

PI-01-0107

April 16, 2001

The Honorable Thomas L. Welch
Chairman
State of Maine Public Utilities Commission
242 State Street
18 State House Station
Augusta, ME 04333-0018

Dear Chairman Welch:

This letter is in response to your letter of February 1, 2001, for clarification of Federal and state enforcement responsibilities where multiple direct sales customers are served off a lateral to an interstate gas transmission pipeline.

The relevant legal authority is the Natural Gas Pipeline Safety Act, codified at 49 U.S.C. § 60101(a)(9). It defines “intrastate pipeline facility” as:

- (A) a gas pipeline facility and transportation of gas within a State not subject to the jurisdiction of the [Federal Energy Regulatory Commission (FERC)] under the Natural Gas Act (15 U.S.C. § 717 *et seq.*)
- (B) a gas pipeline facility transporting gas from an interstate gas pipeline in a State to a direct sales customer in that State buying gas for its own consumption

And, as noted in your letter, RSPA’s September 18, 1989, interpretation supports the concept that pipeline facilities transporting gas within a State to a direct sales customer in that state are subject to State enforcement of the pipeline safety regulations at 49 CFR Part 192. A direct sales customer is one who receives gas for its own consumption directly from an interstate gas pipeline company, rather than from a distribution company. Therefore, a pipeline to a direct sales customer not downstream from a distribution company is subject to safety regulation by the State, i.e., it is in the intrastate jurisdiction.

Your specific question concerns pipelines operated by the Portland Natural Gas System (PNGTS), an interstate pipeline company, that transports gas through a lateral line which splits into two pipelines, each serving a direct sales customer. The law and the interpretation cited above indicate that only the individual pipelines to each direct sales customer are intrastate jurisdiction. Neither the law or interpretation contemplate that an interstate pipeline serving multiple direct sales customers is subject to intrastate safety jurisdiction. Therefore, the lateral directly off the PNGTS mainline, which carries gas for two direct sales customers, remains in the interstate jurisdiction for purposes of enforcement of the Federal gas pipeline safety regulations (49 CFR Part 192).

If you have any further questions, please contact Richard D. Huriaux, Manager –Regulations, at (202)366-4565.

Sincerely yours,

Stacey L. Gerard
Associate Administrator

cc: Gary Farmer, ME PUC
Regional Directors