

November 7, 1972

Mr. Charles H. Batten
Director, Safety Department
Florida Public Service Commission
700 South Adams Street
Tallahassee, Florida 32304

Dear Mr. Batten:

This is in response to your letter of October 16, 1972, concerning jurisdiction over "direct sale pipelines." As you apparently mean the term, and as used in this letter, "direct sale pipeline" means a pipeline, coming from an interstate gas pipeline, that delivers gas to a customer purchasing gas for its own consumption. You ask whether direct sale pipelines are subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act and, if not, whether a State may adopt standards in addition to and more stringent than the minimum Federal safety standards.

Section 3(b) of the Natural Gas Pipeline Safety Act provides that a State agency may adopt such additional or more stringent standards for pipeline facilities and the transportation of gas not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act as are not incompatible with the Federal standards. Your letter states that during the October school in Oklahoma City, it was indicated that direct sale pipelines are not subject to the jurisdiction of the Federal Power Commission and are, therefore, subject to regulation by the State.

The view expressed at the school was consistent with opinions of the U.S. Fifth Circuit Court of Appeals. However, the Fifth Circuit was reversed by the U.S. Supreme Court in FPC vs. Louisiana Power and Light Company, and United Gas Pipeline Company vs. Louisiana Power and Light Company. (40 L.W. 4636, June 6, 1972).

The Supreme Court there held that the FPC has power to regulate curtailment of direct interstate sales of natural gas pursuant to its transportation jurisdiction under the Natural Gas Act. For purposes of Section 3(b) of the Natural Gas Pipeline Safety Act, this means that direct sale pipelines are subject to the jurisdiction of the FPC under the Natural Gas Act. Therefore, the view expressed at the school may no longer be considered correct.

Since direct sale pipelines are subject to the jurisdiction of the FPC, the State may not adopt any standards in addition to or more stringent than the Federal minimum standards for such lines, and the second part of your question is moot.

I trust this has clarified the matter for you.

Sincerely,

Joseph C. Caldwell
Director
Office of Pipeline Safety