



U.S. Department
of Transportation

1200 New Jersey Avenue, SE
Washington, D.C. 20590

**Pipeline and Hazardous
Materials Safety
Administration**

MAR - 8 2010
Mr. Leo M. Haynos
Chief of Gas Operations & Pipeline Safety
Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, KS 66604

Dear Mr. Haynos:

In a letter to the Pipeline and Hazardous Materials Safety Administration (PHMSA) dated November 10, 2009, you requested PHMSA's views on an interpretation you drafted in response to a written request from Gardner Energy dated September 4, 2009, for reconsideration of a determination by the Kansas Corporation Commission (KCC) that the 1.2 mile high pressure gas pipeline it operated was a regulated transmission line.

In its letter, Gardner Energy, the electric utility serving the City of Gardner, stated that the 1.2 mile high pressure gas line connects a Southern Star high pressure natural gas transmission line to two combustion turbine generators. The line is a 6" diameter steel coated pipe. The metering point is at the tap. The turbines, which are in standby mode 365 days each year, are the sole load connected to the line; therefore, the only time that gas flows in the pipe is during operation of the turbines. Gardner Energy stated that the turbines were used solely for "peaking" and as a result, their operation was very limited and amounted to only 2,375.5 million cubic feet (MMCF) in 2008 and 13,133 MMCF in 2009. Based on this limited operation, Gardner contended that the pipeline should be considered to be an unregulated service line.

Under 49 CFR § 192.3, a transmission line is defined as:

"a pipeline, other than a gathering line, that: (1) transports gas from a gathering line or storage facility to a distribution center, storage facility, or large volume customer that is not down-stream from a distribution center; (2) operates at a hoop stress of 20 percent or more of SMYS; **or** (3) transports gas within a storage field."

Based on the information provided by Gardner Energy, the line is a transmission line. We recognize that the frequency of operation of the turbines has only been occasional to date, but

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.

this does not change the pipeline classification. Since the definition of a transmission line is met if any one of the three conditions in the definition is satisfied, the line meets the definition of a transmission line for the reasons stated in KCC's draft response to Gardner. We agree with KCC that the turbine power plant is a large volume customer for purposes of the transmission line definition despite the limited use of the turbines to date. A power plant can potentially be used year around and the maintenance and operating requirements for a pipeline supplying a power plant are consistent with other transmission pipelines, not service lines in a distribution system. Accordingly, we agree with KCC that the above-described 1.2 mile pipeline meets the definition of a regulated transmission line.

I hope that this information is helpful to you. If I can be of further assistance, please contact me at (202) 366-4046.

Sincerely,

A handwritten signature in black ink, appearing to read "John A. Gale". The signature is fluid and cursive, with a long, sweeping underline that extends to the left.

John A. Gale
Director, Office of Regulations

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PHPO8-0037



Gardner Energy
1150 E. Santa Fe | Gardner, KS 66030
(913) 856-7256

November 20, 2009

Mr. John Gale
U.S. Department of Transportation
Pipeline & Hazardous Materials Safety Administration
East Building, 2nd Floor
1200 New Jersey Avenue, SE
Washington, DC 20590

Dear Mr. Gale,

I represent Gardner Energy (GE) in Gardner, Kansas. About twenty years ago GE constructed a high pressure natural gas line which serves two combustion turbine generators that are typically used only in the summer months for "peaking". Over the years GE maintained and operated this line without incident. Earlier this year, we were notified by the Kansas Corporation Commission (KCC) that the line fits into the definition of TRANSMISSION. As a result, GE has begun the effort and expense of becoming compliant with this new classification.

On September 4, 2009, I appealed to the KCC (see attached) and requested the line be reclassified to a service. I recently received the attached response from Leo Haynos, Chief of Gas Operations and Pipeline Safety. My request was denied. However, Mr. Haynos indicated in the letter that he was copying you with his correspondence and requesting your interpretation of our gas pipeline installation and scenario. The purpose of my letter is to provide all of the necessary background information to assist with your decision.

Gardner Energy certainly wants to continue to utilize this line safely and without incident to generate electricity and meet the needs of this community. We have been very successful in these efforts for over twenty years. My concern is whether the significant expense and effort now required by the new TRANSMISSION classification are really necessary and how they could improve on a flawless record of operation.

Yours Truly,

W.C. (Bill) Krawczyk, P.E.
Electric Director



*Mark Parkinson, Governor
Thomas E. Wright, Chairman
Michael C. Moffet, Commissioner
Joseph F. Harkins, Commissioner*

November 10, 2009

Bill Krawczyk
Electric Director
Gardner Energy Center
1105 Santa Fe
Gardner KS 66030

Re: Jurisdictional Status of High Pressure Gas Line Serving the Combustion Turbine Generators at the Gardner Energy Center

Dear Mr. Krawczyk:

I received your letter dated September 4, 2009 requesting an interpretation on the function of the gas pipeline that serves your combustion generator facility. In your letter, you suggested the pipeline should be considered as a long service line instead of a transmission pipeline. In my opinion, the subject pipeline meets the definition of a transmission pipeline because it serves a large volume customer not located downstream of a distribution center. As such, the KCC Staff expects the City of Gardner to be in full compliance with the Kansas pipeline safety regulations for transmission pipelines found in K.A.R. 82-11-4.

herefore, the gas pipeline regulations in Part 192 are applicable from the transmission line tap to the point where the lateral pipeline enters plant grounds

In your letter, you noted the pipeline in question is typically at operating pressure but gas is not flowing through the line except when the standby generators are activated.

Analysis

Pipeline safety regulations prescribe minimum safety requirements for pipeline facilities used for the transportation of gas. In your case, the transportation of gas can be defined generally as movement of natural gas from the Southern Star sales point to the city property on which the generators are located, (e.g., land associated with plant processes, usually indicated by a security fence) and to any facilities on the plant grounds that are necessary to control the pressure or safety of the pipeline. As pointed out in your letter, the classification of the function of the piping determines which portion of the regulations will apply to your pipeline facilities used for the transportation of gas. Please note that a service line ends where the pipeline connects to a meter or to the end-user's, (ie customer's) piping. The definition implies the endpoint of a service line is at some point where the transportation of gas has ended. Because the piping in question is a pipeline used for the transportation of gas, I believe the definition of service line

would not apply. The next iteration in the analysis would be to determine if the pipeline in question is performing the function of distribution or transmission.

The definitions of distribution line, service line and transmission line are as follows:

Distribution Line means a pipeline other than a gathering or transmission line.

Service line means a distribution line that transports gas from a common source of supply to an individual customer... A service line ends at the outlet of the customer meter or at the connection to a customer's piping, whichever is further downstream, or at the connection to customer piping if there is no meter.

Transmission line means a pipeline, other than a gathering line, that:

- (a) Transports gas from a gathering line or storage facility to a distribution center, storage facility, or large volume customer that is not down-stream from a distribution center;
- (b) operates at a hoop stress of 20 percent or more of SMYS; ***or***
- (c) transports gas within a storage field.

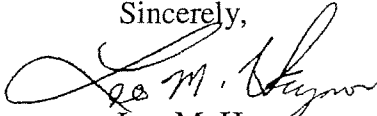
Note: A large volume customer may receive similar volumes of gas as a distribution center, and includes factories, power plants, and institutional users of gas.

In order to prove the line is a distribution line, the analysis must prove the subject line is ***not*** a transmission line. Therefore, the next step in the analysis is to test the applicability of the definition of a transmission line. From the note attached to the federal definition of a transmission line, it is clear that a power plant is considered to be a large volume customer. Once that fact is established, the analysis must decide if the large volume customer is downstream of a distribution center. Pipeline safety regulations do not define this term. However, a past interpretation by the U.S. Department of Transportation provides the opinion that a distribution center is that point where gas enters piping used primarily to deliver gas to customers who purchase it for consumption as opposed to customers who purchase it for resale. It is my understanding that Gardner's pipeline is connected directly to Southern Star transmission line. Although Gardner purchases the gas for consumption, the tie-in point at Southern Star is not connected to ***piping*** that primarily supplies gas for consumption. For example, if the Gardner pipeline was connected to piping operated by the local distribution company, the pipeline would be considered an extension of a distribution main. However, in the case at hand, the function of the Gardner piping is an extension of the transmission function supplied by Southern Star. Therefore, in my opinion, the piping in question is not downstream of a distribution center.

Because the City of Gardner is a large volume customer by definition, and the pipeline supplying the city is not downstream of a distribution center, the pipeline serving Gardner from the Southern Star tap to the combustion turbines is a transmission pipeline regardless of the annual volumetric throughput or the operating pressure of the line.

Please note the above is my opinion. For a second and definitive answer to your question, I am copying this letter to Mr. John Gale with the U.S. Department of Transportation and requesting his interpretation of this scenario.

Sincerely,



Leo M. Haynos

Chief of Gas Operations & Pipeline Safety



Gardner Energy Center
1150 E. Santa Fe | Gardner, KS | 66030

September 4, 2009

Mr. Leo Haynos
Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, Kansas 66604-4027

KANSAS CORPORATION COMMISSION

SEP 08 2009

UTILITIES DIVISION

Dear Leo,

Gardner Energy, the electric utility serving the City of Gardner, was recently audited by a member of your staff. Jim Gorman, an inspector in the Pipeline Safety Division, met with me and members of my staff regarding a gas line owned and operated by the City.

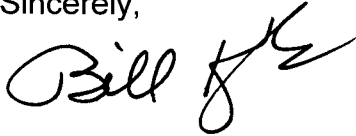
In 1990 the City constructed approximately 1.2 miles of high pressure gas line in conjunction with the installation of two combustion turbine generators. The line, which is located in a 20' wide easement, is a 6" steel coated pipe. It connects to a Southern Star high pressure natural gas transmission line on the southeast corner of the City. The metering point is at the tap. The turbines, which are in standby mode 365 days each year, are the sole load connected to the line. Therefore, the only time that gas flows in the pipe, is during operation of the turbines.

For many years, the City performed routine maintenance on the line, but otherwise gave very little thought and/or attention to it. We assumed that this pipeline was nothing more than a long "service" line. However, the Kansas Corporation Commission's Pipeline Safety Division has recently changed that priority. We have been informed the facility meets the definition of a "transmission" line and is therefore subject to Department of Transportation (DOT) regulations. I have reviewed the formal definitions of a "distribution" line, "service" line and "transmission" line as provided in the Kansas Pipeline Safety Regulations. I would contend that our pipeline does not meet the criteria for a "transmission" line. Criterion (a) of the definition refers to a large volume customer. Based on the usage pattern of this equipment, Gardner Energy is not a large volume customer.

Since our turbines are used solely for "peaking", their operation is very limited. The turbines, which are only operated a few times a year, are connected to the end of a long "service" line that is metered at the source of supply. In 2008, the turbines were operated only one day for a total of 13 hours. The total gas usage for that day was 2,375.5 MCF. In 2009, the turbines were operated seven days for a total of 62 hours. The total gas usage for those hours was 13,133 MCF. Therefore, on average Gardner Energy only used 7,754.25 MCF of natural gas per year or 646.19 MCF per month.

I respectfully request that the KCC Pipeline Safety Division reconsider Gardner Energy's pipeline classification. I believe the above information supports my position and clearly demonstrates that our pipeline meets the definition of a "service" line.

Sincerely,

A handwritten signature in black ink that reads "Bill Krawczyk". The signature is written in a cursive style with a large, stylized "K" at the end.

Bill Krawczyk
Electric Director
913-856-7256