

U.S. Department of Transportation  
Research and Special Programs Administration  
400 Seventh St., S.W.  
Washington, D.C. 20590

June 18, 2003

Mr. Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
State of Missouri  
Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102

Dear Mr. Roberts:

The Office of Pipeline Safety (OPS) has considered your letter of January 30, 2003, notifying us that the Missouri Public Service Commission (Commission) has granted specified members of the Missouri Association of Natural Gas Operators (MANGO) a partial waiver from the requirements of 49 CFR 192.481.

Section 192.481 states that each operator shall "at intervals not exceeding 3 years for onshore pipelines . . . reevaluate each pipeline that is exposed to the atmosphere and take remedial action whenever necessary to maintain protection against atmospheric corrosion." The waiver allows the members of MANGO to perform the reevaluations at intervals not exceeding 39 months but at least once in every three calendar years.

MANGO states that this additional flexibility will enable its member companies to more efficiently use their gas safety resources. The three months of additional time allowed between reevaluations will make it easier for companies to coordinate inspections for atmospheric corrosion and leak detection.

The Commission granted the waiver proposed by MANGO and concluded it is consistent with pipeline safety. OPS has no objection to the waiver.

Sincerely,  
Stacey L. Gerard  
Associate Administrator  
for Pipeline Safety

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held at its office in  
Jefferson City on the 30th day of January, 2003.

In the Matter of the Application of Various Members of the )  
Missouri Association of Natural Gas Operators for a )  
Permanent Waiver from Certain Provisions of 4 CSR 240- ) Case No. GE-2003-0137  
40.030(9)(Q) and 49 CFR Part 192.481 for Intervals of )  
Atmospheric Corrosion Inspections )

ORDER GRANTING PERMANENT WAIVER  
FROM CERTAIN PROVISIONS OF 4 CSR 240-40.030(9)(Q)  
FOR INTERVALS OF ATMOSPHERIC CORROSION INSPECTIONS

Syllabus: This order grants the Applicants a permanent waiver from 4 CSR 240-40.030(9)(Q) for intervals of atmospheric corrosion inspections.

Various members of the Missouri Association of Natural Gas Operators<sup>1</sup> applied for waiver of certain rules on October 8, 2002. On November 26, 2002, the Applicants asked permission to amend their application and filed the amended application.

On December 10, 2002, the Commission allowed the Applicants to amend their pleadings, and directed the Staff of the Commission to file a Recommendation by January 9, 2003. On the same day, the Applicants filed a second request to amend their pleadings, and withdrew their first amended application. The Commission grants the Applicants' request to file their Second Amended Application.

MANGO consists of corporations and political subdivisions that operate natural gas distribution systems in Missouri. For purposes of its application, MANGO requests a waiver of Commission Rule 4 CSR 240-2.060(1).<sup>2</sup> That rule requires corporations file their articles of incorporation or certificates of authority to do business in Missouri. The rule also requires political subdivisions to cite to the statutory or other authority under which they operate. Because of the volume of the materials, and because Staff has assured the Commission through its pleadings that these companies and municipalities do indeed have authority to operate in Missouri, the Commission will grant MANGO's request.

MANGO asks the Commission to permanently waive the requirement that its members inspect their exposed service pipelines for corrosion at least every three years. Commission Rule 4 CSR 240-40.030(9)(Q)<sup>3</sup> imposes that requirement upon MANGO's members. In addition, Commission Rule 4 CSR 240-40.030(13)(M)2.B.(I I) requires that the Applicants survey their pipelines for leaks every 39 months, but no later than once every third calendar year. MANGO wants permission to inspect for corrosion and for leaks simultaneously so that the members may more efficiently use their gas safety resources.

Staff filed its Recommendation on January 9, 2003. In the Recommendation, Staff stated that the Commission should approve the permanent waivers. Staff asserts that MANGO could operate more efficiently if its members could inspect their exposed service lines for corrosion and for leaks at the same time. Staff believes allowing MANGO an additional three months to inspect those lines for corrosion would not harm the public and is not inconsistent with gas pipeline safety. Staff noted that the Commission granted MANGO a similar waiver in Commission Case No. GE-2000-543. In that case, the Commission extended a twelve-month deadline to fifteen months for qualifying people who make plastic joints. In addition, Staff notes that 49 U.S.C. § 60118(d) requires the Commission to give 60 days' notice of a waiver to the United States Department of Transportation. To allow for sufficient mail and review time, Staff recommends that the effective date of the waiver be 75 days from the date of the order.

<sup>1</sup>The following municipal members of MANGO have joined in the application: the cities of Albany, Berger, Bernie, Bethany, Fulton, Gallatin, Granby, Green City, Hamilton, Hermann, Kennett, Macon, Madison, Mercer, Middletown, Milan, Montgomery City, New Haven, Paris, Perryville, Princeton, St. Robert, Stanberry, Unionville and Wheaton. In addition, the following business members of MANGO have joined in the application: Aquila, Inc.; Atmos Energy Corporation; City Utilities of Springfield, Missouri; Fidelity Natural Gas, Inc.; Laclede Gas Company; Missouri Gas Company; Missouri Gas Energy; Missouri Interstate Gas; Missouri Pipeline Company; Southern Missouri Gas Co. L.P.; Omega Pipeline Company; Union Electric Company d/b/a AmerenUE.

<sup>2</sup>The applicants actually requested a waiver of 4 CSR 240-2.060(11). However, the correct citation is 4 CSR 240-2.060(1).

<sup>3</sup>This rule is similar to the Minimum Federal Safety Standard contained in 49 CFR 192.481.

Commission Rule 4 CSR 240-2.060(14)(B) requires an applicant for waiver of a Commission rule to give a complete justification setting out the good cause for granting the waiver. The Commission finds that the Applicants can use their resources more efficiently by inspecting their service lines for corrosion and for leaks at the same time. In addition, the Commission finds that an additional three months to inspect for corrosion would not affect public safety. The Commission finds there is good cause to grant the waiver. The Commission will waive Commission Rule 4 CSR 240-2.060(9)(Q).

IT IS THEREFORE ORDERED:

1. That for the purposes of this application, the Commission waives Commission Rule 4 CSR 240-2.060(1) for the members of the Missouri Association of Natural Gas Operators that joined in the application.
2. That the Commission waives Commission Rule 4 CSR 240-40.030(9)(Q) for the members of the Missouri Association of Natural Gas Operators that joined in the application.
3. That the members of the Missouri Association of Natural Gas Operators that have been granted a waiver of Commission Rule 4 CSR 240-40.030(9)(Q) shall inspect their service pipelines exposed to the atmosphere for corrosion at least once each third calendar year, not to exceed a period of 39 months.
4. That as required by 49 USC § 60118(d), the Data Center shall send a copy of this order, the Second Amended Application, and the Staff Memorandum via overnight express mail to:

Stacey L. Gerard  
Associate Administrator for Pipeline Safety  
U.S. Department of Transportation  
RSPA/Office of Pipeline Safety  
400 Seventh Street, S.W., Room 7128 Washington, D.C.  
20590

5. That this order shall become effective on April 15, 2003.
6. That this case may be closed on April 16, 2003.

BY THE COMMISSION

Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 30<sup>th</sup> day of Jan. 2003.

Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge

MISSOURI PUBLIC SERVICE COMMISSION

January 30, 2003

Case No. GE-2003-0137

Dana K Joyce  
P.O. Box 360  
200 Madison Street, Suite 200  
Jefferson City, MO 65102

John B Coffman  
P.O. Box 7800  
200 Madison Street, Suite 640  
Jefferson City, MO 65102

Gary W Duffy  
MO Association of Natural Gas  
Operators  
312 East Capitol Avenue  
Jefferson City, MO 65102-0456

Stacey L. Gerard  
Associate Administrator for Pipeline Safety  
U.S. Department of Transportation  
RSPN/Office of Pipeline Safety  
400 Seventh Street, S.W. Room 7128  
Washington, DC 20590

Enclosed find a certified copy of an ORDER in the above-numbered case(s).

Sincerely,  
Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge

LAW OFFICES  
BRYDON, SWEARENGEN & ENGLAND  
PROFESSIONAL CORPORAIION  
312 EAST CAPROL AVENUE  
P.O. BOX 450

December 10, 2002

Secretary  
Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102

RE: Case No. GE-2003-0137

Dear Mr. Roberts:

Enclosed for filing in the above-referenced proceeding please find an original and eight copies of the Missouri Association of Natural Gas Operators Second Motion for Leave to Amend Application and Withdrawal of First Motion for Leave. Please stamp the enclosed extra copy "filed" and return same to me.

If you have any questions concerning this matter, then please do not hesitate to contact me. Thank you very much for your attention to this matter.

Sincerely,  
BRYDON, SWEARENGEN & ENGLAND P.C.  
By: Dean L. Cooper

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the matter of the application of various )  
members of the Missouri Association of Natural )  
Gas Operators for a permanent waiver from ) Case No. GE-2003-0137  
certain provisions of 4 CSR 240-40.030 (9)(Q) and )  
49 CFR Part 192.481 for Intervals of Atmospheric )  
Corrosion Inspections.

SECOND MOTION FOR LEAVE TO AMEND APPLICATION  
AND WITHDRAWAL OF FIRST MOTION FOR LEAVE

COME NOW the Applicant members ("the Applicants") of the Missouri Association of Natural Gas Operators ("MANGO") and as their second motion for leave to amend application and withdrawal of Applicants' first motion for leave to amend application state as follows to the Missouri Public Service Commission ("Commission"):

**1.** Commission Rule 4 CSR 240-2.075(21) provides that a pleading may be amended at any time by leave of the Commission.

**2.** On October 8, 2003, the Applicants filed an Application for Permanent Waiver of Compliance. The Commission has not yet ruled on the Application.

**3.** On November 26, 2002, the Applicants filed a Motion for Leave to Amend Application. The purpose of that motion was to amend the Application to include all Missouri properties of Atmos Energy Corporation ("Atmos"). The Commission has not yet ruled on the November 26, 2002 Motion for Leave to Amend Application.

**4.** Applicants have received requests from three additional members to participate in this Application — the City of Princeton, Missouri; the City of Unionville, Missouri; and, the City of Mercer, Missouri.

**5.** Thus, the Applicants seek to amend their application to include these three members, in addition to all the Atmos properties. Attached hereto as Appendix A is the Applicants' Second Amended Application for Permanent Waiver of Compliance, which contains all proposed amendments as of this date.

**6.** Applicants hereby withdraw their first motion for leave to amend application, which was filed on November 26, 2002.

**7.** Granting the requested leave to amend will not change the underlying substantive issues to be addressed by the Commission and may eliminate the possible need for a separate case in the future to address identical issues. Therefore, a grant of this motion should not prejudice any of the parties and may assist with the efficient and economic progress of this litigation.

WHEREFORE, the Applicants pray for an order granting their second motion for leave to amend application and directing that the attached Second Amended Application for Permanent Waiver of Compliance be filed with the Commission.

Respectfully submitted,

Gary W. Duffy            MoBE #24905  
Dean L. Cooper        MBE#36592  
BRYDON, SWEARENGEN & ENGLAND P.C.  
312 E. Capitol Avenue  
P. O. Box 456  
Jefferson City, MO 65102  
ATTORNEYS FOR APPLICANTS



Certificate of Service

I hereby certify that a true and correct of the above and foregoing document was hand-delivered, on this 10<sup>th</sup> day of December, 2002:

General Counsel  
Missouri Public Service Commission  
Governor State Office Building  
P.O. Box 360  
Jefferson City, MO 65102.0360

Mr. Doug Michal  
The Office of the Public Counsel  
6<sup>th</sup> Floor, Governor State Office Building  
P.O. Box 7800  
Jefferson City, MO 65102-7800

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the matter of the application of various )  
members of the Missouri Association of Natural )  
Gas Operators for a permanent waiver from ) Case No. GE-2003-0137  
certain provisions of 4 CSR 240-40.030 (9)(Q) and )  
49 CFR Part 192.481 for intervals of Atmospheric )  
Corrosion Inspections. )

SECOND AMENDED APPLICATION FOR PERMANENT WAIVER OF COMPLIANCE

COME NOW the below-listed members ("the Applicants") of the Missouri Association of Natural Gas Operators ("MANGO") in conjunction with the Leak Survey Committee of MANGO, pursuant to 4 CSR 240-40.030(16) and 49 USC §60118(d), and respectfully state as follows:

The Applicants in this proceeding are as follows:

City of Hermann, Missouri  
City of Middletown, Missouri  
City of Stanberry, Missouri  
City of New Haven, Missouri  
City of Berger, Missouri  
City of Albany, Missouri  
City of Bernie, Missouri  
City of Granby, Missouri  
City of Fulton, Missouri  
City of Madison, Missouri  
Green City, Missouri  
Montgomery City, Missouri  
City Utilities of Springfield, Missouri  
Union Electric Company, d/b/a AmerenUE  
City of Perryville, Missouri  
City of Hamilton, Missouri  
City of Milan, Missouri  
Laclede Gas Company  
City of Kennett, Missouri  
Missouri Pipeline Company  
Omega Pipeline Company  
Missouri Interstate Gas Missouri Gas Company  
Aquila, Inc.  
City of Wheaton  
Fidelity Natural Gas, Inc.  
Atmos Energy Corporation ("Atmos"), which formerly operated under the names  
United Cities Gas Company, Greeley Gas Company and Atmos Energy  
Division (the former Associated Natural Gas properties)  
City of St Robert, Missouri  
Southern Missouri Gas Co. L.P.  
Missouri Gas Energy, a division of Southern Union Company  
City of Bethany, Missouri  
City of Macon, Missouri  
City of Gallatin, Missouri

City of Paris, Missouri  
City of Princeton, Missouri  
City of Unionville, Missouri  
City of Mercer, Missouri

Each of the Applicants operates a natural gas distribution system in Missouri. Those Applicants who are corporations or other business entities request that they not be required to produce a certified copy of their articles of incorporation or certificates of authority to do business in Missouri, or registrations of fictitious names, as otherwise required by 4 CSR 240-2.060(11) for this application, because of the voluminous nature of the materials that would be required for this application, and because each of them is already well-known to the Commission, having obtained certificates of public convenience and necessity and having participated in numerous cases before the Commission. The other Applicants are political subdivisions of the State of Missouri. All of the Applicants, in some fashion, are already subject to the regulation of the Commission. The Commission granted such relief in a similar waiver request in Case No. GE-2000-543.

2. Communications in regard to this Application should be addressed to:

Gary W. Duffy/ Dean L. Cooper  
Brydon, Swearingen & England P.C.  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, Missouri 65102-0456

3. The Applicants request that the Commission grant a permanent waiver of compliance ("waiver") for their gas distribution systems operating in Missouri. The purpose of the waiver is to exempt the Applicants from the provisions of 4 CSR 240-40.030(9)(Q) and from 49 CFR 192.481 which require them to reevaluate each pipeline that is exposed to the atmosphere at intervals not exceeding three (3) years. The pipelines subject to this waiver would only be service lines as set forth at 4 CSR 240-40.030(1)(B)24. of the Commission's Pipeline Safety Rules and at 49 CFR Part 192.3 of the federal Pipeline Safety Rules. As an alternative to the current requirement that a reevaluation be conducted at intervals not exceeding three years, the Applicants request a permanent waiver requiring instead that reevaluations be conducted at intervals not exceeding thirty-nine (39) months, but at least once each third calendar year.

4. The Applicants' primary concern with the use of the existing interval is that a reevaluation interval beyond three years is not permitted while an instrument leak detection survey required by 4 CSR 240-40.030(13)(M)2.B.(II) is permitted to exceed three (3) years to the extent that the interval does not exceed thirty-nine months, and is completed at least once each third calendar year.

5. The Applicants submit that atmospheric corrosion inspections required by 4 CSR 240-40.030(9)(Q) are most efficiently scheduled and completed during the very same leak surveys required by 4 CSR 240-40.030(13)(M)2.B.(II) and therefore should have the same inspection intervals.

6. In support of its request for this waiver, the Applicants submit that gas safety would not be compromised by the granting of this waiver because the interval for atmospheric corrosion inspections would not be substantially changed and the relative risk associated with the slow corrosion process for metallic piping exposed to the atmosphere is no higher than the corrosion process which can take place on buried piping that is found through cathodic protection monitoring and leak surveys. In fact, gas safety will be enhanced by a granting of the waiver in that it will permit the Applicants to use the resources devoted to safety more efficiently.

7. In further support of their request for this waiver, the Applicants submit that intervals for monitoring of cathodic protection required 49 CFR 192.465 were extended by Amendment 192-33, Docket No. PS-50, effective September 5, 1978, from every twelve (12) months, to "once each calendar year, but with intervals not to exceed fifteen (15) months," for the sole purpose of allowing operators greater flexibility in scheduling inspections without compromising gas safety. This was adopted by the Commission in 1989 in 4 CSR 240-40.030(9)(1)1.

8. In further support of its request for this waiver, the Applicants also note that intervals for leakage surveys within business districts required in 49 CFR 192.723(b)(1) are also defined to allow scheduling flexibility by

permitting surveys to be conducted "at intervals not exceeding fifteen (15) months but at least once each calendar year." This same scheduling flexibility has also been extended to Missouri natural gas operators for leakage surveys outside business districts in 4 CSR 240- 40.030(13)(M)1.B. by requiring intervals, more stringent than federal requirements, of "thirty-nine (39) months, but at least once each third calendar year."

9. In final support of its request for this waiver, the Applicants note that in Case No. GE-2000-543, the Commission granted various members of the Missouri Association of Natural Gas Operators (Members) a permanent waiver from certain provisions of 4 CSR 240-40.030(6)(H)3., which corresponds to 49 CFR 192.285(c), regarding intervals of re-qualification for persons under an applicable plastic joining procedure. As an alternative to a strict twelve (12)-month re-qualification interval listed as an option in the requirements of the rule, that waiver allows the Members who sought the waiver to re-qualify persons in plastic joining procedures "at least once each calendar year, but at intervals not exceeding 15 months." The granting of that waiver was not inconsistent with gas pipeline safety and was done so in part to allow greater flexibility in re-qualification scheduling. The federal Office of Pipeline Safety was notified of the granted waiver and did not object. Similarly, scheduling flexibility for atmospheric corrosion inspections is being sought with this application.

WHEREFORE, for the foregoing reasons, the Applicants request that the Commission issue an order granting them, their successors and assigns, a permanent waiver of compliance from the requirement to reevaluate each pipeline that is exposed to the atmosphere at intervals not exceeding three years and instead, as an alternative, require that such a reevaluation be conducted at intervals not exceeding thirty-nine months, but at least once each third calendar year, and that upon the granting of such relief, the Commission's order be sent to the federal Office of Pipeline Safety for review and the opportunity to object.

Respectfully submitted,  
Gary W. Duffy            MoBE # 24905  
Dean L. Cooper           MBE#36592  
Brydon, Swearngen & England P.C.  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, Missouri 65102-0456  
Telephone: 573 635-7166  
Facsimile: 573 635-3847  
Email: [DuffyaBrydonlaw.com](mailto:DuffyaBrydonlaw.com)  
Attorneys for Applicants

VERIFICATION

STATE OF MISSOURI        )  
  )ss  
COUNTY OF COLE         )

The undersigned, being first duly sworn, states that he has read the foregoing First Amended Application for Permanent Waiver and that the facts contained therein are true and correct to the best of his knowledge, information belief, and the undersigned is authorized to act as legal counsel for the Applicants in this proceeding.

Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was hand-delivered, on this 10<sup>th</sup> day of December, 2002:

General Counsel  
Missouri Public Service Commission  
Governor State Office Building  
P.O. Box 360  
Jefferson City, MO 65102-0360

Mr. Doug Michael  
The Office of the Public Counsel  
6<sup>th</sup> Floor, Governor State Office building  
P.O. Box 7800  
Jefferson City, MO 65102-7800

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the Matter of the Application of )  
Various Members of the Missouri )  
Association of Natural Gas Operators for a )  
Permanent Waiver from Certain ) Case No. GE-2003-0137  
Provisions of 4 CSR 240-40.030(9)(Q) )  
and 49 CFR Part 192.481 for Intervals of )  
Atmospheric Corrosion Inspections. )

**STAFF'S RECOMMENDATION IN SUPPORT**

COMES NOW the Staff of the Missouri Public Service Commission and for its recommendation states:

1. On October 8, 2002 several members (Applicants) of the Missouri Association of Natural Gas Operators (MANGO) filed an Application for Permanent Waiver of Compliance requesting a waiver from the corresponding provisions of 4 CSR 240-40.030(9)(Q) and 49 CFR § 192.481 that require pipelines exposed to the atmosphere to be reevaluated at intervals not exceeding three years.

2. On November 26, 2002 the Applicants filed a Motion for Leave to Amend Application to amend the list of Applicants. On December 10, 2002 the Applicants filed a Second Motion for Leave to Amend Application and Withdrawal of First Motion for Leave to add further to the list of Applicants and attached the Second Amended Application for Permanent Waiver of Compliance (Application). The Order Directing Filing issued by the Commission on December 10, 2002 allowed the Applicants to amend their Application.

3. In accord with the Commission's December 10, 2002 Order Directing Filing, the Staff is submitting its recommendation in this case. Staff's Memorandum is attached as Appendix A.

4. Staffs review of the Application for waiver involves a minor change that would match the required interval for atmospheric corrosion reevaluations of service lines with the Commission's interval for service line leak surveys that are required under 4 CSR 240- 40.030(13)(M) 2.B. The change in the required interval for atmospheric corrosion reevaluations of service lines from "not exceeding three years" to "not exceeding thirty-nine (39) months, but at least once each third calendar year" is requested by Applicants to allow additional scheduling flexibility while only increasing the maximum interval by up to three months.

**Staff's Recommendation**

5. Based on the reasons contained in the attached Memorandum (Exhibit A) and as provided for in 49 USC §60118(d), Staff recommends that Applicants be allowed to conduct atmospheric reevaluations of service lines at an alternative maximum interval "not exceeding thirty-nine (39) months, but at least once each third calendar year". Staff asserts that such a waiver is not inconsistent with gas pipeline safety in accordance with 49 USC §60118(d).

6. The Staff recommends that the waiver effective date be set seventy-five (75) days from the date the order issues. Seventy-five (75) days allows for the sixty (60) days required for review by the U.S. Department of Transportation Research and Special Programs Administration (RSPA) and for sufficient processing and mail time.

7. Staff further recommends that written notice sent to the Secretary of Transportation as required in 49 USC §60118(d):

- 1) Be sent overnight express as recommended by RSPA;
- 2) Contain the amended Application (filed December 10, 2002), the Staff Memorandum, and the Commission Order; and,
- 3) Be addressed to Stacey L. Gerard, Associate Administrator for Pipeline Safety; U.S. Department of Transportation — RSPA/Office of Pipeline Safety; 400 Seventh Street, S.W., Room 7128; Washington, DC 20590.

WHEREFORE Staff recommends that the Commission approve the request for waiver sought by Applicants.

Respectfully submitted,  
DANA K. JOYCE  
General Counsel

Robert S. Berlin  
Assistant General Counsel  
Missouri Bar No. 51709

Attorney for the Staff of the  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102

Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or emailed to all counsel of record this 9<sup>th</sup> day of January 2003.

/s/ Robert S. Berlin

**MEMORANDUM**

TO: Missouri Public Service Commission Official Case File  
Case No. GE-2003-0137, Missouri Association of Natural Gas Operators

FROM: John Kottwitz, Energy Department — Safety/Engineering

/s/ John Kottwitz 1/8/03  
Project Coordinator / Date

/s/ Robert S. Berlin 01/09/03  
General Counsel's Office / Date

SUBJECT: Staff Recommendation for Approval of a Waiver from Certain Provisions of 49 CFR Part 192, and the Corresponding Provisions of 4 CSR 240-40.030

DATE: January 8, 2003

**Applications**

On October 8, 2002, several members (Applicants) of the Missouri Association of Natural Gas Operators (MANGO) filed an APPLICATION FOR PERMANENT WAIVER OF COMPLIANCE requesting a waiver from the corresponding provisions of 4 CSR 240-40.030(9)(Q) and 49 CFR §192.481 that require pipelines exposed to the atmosphere to be reevaluated at intervals not exceeding 3 years. The waiver would only apply to service lines and the Applicants propose to conduct these atmospheric corrosion reevaluations at intervals not exceeding 39 months, but at least once each third calendar year.

The Applicants' primary concern is that the current interval does not match the leak survey interval for these same pipelines. This waiver would match these compliance intervals, so that the two requirements can be met at the same time. The Applicants submit that gas safety would not be compromised by the waiver, which will allow for more efficient use of gas safety resources. The Applicants also note other compliance intervals in the federal regulations that have been amended to allow similar flexibility in scheduling inspections without compromising gas safety. The Applicants further noted that in Case No. GE-2000-543, the Missouri Public Service Commission (Commission) granted various members of MANGO a permanent waiver from the corresponding provisions of 4 CSR 240-40.030(9)(Q) and 49 CFR § 192.285(c) regarding intervals for qualifying persons to make plastic pipe joints. That waiver allowed a similar change from the required 12 month interval to "at least once each calendar year, but at intervals not to exceed 15 months" to allow greater flexibility in scheduling. The U.S. Department of Transportation - Research and Special Programs Administration (RSPA) was notified of the waiver granted in Case No. GE-2000-543, and RSPA replied that it did not object.

On November 26, 2002, the Applicants filed a MOTION FOR LEAVE TO AMEND APPLICATION to amend the list of Applicants and attached an amended application. On December 10, 2002, the Commission issued an Order allowing the Applicants to amend their pleadings. Further on December 10, 2002, the Applicants filed a SECOND MOTION FOR LEAVE TO AMEND APPLICATION AND WITHDRAWAL OF FIRST MOTION FOR LEAVE to add further to the list of Applicants and attached the SECOND AMENDED APPLICATION FOR PERMANENT WAIVER OF COMPLIANCE (Application). The only difference between the current Application (December 10) and the original pleading (October 8) is the larger list of Applicants requesting the waiver.

**Annual Report and Assessment Status**

The Applicants include utilities and municipalities. Each Applicant that is a gas utility filed a 2001 annual report with the Commission in 2002. Commission records indicate that these same gas utilities are current on their FY-2003 assessments.

**Staff Response**



The Staff has reviewed the Application and finds the requested waiver is acceptable in regards to pipeline safety. The Staff agrees with MANGO that the waiver will not reduce pipeline safety. The waiver involves only a minor change in the required interval for atmospheric corrosion reevaluations of service lines, so it is the same as the Commission's required interval for service line leak surveys at 4 CSR 240-40.030(13)(M)2.B. The change in the required interval from "not exceeding three years" to "not exceeding thirty-nine (39) months, but at least once each third calendar year" allows additional scheduling flexibility while only increasing the maximum interval by up to three months. The facts that similar flexibility has been provided by RSPA for intervals in other pipeline safety rules and by the Commission in Case No. GE-2000-543 provide precedent that this waiver request is not inconsistent with pipeline safety.

### **Staff Recommendations**

As provided for in 49 USC §60118(d), the Staff recommends that the Commission waive compliance, in part, by the Applicants with 49 CFR §192.481, which corresponds to 4 CSR 24040.030(9)(Q). Specifically, the Staff recommends that the Applicants be allowed to conduct atmospheric reevaluations of service lines at an alternative maximum interval "not exceeding thirty- nine (39) months, but at least once each third calendar year". In accordance with 49 USC 60118(d), such a waiver "is not inconsistent with gas pipeline safety".

As provided for in 49 USC §60118(d), the Secretary of Transportation must receive written notice at least sixty (60) days prior to the effective date of any waiver. If the Commission grants a waiver, the Staff recommends the effective date be set seventy-five (75) days from the date the order is issued. Seventy-five (75) days will allow for adequate processing and mail time, and will not detract from the sixty (60) days required for review by RSPA. Further, the Staff would recommend that the notice sent to the Secretary of Transportation:

- 1) be transmitted by Federal Express (RSPA recommends this to ensure delivery);
- 2) contain the Application, this memorandum and the Commission order, so that all justification is provided to RSPA; and,
- 3) be addressed to Stacey L. Gerard, Associate Administrator for Pipeline Safety; U.S. Department of Transportation - RSPA/Office of Pipeline Safety; 400 Seventh Street, S.W., Room 7128; Washington, DC 20590.