



U.S. Department
of Transportation

Pipeline and Hazardous Materials
Safety Administration

1200 New Jersey Avenue SE
Washington DC 20590

JAN 27 2020

Ms. Stephanie M. Wimer
Senior Prosecutor
Pennsylvania PUC
P.O. Box 3265
Harrisburg, PA 17105-3265

Dear Ms. Wimer:

In a letter to the Pipeline and Hazardous Materials Safety Administration (PHMSA) dated October 17, 2019, you requested an interpretation of the pipeline safety regulations in 49 Code of Federal Regulations (CFR) Parts 191 and 192. Specifically, you requested clarification on the definition of "transportation of gas" under § 191.3.

You stated the Pennsylvania Public Utility Commission's (Commission) Bureau of Investigation and Enforcement (I&E) Safety Division is currently investigating a natural gas pipeline incident that happened on September 10, 2018, in Center Township, Beaver County, Pennsylvania. The incident occurred on the Revolution Pipeline, which is made of carbon steel and is 24 inches in diameter. The pipeline runs approximately 42 miles from a compressor station in Butler County, Pennsylvania to a cryogenic processing plant in Washington County, Pennsylvania.

You stated the Revolution Pipeline is owned and operated by Energy Transfer Company (ETC), OPID 32099, and construction of the pipeline was completed in or about March 2018. When the incident occurred on September 10, 2018, the line was being brought up to optimal operating pressure and the valve serving the cryogenic processing plant was closed. With that valve closed, the cryogenic processing plant was unable to receive natural gas. You stated that on the date of the incident, ETC had not reached the deadline to register the Revolution Pipeline with the Commission, because registration of pipeline miles for the 2018 calendar year was due on March 31, 2019.

You stated that on the date of the incident, the Revolution Pipeline was in the commissioning phase and, therefore, not all valves along the pipeline were open for packing the line and, as noted above, the valve at the cryogenic processing plant was shut such that the plant could not receive gas.

You ask PHMSA's responses for the following questions:

Question 1: Is packing the pipeline with product during the commissioning phase, where the line is in the process of being brought up to optimal operating pressure, remote

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 are not generally applicable, do not create legally-enforceable rights or obligations, and are provided to help the specific requestor understand how to comply with the regulations.

valves are disengaged and the downstream valve to the cryogenic processing plant is closed, still deemed the "transportation of gas?"

Response to Question 1:

Yes, once a pipeline has gas to flow into it, regardless of flow conditions and pressurization, the line is in-service and deemed to be transporting gas.

Section 191.3 defines transportation of gas as:

Transportation of gas means the gathering, transmission, or distribution of gas by pipeline, or the storage of gas in or affecting interstate or foreign commerce.

Placing gas into an empty pipeline during the commissioning phase, and adding pressure into it is "transportation of gas."

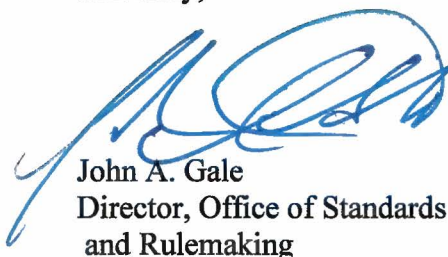
Question 2: If Question 1 is answered in the negative, does PHMSA agree that the Revolution Pipeline was not jurisdictional to the Commission at the time of the September 10, 2018 incident?

Response to question 2:

The answer to Question 1 is in the affirmative. Therefore, the Revolution Pipeline was a regulated pipeline at the time of the incident. It is important to note that the Revolution Pipeline was also subject to the pipeline safety regulations before the line began transporting gas. Part 192 of the pipeline safety regulations prescribes the minimum safety requirements for pipeline facilities *and* the transportation of gas. *See*, 49 C.F.R. § 192.1. The pipeline safety regulations apply to the materials, design, construction and testing of the Revolution Pipeline before the facility transported gas.

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



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

October 17, 2019

Via Electronic Mail and First-Class Mail

Mr. Shane Kelley
Director, Standards and Rulemaking Division
U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
1200 New Jersey Avenue SE
Washington, DC 20590
infocntr@dot.gov

Re: Request for Written Regulatory Interpretation

Dear Mr. Kelley:

This letter represents a request from the Safety Division of the Pennsylvania Public Utility Commission's ("Commission") Bureau of Investigation and Enforcement ("I&E") for an interpretation of the Pipeline and Hazardous Materials Safety Administration ("PHMSA") pipeline safety regulations under 49 CFR § 191.3 related to the definition of "transportation of gas."

The I&E Safety Division participates in PHMSA's State Pipeline Safety Program. Through its agreement with PHMSA and participation in the Program, the I&E Safety Division has assumed the safety responsibilities of intrastate pipeline facilities in Pennsylvania over which it has jurisdiction as authorized by state law.

Pursuant to Pennsylvania's Gas and Hazardous Liquids Pipelines Act, 58 P.S. § 801.101 *et seq.*, the Commission has authority to regulate and supervise pipeline operators within Pennsylvania consistent with Federal pipeline safety laws. 58 P.S. § 801.501(a). Pipeline operators are defined as "a person that owns or operates equipment or facilities in this Commonwealth *for the transportation of gas or hazardous liquids by pipeline or pipeline facility regulated under Federal pipeline safety laws.*" 58 P.S. § 801.102 (emphasis added). Pipeline operators are required to register with the Commission by March 31 of each year and report gathering, transmission and distribution pipeline mileage in class 1, 2, 3 and 4 locations for the preceding calendar year. See 58 P.S. § 801.301(c)(1) and *Act 127 of 2011 – The Gas and Hazardous Liquids Pipeline Act; Assessment of Pipeline Operators*, Docket No. M-2012-2282031 (Final Implementation Order entered February 17, 2012).

The PHMSA pipeline safety regulations define "operator" as a "person who engages in the *transportation of gas.*" 49 CFR §§ 191.3 and 192.3 (emphasis added). Moreover, "pipeline" means "all parts of those physical facilities thorough which *gas*

moves in transportation.” 49 CFR § 192.3 (emphasis added). “Pipeline facility” is defined as “new and existing pipelines, rights-of-way, and any equipment, facility, or building used in the *transportation of gas* or in the treatment of *gas during the course of transportation.*” 49 CFR § 192.3 (emphasis added).

The I&E Safety Division is currently investigating a natural gas pipeline incident that happened on September 10, 2018 in Center Township, Beaver County, Pennsylvania. The incident occurred on the Revolution Pipeline, which is a twenty-four (24) inch carbon steel pipeline that was constructed between 2016 and 2018. The pipeline extends approximately forty-two (42) miles from a compressor station in Butler County, PA to a cryogenic processing plant in Washington County, PA. The Revolution Pipeline is owned and operated by Energy Transfer Company (“ETC”), OPID 32099.

Construction of the Revolution Pipeline was completed in approximately March of 2018. When the incident occurred on September 10, 2018, the line was being brought up to optimal operating pressure and the valve serving the cryogenic processing plant was closed. Thus, the cryogenic processing plant was unable to receive natural gas.

As of the date of the incident, ETC had not reached the deadline to register the Revolution Pipeline with the Commission pursuant to the Gas and Hazardous Liquids Pipelines Act as construction of the pipeline was only completed in March of 2018. Registration of pipeline miles for the 2018 calendar year was due on March 31, 2019.

On the date of the incident, the Revolution Pipeline was in the commissioning phase in that construction of the pipeline was complete but transportation had not started. Some, but not all, of the valves along the pipeline were open for packing the line and notably, the valve at the cryogenic processing plant was shut such that the plant could not receive gas. While it is clear that the Revolution Pipeline was constructed to transport gas by pipeline, it appears that such transportation had not yet been initiated. The PHMSA pipeline safety regulations, as mentioned above, appear to be predicated on a pipeline transporting gas, and not merely packing gas, in order for the regulations to apply to this incident.

I&E seeks an interpretation from PHMSA related to the definition of “transportation of gas,” which means “the gathering, transmission, or distribution of gas by pipeline, or the storage of gas in or affecting interstate or foreign commerce.” 49 CFR § 191.3. The I&E Safety Division has classified the Revolution Pipeline as a gathering line and the incident occurred on an area of the pipeline that the I&E Safety Division classified as a class 3 gathering line. A “gathering line” is defined as a “pipeline that transports gas from a current production facility to a transmission line or main.” 49 CFR § 192.3. The I&E Safety Division’s classification of the Revolution Pipeline as a gathering line is also based upon the definition of “gathering line” in the American

Petroleum Institute's Recommended Practice 80, API RP80, incorporated by reference, Docket No. PHMSA-1998-4868; Amdt. 192-102, Final Rule April 14, 2006.¹

I&E's questions to PHMSA are as follows:

(1) Is packing the pipeline with product during the commissioning phase where the line is in the process of being brought up to optimal operating pressure, remote valves are disengaged and the downstream valve to the cryogenic processing plant is closed still deemed the "transportation of gas?"; and

(2) If Question No. 1 is answered in the negative, does PHMSA agree that the Revolution Pipeline was not jurisdictional to the Commission at the time of the September 10, 2018 incident?

Thank you for your consideration in this matter. Should you have any questions or seek further clarification or details with respect to this request, please do not hesitate to contact the undersigned.

Sincerely,



Stephanie M. Wimer
Senior Prosecutor
PA Public Utility Commission
Bureau of Investigation and Enforcement
717.772.8839
stwimer@pa.gov

cc: Richard A. Kanaskie, Director, I&E (*via e-mail only*)
Michael L. Swindler, Deputy Chief Prosecutor, I&E (*via e-mail only*)
Michael Chilek, I&E Safety Division (*via e-mail only*)
Matthew Matse, I&E Safety Division (*via e-mail only*)

¹ Should PHMSA disagree with I&E's classification of the Revolution Pipeline as a gathering line, I&E would also request PHMSA's interpretation with respect to the pipeline's classification.