

SEP 19 2005

Mr. Edward C. Hurley
Chairman
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL 62701

Dear Mr. Hurley:

We have considered your letter dated July 14, 2005, notifying us that the Illinois Commerce Commission (Commission) issued an Interim Order granting a partial waiver of 49 CFR 192.481(a), to the Union Electric Company d/b/a AmerenUE, Central Illinois Public Service Company d/b/a AmerenCIPS, Central Illinois Light Company d/b/a AmerenCILCO, and Illinois Power Company d/b/a ArnerenIP (collectively "Petitioners"). The Interim Order also requires that the Petitioners increase the frequency of their distribution leakage surveys governed by section 192.723(b)(2). The Interim Order is scheduled to become effective September 21, 2005.

Section 192.481(a), Atmospheric corrosion control: Monitoring, states that each operator must inspect each onshore pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion at least once every 3 calendar years, but with intervals not exceeding 39 months.

Section 192.723(b)(2), Distribution systems: Leakage surveys, states that a leakage survey with leak detector equipment must be conducted outside business districts as frequently as necessary, but at least once every 5 calendar years at intervals not exceeding 63 months.

The Commission granted this waiver based on the following conditions:

- Petitioners inspect their pipelines for evidence of atmospheric corrosion at least once every 4 calendar years, but with intervals not exceeding 51 months;
- Petitioners do not apply this partial waiver of § 192.481(a) to lengthen or change any other required leak survey interval, e.g., for cathodically unprotected service lines subject to § 192.465(e); and
- Petitioners conduct leakage surveys using leak detector equipment outside business districts as frequently as necessary, but at least once every 4 calendar years at intervals not exceeding 51 months.

Although the Commission sees the benefit of granting a partial waiver of § 192.481(a) because the inspection for evidence of atmospheric corrosion will no longer be performed by a qualified Meter Reader and will henceforth be conducted by a Leak Survey Technician, the Commission has not provided adequate justification as to why the atmospheric corrosion inspections should not be performed at least once every 3 calendar years, but with intervals not exceeding 39 months. It is PHMSA's judgement that operators should maintain their preventive measures to identify potential leaks by conducting visual inspections for atmospheric corrosion and find problem areas before leaks occur, rather than rely on discovering leaks after they occur.

Based on the above information and PHMSA's evaluation of the facts presented by the Commission, PHMSA objects to the waiver, and the Commission's order is stayed. The Commission may appeal this matter by providing any new information from the Petitioners as justification to show that granting a partial waiver of § 192.481(a) provides an equivalent level of safety.

Sincerely,
Stacey L. Gerard,
Associate Administrator for Pipeline Safety

Illinois Commerce Commission

July 14, 2005

Re: 05-0113

Interim Order

Dear Sir/Madam:

Attached is a copy of the Order entered by this Commission. Related memoranda will be available on our web site (eweb.icc.state.il.us/e-docket) in the docket number referenced above.

Sincerely,
Elizabeth A. Rolando
Chief Clerk

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Union Electric Company	:	
d/b/a AmerenUE,	:	
Central Illinois Public Service Company	:	
d/b/a AmerenCIPS,	:	05-0113
Central Illinois Light Company	:	
d/b/a AmerenCILCO and	:	
Illinois Power Company	:	
d/b/a AmerenIP	:	
	:	
Application for a Partial Waiver of 49	:	
CFR Sections 192.481 and 192.723.	:	

INTERIM ORDER

By the Commission:

I. BACKGROUND

On February 24, 2005, Union Electric Company d/b/a AmerenUE¹, Central Illinois Public Service Company d/b/a AmerenCIPS, Central Illinois Light Company d/b/a AmerenCILCO, and Illinois Power Company d/b/a AmerenIP (collectively "Petitioners") filed with the Illinois Commerce Commission ("Commission") an Application for Waiver ("Application") seeking approval of a partial waiver of Sections 192.481 and 192.723 of Title 49 of the Code of Federal Regulations ("CFR"). Section 192.481 concerns atmospheric corrosion control and monitoring. Subsection (a) provides that each operator must inspect each onshore pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion at least once every three calendar years, but with intervals not exceeding 39 months. Petitioners' Application relates to this subsection of Section 192.481. Section 192.723 pertains to leakage surveys of gas distribution systems. Subsection (b)(2) requires, in part, a leakage survey with leak detector equipment in areas outside of business districts as frequently as necessary, but at least once every five calendar years at intervals not exceeding 63 months. Petitioners' Application also concerns this subsection of Section 192.723.

Enforcement of these and other minimum federal safety standards is granted to the Commission under an agreement with the United States Department of Transportation ("DOT") Office of Pipeline Safety, entered into pursuant to Section 60105 of Title 49 of the United States Code ("USC"). The Commission may grant waivers of the safety standards in accordance with 49 USC 60118(d). The federal standards codified under 49 CFR Sections 191.23, 192, 193, and 199 have been adopted by the Commission in 83 Ill. Adm. Code 590, "Minimum Safety Standards for Transportation of Gas and for Gas Pipeline Facilities."

Pursuant to due notice, hearings were held in this matter before a duly authorized Administrative Law Judge of the Commission at its offices in Springfield, Illinois on April 26 and June 2, 2005. No petitions to intervene were filed in this proceeding. At the June 2nd evidentiary hearing, Petitioners and Commission Staff ("Staff") were each represented by counsel. Jerome Themig, Manager-Gas Compliance and Training, Gas Operations Support, testified on behalf of Petitioners. Rex Evans, Program Manager of the Pipeline Safety Program within the Energy Division of the Commission's Bureau of Public Utilities, testified on behalf of Staff.

¹ On or about May 2, 2005, the AmerenUE Illinois service territory was transferred to AmerenCIPS in accordance with the Commission's Order on Reopening in Docket No. 03-0657.

II. **PARTIES' POSITIONS**

A. **Petitioners' Position**

Rather than conduct atmospheric corrosion inspections at least once every three years, with intervals not exceeding 39 months, Petitioners seek permission to conduct the inspections at least once every four calendar years, with intervals not exceeding 51 months. Petitioners explain that atmospheric corrosion inspections are conducted on any aboveground facilities that are exposed to atmospheric conditions to ensure pipeline integrity. The most common example would be an inspection of the steel piping that goes from underground to above ground and enters a customer meter set. The inspection would typically conclude at the outlet of the gas meter or where such facilities are terminated. The inspection consists of a visual examination of piping to ensure corrosion does not exist to a point where pipe failure could occur as a result of the corrosion. A gas operator must take corrective action to mitigate any problems that are discovered.

In conjunction with the partial waiver of Section 192.481(a), Petitioners indicate their willingness to increase the frequency by which they conduct the distribution leakage surveys governed by Section 192.723(b)(2). With the granting of the partial waiver they seek, Petitioners agree to shorten the period applicable to leakage surveys such that they will be conducted at least once every four calendar years, with intervals not exceeding 51 months, rather than at least once every five years, with intervals not exceeding 63 months. Petitioners do not propose to change the interval for the leakage survey for business districts as set forth in Section 192.723(b)(1) or cathodically unprotected distribution lines as set forth in Section 192.723(b)(2).

In support of the modified inspection periods, Mr. Themig testified that the atmospheric corrosion inspections are currently being performed by qualified Meter Readers while reading the gas meters. Whereas the atmospheric corrosion inspection is a visual examination of above ground facilities, he points out that the distribution leak inspection surveys both below grade and aboveground facilities with leak detecting instruments. As part of the proposal, Petitioners intend to transfer these atmospheric corrosion inspections to a Leak Survey Technician. Leak Survey Technicians are specially trained to survey both below grade and aboveground facilities. They have received extensive training (1) in the use of leak detection instruments, (2) visually identifying potential gas leaks, and (3) the manner by which to properly classify the hazardous potential of a leak. They are also trained and qualified to inspect aboveground facilities for atmospheric corrosion, inappropriate attachments to meter sets, inaccessible meter valves, and missing vent screens. They report exposed aboveground customer plastic pipe and exposed utility mains in services as well. Petitioners state that this individual would conduct a more stringent atmospheric corrosion inspection and also perform the distribution leak survey. Mr. Themig added that Meter Readers will continue to be trained and qualified to report atmospheric corrosion as well as any abnormal operating conditions discovered when reading gas meters. Petitioners have no objection to the Commission imposing such training and inspection obligations regarding Meters Readers as conditions to granting the partial waiver of Section 192.481(a).

Petitioners contend that under their proposal greater efficiencies will be achieved and the inspections will be performed by a more qualified individual. They assert further that the greater frequency of leak surveys will improve the integrity and reliability of the distribution systems, and enhance the safety of the public. They add that even though the waiver will slightly lengthen the atmospheric corrosion inspections, the impact, if any, on public safety is more than offset by their agreement to increase the frequency of the distribution leak survey which is being performed by the more qualified technician. Petitioners believe that this alignment of inspections will improve the integrity of the distribution system and more importantly the safety of customers and the general public.

B. **Staff's Position**

After explaining his understanding of Petitioners' proposal, Mr. Evans testified that Staff believes the proposal is consistent with pipeline safety in that it provides an opportunity for a more thorough atmospheric corrosion inspection along with more frequent leak surveys. While the time frame for these atmospheric corrosion inspections is lengthened,

Staff suggests that the public benefit received by Petitioners' agreement to shorten the residential leak survey cycle from five to four years outweighs any potential risk posed by lengthening the corrosion inspection cycle. Further, Staff maintains that having an individual responsible for conducting both leak surveys and atmospheric corrosion inspections at the same time will enhance system integrity and allow Petitioners to make sure all corrective actions needed are appropriately taken. In conclusion, Staff is of the opinion that there are benefits to be gained from the partial waiver being granted.

Mr. Evans also points out, however, that the statutory provision allowing for waivers, 49 USC 60118(d), requires the Commission to give the Secretary of DOT written notice of the waiver at least 60 days before the waiver's effective date. If the Secretary of DOT makes a written objection to the waiver prior to the effective date, the waiver is stayed. After notifying the Commission of the objection, Section 60118(d) requires the Secretary of DOT to provide a prompt opportunity for a hearing. The Secretary of DOT shall make the final decision on granting the waiver.

III. COMMISSION CONCLUSION

The Commission finds that any impact associated with the lessened frequencies of the atmospheric corrosion inspections is outweighed by the benefits associated with increased distribution leak surveys. Specifically, the fact that both inspections will be conducted by the more qualified Leak Survey Technician will serve to enhance system reliability. The greater frequency associated with the distribution leak survey will also enhance public safety. Furthermore, Petitioners will have the opportunity to gather better information relating to the condition of the natural gas facilities that serve their customers, which will allow them to more effectively take remedial corrective action. Notably, Meter Readers will continue to be trained and qualified to conduct inspections and recognize atmospheric corrosion. The Commission concurs with Staff that making such training a condition to granting the requested partial waiver is appropriate. Accordingly, the Commission concludes that the partial waiver requested by Petitioners should be granted as described above.

With regard to the notice to the Secretary of DOT required by 49 USC 60118(d), the Commission directs the Office of the Chief Clerk to forward this Interim Order to those individuals at DOT identified at the June 2, 2005 hearing in this matter. So that sufficient time exists for any objection to be raised, the effective date of the partial waiver of 49 CFR 192.481(a) shall be September 21, 2005. This effective date will provide the Secretary of DOT at least 60 days prior to the effective date during which to object to the partial waiver. Upon the passing of the effective date without objection from the DOT or upon learning that the DOT has no objection, a final order will be entered in this matter affirming the conclusions herein.

IV. FINDINGS AND ORDERING PARAGRAPHS

The Commission, having considered the entire record and being fully advised in the premises, is of the opinion and finds that:

- (1) Petitioners are engaged in the transmission, distribution, transportation and sale of natural gas to customers at retail in Illinois, and as such are public utilities within the meaning of the Public Utilities Act, 220 ILCS 5/1-101 et seq.;
- (2) the Commission has jurisdiction over Petitioners and the subject matter herein;
- (3) the recitals of facts and conclusions reached in the prefatory portion of this Interim Order are supported by the evidence of record and are hereby adopted as findings of fact;
- (4) the request for a partial waiver of 49 CFR 192.481(a) should be granted subject to the condition that (1) Petitioners continue to train and qualify Meter Readers to report atmospheric corrosion as well as any abnormal operating conditions discovered when reading gas meters and (2) Petitioners increase the

frequency by which they conduct the distribution leakage surveys governed by Section 192.723(b)(2) as described in the prefatory portion of this Interim Order;

- (5) this partial waiver of 49 CFR 192.481(a) does not lengthen or change any other required leak survey interval, e.g., for business districts or cathodically unprotected service lines;
- (6) the partial waiver of 49 CFR 192.481(a) should have an effective date of September 21, 2005; and
- (7) the Office of the Chief Clerk should be directed to serve this Interim Order on those individuals at the DOT identified at the June 2, 2005 hearing in this matter.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the partial waiver of 49 CFR 192.481(a) requested by Union Electric Company d/b/a AmerenUE, Central Illinois Public Service Company d/b/a AmerenCIPS, Central Illinois Light Company d/b/a AmerenCILCO, and Illinois Power Company d/b/a AmerenIP is hereby granted; said waiver to be effective September 21, 2005.

IT IS FURTHER ORDERED that the partial waiver of 49 CFR 192.481(a) is subject to the conditions identified in Finding (4).

IT IS FURTHER ORDERED that the Office of the Chief Clerk shall serve this Interim Order on those individuals at the United States Department of Transportation identified at the June 2, 2005 hearing in this matter.

IT IS FURTHER ORDERED that this Interim Order is not final and is not subject to the Administrative Review Law.

By order of the Commission this 13th day of July, 2005.

(SIGNED) EDWARD C. HURLEY
Chairman