance with §192.1013(b).

If we can be of further assistance, please contact Tewabe Asebe at 202-366-5523.

Sincerely,



John A. Gale
Director, Office of Standards
and Rulemaking



*Geri D. Huser, Chair
Nick Wagner, Board Member
Richard W. Lozier, Jr., Board Member*

July 19, 2019

Mr. Alan K. Mayberry
Associate Administrator for Pipeline Safety
U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
1200 New Jersey Avenue, SE
Washington, DC 20590
United States

Dear Mr. Mayberry,

On June 16, 2017, Alliant Energy-Interstate Power and Light Company (IPL) filed a request with the Iowa Utilities Board (Board) to revise its atmospheric corrosion inspection frequency. IPL requested permission to deviate from the periodic inspection requirements contained in 49 CFR 192.481. In the request, IPL sought approval to perform atmospheric corrosion inspections at least once every four calendar years, but with intervals not exceeding 51 months. At the same time, to maintain or improve safety, IPL will accelerate the frequency of distribution system leak surveys from every five years to every four years.

The Board is the agency responsible for administering the pipeline safety programs of the State of Iowa, and for enforcement of the natural gas pipeline safety standards of 49 CFR Parts 192, 193 and 199 under certification granted by the U.S. Department of Transportation (DOT) pursuant to 49 U.S.C.S. 60105. Under 49 U.S.C. § 60118(d), the Board must provide the Pipeline and Hazardous Materials Safety Administration (PHMSA) with written notice of the waiver and allow at least 60 days for PHMSA review and opportunity for objection before the grant of waiver can become effective.

49 CFR 192.1013 gives the operator an option to reduce the frequency of periodic inspections and tests required for atmospheric corrosion inspections on the basis of the engineering analysis and the required risk assessment. The operator must submit its proposal to PHMSA or to the appropriate state agency. The applicable oversight agency may accept the proposal on its own authority, with or without conditions and limitations, on a showing that the operator's proposal, which includes the adjusted interval, will provide an equal or greater overall level of safety.

On February 6, 2019, the Board issued an order granting IPL's atmospheric corrosion waiver request. On April 29, 2019, the Board issued an order stating that the waiver approval by the Board was required to be forwarded to PHMSA for review and approval in accordance to 49 U.S.C. § 60118(d).

Page 2 of 2

On May 6, 2019, IPL filed a response to April 29, 2019 order. In its response, IPL stated that it has not requested and does not intend to request a waiver of the federal pipeline safety rules. IPL states that it sought a deviation to inspection intervals under 49 CFR 192.1013. According to IPL, the federal rule allows the Board to accept a pipeline operator's proposal to reduce the frequency of periodic inspections on its own authority.

On June 27, 2019, the Board issued an "Order Addressing Waiver and Directing Letter to the Pipeline and Hazardous Materials Safety Administration" directing Board staff to send a letter to PHMSA requesting a response regarding the authority of the Board to grant a deviation pursuant to 49 CFR 192.1013. The Board wants to ensure the approved waiver doesn't violate its agreement with PHMSA, nor does the Board want to require IPL to comply with conditions that may not be necessary for the deviation in the frequency of periodic inspections.

This letter is being sent in compliance with the Board's June 27, 2019 order. PHMSA is requested to provide a response regarding the Board's authority to grant a deviation pursuant to 49 CFR 192.1013. A copy of the Board's April 29 and June 27, 2019 orders, and the response filed by IPL on May 6, 2019, are attached to this letter for reference.

If you have any questions, please feel free to contact me at (515) 725-7315 or at magid.yousif@iub.iowa.gov.

Sincerely,

/s/ Magid Yousif

Magid Yousif
Utilities regulation Engineer
Safety and Engineering Section
Iowa Utilities Board

cc. Samantha Norris, General Counsel

Attachments

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE:	
INTERSTATE POWER AND LIGHT COMPANY	DOCKET NO. RG-0150

**ORDER ADDRESSING WAIVER AND DIRECTING LETTER TO THE PIPELINE
AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION**

(Issued June 27, 2019)

PROCEDURAL BACKGROUND

On February 6, 2019, the Utilities Board (Board) issued an order in Docket No. SPU-2018-0007 and Docket No. RG-0150, and other unrelated dockets, which included approval of a request filed on June 17, 2017, by Interstate Power and Light Company (IPL) to revise IPL's atmospheric corrosion inspection frequency as provided in 49 CFR 192.1013. On April 29, 2019, the Board issued an order stating that the waiver approval by the Board was required to be forwarded to the Pipeline and Hazardous Materials Safety Administration (PHMSA) for review and approval. In the April 29, 2019 order, the Board identified certain conditions that the Board was considering applying to the waiver when the waiver was sent to PHMSA for review.

On May 6, 2019, IPL filed a response to April 29, 2019 order. In its response, IPL stated that it has not and does not intend to seek a waiver of the federal pipeline safety rules. IPL states that it sought a deviation to inspection intervals under 49 CFR 192.1013. According to IPL, the federal rule allows for a state agency, such as

DOCKET NO. RG-0150
PAGE 2

the Board, to accept a pipeline operator's proposal to reduce the frequency of periodic inspections on the agency's own authority.

IPL interprets the language in 49 CFR 192.1013(a) not to require review or approval by PHMSA. The language in the federal rule states: "An operator may propose to reduce the frequency of periodic inspections and tests required in this part on the basis of engineering analysis and risk management assessment required by this subpart." Paragraph 49 CFR 192.1013(b) requires the operator to submit its proposal, that involves intrastate facilities, to PHMSA or to a state agency, and the state agency may accept the proposal with or without conditions.

IPL asserts that the language in 49 CFR 192.1013 allows the Board to grant the deviation without PHMSA approval and IPL does not consider the conditions described in the April 29, 2019 order to be appropriate. IPL states if further discussion is needed, a meeting at which the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, participates would be welcomed, and IPL suggests participation of other natural gas pipeline companies may also be helpful.

BOARD DISCUSSION

The Board has considered the provisions of 49 CFR 192.1013 and its relationship to the provisions in 29 USC § 60118(d) that states:

"If a certification under section 60105 of this title or an agreement under section 60106 of this title is in effect, the State authority may waive compliance with a safety standard to which the certification or agreement applies in the same way and to the same extent the Secretary may waive compliance under subsection (c) of this section.

DOCKET NO. RG-0150
PAGE 3

However, the authority must give the Secretary written notice of the waiver at least 60 days before its effective date. If the Secretary makes a written objection before the effective date of the waiver, the waiver is stayed. After notifying the authority of the objection, the Secretary shall provide a prompt opportunity for a hearing. The Secretary shall make the final decision on granting the waiver.”

This section of the federal statute requires the Board to send any waiver request approved by the Board to PHMSA. The regulation cited by IPL, 49 CFR 192.1013, appears to allow the Board to approve a deviation from periodic inspection requirements without requesting PHMSA approval. The Board does not want to be in violation of the agreement with PHMSA to act as an agent for inspections of natural gas pipelines, nor does the Board want to require IPL to comply with conditions that may not be necessary for the deviation in the frequency of periodic inspections.

To address this conflict, the Board will direct its Safety & Engineering manager to prepare and send a letter to PHMSA outlining the issue. The letter will be filed in this docket, as will any response received from PHMSA. Once the Board has a response from PHMSA, the Board will determine if it needs to make a formal request from PHMSA to approve the waiver, or if the issue has been resolved pursuant to 49 CFR 192.1013.

The Board does not consider a meeting with OCA and other pipeline companies necessary at this time since the issue is for PHMSA to address.

DOCKET NO. RG-0150
PAGE 4

ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. The Utilities Board Safety & Engineering manager shall prepare and send a letter to the Pipeline and Hazardous Materials Safety Administration that requests a response regarding the authority of the Utilities Board to grant a deviation pursuant to 49 CFR 192.1013 of the frequency of periodic inspections. A copy of this order, a copy of the April 29, 2019 order issued by the Utilities Board, and the response filed by Interstate Power and Light Company on May 6, 2019, shall be attached to the letter.

2. A copy of the letter shall be uploaded into this docket along with any response.

UTILITIES BOARD

/s/ Geri D. Huser

/s/ Nick Wagner

ATTEST:

/s/ Kelsie Vanderflute

/s/ Richard W. Lozier, Jr.

Dated at Des Moines, Iowa, this 27th day of June, 2019.

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: INTERSTATE POWER AND LIGHT COMPANY	DOCKET NO. RG-0150
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ORDER DIRECTING RESPONSE

(Issued April 29, 2019)

On February 6, 2019, the Utilities Board (Board) issued an order which included approval of a request filed on June 17, 2017, by Interstate Power and Light Company (IPL) to revise IPL's atmospheric corrosion inspection frequency as provided for in 49 CFR 192.1013. To complete the approval process, the Board is required to provide to the Pipeline and Hazardous Materials Safety Administration (PHMSA) written notice of the waiver and allow PHMSA 60 days to review and approve or object to the waiver.

In a similar waiver request approved by the Illinois Commerce Commission (ICC), PHMSA approved a waiver request with certain conditions. The conditions were as follows:

1. Outside of business districts, an atmospheric corrosion inspection must be conducted at least once every four calendar years at intervals not exceeding 51 months.
2. Inside of business districts, an atmospheric corrosion inspection must be conducted at least once every calendar year at intervals not exceeding 15 months.

DOCKET NO. RG-0150

PAGE 2

3. Identify, inspect, and notify the Board of additional areas where there are greater corrosion rates requiring monitoring more frequently than once every three calendar years. These areas include “hot spots” where there are greater atmospheric corrosion rates, including:
 - a. above-ground pipelines where there is greater exposure to road salts and chemicals;
 - b. areas where pipelines could have accelerated atmospheric corrosion due to industrial chemicals in the atmosphere;
 - c. pipelines that may experience sweating due to pressure drop, such as regulator stations, metering correctors, and large customers’ regulator/meter sets;
 - d. inside regulator/meter sets that are subject to corrosive environments;
 - e. other areas that show accelerated atmospheric corrosion; and
 - f. above-ground facilities under insulation.
4. Continue to train and qualify meter readers to report atmospheric corrosion as well as any abnormal operating conditions discovered when reading gas meters.

Since PHMSA has approved a similar waiver based upon the conditions listed above, the Board considers it necessary to add these conditions to the waiver request the Board approved in Docket No. RG-0150. Before adding the conditions as part of the waiver request and sending the waiver with the conditions to PHMSA, the Board will provide IPL an opportunity to file a response to the conditions and address whether the conditions are consistent with IPL’s waiver request.

DOCKET NO. RG-0150
PAGE 3

IT IS THEREFORE ORDERED:

Interstate Power and Light Company shall file a response regarding the conditions to the waiver request described in this order on or before May 13, 2019.

UTILITIES BOARD

/s/ Geri D. Huser

/s/ Nick Wagner

ATTEST:

/s/ Kelsie Vanderflute

/s/ Richard W. Lozier, Jr.

Dated at Des Moines, Iowa, this 29th day of April, 2019.

STATE OF IOWA
BEFORE THE IOWA UTILITIES BOARD

IN RE: INTERSTATE POWER AND LIGHT COMPANY	DOCKET NO. RG-0150
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RESPONSE TO ORDER

COMES NOW, Interstate Power and Light Company (IPL) and submits this Response to the Iowa Utilities Board (Board) Order Directing Response issued on April 29, 2019.

Procedural History

On June 6, 2017, IPL filed a request with the Board to revise the frequency of atmospheric corrosion inspections.

On March 28, 2018, the Board consolidated IPL's request in the above-referenced docket with tariff proceedings for IPL's proposed non-standard meter alternatives (NSMA), initially filed in Docket Nos. TF-2018-0029 and TF-2018-0030. The NSMA tariffs and IPL's atmospheric corrosion inspection request were subsequently consolidated with NSMA-related complaint files (C-2018-0006, C-2018-0007, C-2018-0008) into Docket No. SPU-2018-0007, via Board order issued July 30, 2018.

On February 6, 2019, the Board issued its Final Order and Decision in Docket No. SPU-2018-0007 (February 6 Order), which included approval of IPL's June 17, 2017 request to revise atmospheric corrosion inspection frequency, as provided for in 49 CFR § 192.1013. Ordering Paragraph 8 stated:

8. Interstate Power and Light Company's request to modify its inspection frequency for atmospheric corrosion for intrastate pipelines, as filed in Docket No. RG-0150 on June 16, 2017, is approved.

The Board issued a subsequent order on April 29, 2019, in Docket No. RG-0150, (April 29 Order) seeking additional information from IPL, and indicating the Board's belief that it is required to provide the Pipeline and Hazardous Materials Safety Administration (PHMSA) with notice of the waiver and allow PHMSA 60 days to review and approve or object to the waiver.

Response

IPL has not sought, and does not intend to seek a waiver of federal pipeline safety rules; rather IPL sought a deviation to inspection intervals under 49 CFR Subpart P, Gas Distribution Pipeline Integrity Management, specifically §192.1013. This federal rule allows for an applicable oversight agency (in this case, the Board) to accept a pipeline operator's (in this case, IPL's) proposal to reduce the frequency of periodic inspections on its own authority.

§192.1013 When may an operator deviate from required periodic inspections under this part?

- (a) An operator may propose to reduce the frequency of periodic inspections and tests required in this part on the basis of the engineering analysis and risk assessment required by this subpart.
- (b) An operator must submit its proposal to the PHMSA Associate Administrator for Pipeline Safety or, in the case of an intrastate pipeline facility regulated by the State, the appropriate State agency. The applicable oversight agency may accept the proposal on its own authority, with or without conditions and limitations, on a showing that the operator's proposal, which includes the adjusted interval, will provide an equal or greater overall level of safety.
- (c) An operator may implement an approved reduction in the frequency of a periodic inspection or test only where the operator has developed and implemented an integrity management program that provides an equal or

improved overall level of safety despite the reduced frequency of periodic inspections.

(Emphasis added).

The above-referenced federal rule language, codified on December 4, 2009, allows a pipeline operator to propose a deviation from required periodic inspections. IPL does not interpret 49 CFR §192.1013(a) to require review or approval by PHMSA.

The Board's April 29 Order references a waiver which the Illinois Commerce Commission (ICC) obtained from PHMSA to approve a waiver request from Ameren Companies related to atmospheric corrosion surveys. However, that request was granted in 2006, prior to the adoption of the rule language noted above, which provides the option of requesting a deviation from required periodic inspections from the applicable state oversight agency.

In light of the 2009 rule change, IPL does not believe a waiver from PHMSA is required. If additional information is needed or further discussion of the federal rule is warranted, IPL respectfully requests that the Board permit a meeting between Board Staff and IPL. IPL also welcomes participation by the Office of Consumer Advocate (OCA), and suggests that it may also be useful to notice the meeting to other natural gas utilities in Iowa.

WHEREFORE, IPL respectfully requests that the Board accept this response to its April 29 Order and let the February 6 Order stand; or, in the alternative, permit a meeting between IPL and Board Staff to discuss the federal rule language.

Dated: May 6, 2019.

Respectfully submitted,

INTERSTATE POWER AND LIGHT COMPANY

By /s/ Lissa Koop

Lissa Koop

Senior Attorney

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4902 N. Biltmore Lane

Madison, WI 53718

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