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SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

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December 3, 2008

Patricia Van Gerpen
500 E. Capitol Ave
Pierre, SD 57501

Re: PS08-004

Dear Ms. Van Gerpen:

Attached for filing in the above referenced docket please find several published PHMSA opinions. The opinions may be helpful in the Commission's analysis of CFR Part 192.

Kara Semmler

Interpretation 192.3 (Service Line) 19

Mr. John Searcy
Engineering Division
Tennessee Public Service Commission
Cordell Hull Building
Nashville, TN 37219

Dear Mr. Searcy:

This is in response to your letter dated August 23, 1973, in which you state that you wish to determine what new facilities will be subject to the Federal minimum safety standards as a result of the 1973 legislation giving you jurisdiction over master meter systems.

You ask for guidelines for determining which of the following complexes, and other type complexes, would be under your jurisdiction in accordance with your certification.

Public Schools	Motels
Private Schools	Office Complexes
Colleges	Apartment Complexes
Fairgrounds	Industrial Complexes
Zoos	

One guideline which is useful in making such a determination is to determine whether or not the property owner is selling gas to other persons who are the ultimate consumers, or whether he is providing some other service, such as heat or air conditioning. If he is selling gas to others, he is, of course, engaged in the distribution of gas, and the persons to who he is selling the gas would be considered the customers, even though they are not individually metered. In this situation, the pipelines used to distribute the gas to these ultimate customers would be considered mains and service lines subject to the Federal safety standards. This might be the situation in the case of fairgrounds, industrial complexes, office complexes, and apartment complexes where the individual tenants are the ultimate consumers of the gas, even though they are charged a flat rate rather than being metered.

If on the other hand, the property owner is consuming the gas himself and providing another type of service, such as heat or air conditioning, then he is not engaged in the distribution of gas. In this case, he would be the ultimate customer and the Federal safety standards would apply only to mains and service lines upstream of his meter set assembly or the point where his meter set assembly would normally be located. Most motels, schools, colleges, zoos, and industrial plants would normally fall within this group.

We trust that this has answered your particular questions. If we can be of further assistance, please let us know.

Sincerely,
Joseph C. Caldwell, Director

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Mr. Robin H. Harbin
Attorney-Adviser
Department of Housing
& Urban Development
Daniel Bldg., 15 South 20th Street
Birmingham, Alabama 35233

Dear Mr. Harbin:

This is in reply to your letter of February 24, 1971, concerning the applicability of 49 CFR, Part 192 to gas lines owned by a public housing authority of a municipality.

This office considers the mains and service lines downstream from the master meter to be a distribution system that is subject to the Natural Gas Pipeline Safety Act. The master meter is analogous to a meter at the city gate, where there are no separate meters for individual users in the distribution system downstream from the meter at the city gate, and a flat rate is charged. The municipality, in the case of the housing complex, is an operator under our regulations. Section 192.3 of the new Federal Minimum Safety Standards defines "operator" as a person (including a municipality) who engages in the transportation of gas.

Under §192.3 of the regulations, a service line is defined as a distribution line that transports gas to a customer meter set assembly from a common source of supply. In the usual case involving individual customer meters, the distribution system is regulated to the outlet side of each customer meter set assembly. However, where there is no individual customer meter at the point where the gas is delivered for consumption by the utilization equipment, the Office of Pipeline Safety applies the regulations up to the point where the customer meter would normally be - i.e. at the building wall, and the operator has the burden of compliance with the regulations in assuring a safe condition to this point.

If you have any further questions, do not hesitate to ask.

Sincerely,

Joseph C. Caldwell
Director
Office of Pipeline Safety

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Mr. E. Neil Wagstaff
P.O. Box 233
Provo, UT 84601

Dear Mr. Wagstaff:

This responds to your letter of February 5, 1975, in which you ask us to verify your contention that pipelines in your mobile home park at 801 South State Street, Provo, Utah, are not a gas distribution system subject to 49 CFR Part 192.

Based on the information contained in your letter, which indicates that gas is delivered to each tenant's mobile home where it is burned in gas utilization equipment, we cannot agree that your operation is not under the jurisdiction of Part 192. You concede that Part 192 applies to the transportation of gas by pipeline until the gas is sold and delivered to a consumer. At the same time, you argue that insofar as gas is burned in your equipment to furnish each tenant heat and hot water, you, rather than each tenant, are the ultimate consumer of the gas; and, therefore, your distribution pipelines are not subject to Part 192.

While your argument is valid in some cases, it does not appear appropriate to the situation at your mobile home park. It appears that you are selling gas to tenants for part of the rent money and delivering it to piping and gas utilization equipment in the possession of each tenant under a lease from you. Ownership of the gas, with the right to use it, is transferred to each tenant when the gas enters piping and equipment in the tenant's possession. At that point the transportation of gas subject to Part 192 ends. While the gas is in your possession, it must be transported according to the safety requirements of Part 192. The fact that you are the ultimate owner of the tenant's piping and gas utilization equipment does not nullify each tenant's right under a lease from you to possess and consume the gas.

Since the conclusion herein is not based on the use of gas cooking ranges, their removal from tenants' mobile homes would not alter the applicability of Part 192 to your operation.

Sincerely,

Joseph C. Caldwell
Director
Office of Pipeline Safety

February 5, 1975

Mr. Joseph C. Caldwell, Director
Office of Pipeline Safety
Dept. of Transportation
??0 Independence Ave., S.W.
Washington D.C. 20590

Dear Mr. Caldwell:

I requested Mr. Wayne L. Carlson of the Utah Public Service Commission for a ruling on the application of Sec 192 to my Mobile Home Park. The reply I received failed to address my request and so I am requesting a direct determination based on the following:-

FACTS

1. I own and rent all the Mobile Homes in the park located at 801 So. State Provo Utah which is a master-meter system. (there are no privately owned mobile homes which would be ultimate consumers and make me a pipeline op.)
2. The natural gas is purchased by me through a master meter and I then distribute it to each of my units where I use it.
3. I own and maintain in safe operating order, the appliances in which the gas I purchase is burnt, and all lines form the master meter to the appliances.
4. When I rent I agree to furnish Heat, Hot Water and a means of cooking.

DISCUSSION

To achieve #4 above I supply the tenants with hot air to heat the unit by burning gas, I have purchased, in my furnace (#3) where I am the ultimate consumer of the gas - my tenant uses the hot air I supply to heat the unit. The same applies to Hot Water. Gas ranges may be a debatable point but, if necessary, I will remove the few ranges I have, if they make Sec 192 applicable to me.

CONCLUSION

The extract I have from the Federal Register Vol 38 #68 Tues. April 10'73 discusses the definition of a Service Line and the discussion states "Transportation of natural gas ends with the sale coupled with delivery of the gas to the ultimate consumer so that, after the sale, the gas becomes a consumer item and is no longer in commerce."

Since I use the gas to heat air and water which I deliver to my tenants I must be the ultimate consumer of the gas and from the above quote I cannot be in the transportation of Nat. gas. A letter to Mr. Carlson to this effect is necessary as a hearing is being scheduled on this matter. Your letter of determination should specify if cooking ranges have to be removed to obtain classification as an ultimate consumer.

Sincerely,

E. Neil Wagstaff

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Mr. Harley Minniear, Director
Division of Pipeline Safety
State of Nebraska
Department of Fire Prevention
Lincoln, Nebraska 68509

Dear Mr. Minniear:

This is in reply to your letter of December 5, 1972, asking who is responsible for carrying out the pipeline safety regulations in the situation described.

As we understand the situation, a gas transmission company delivers gas through a master meter to the owner of a trailer court. The trailer court owns all piping downstream of the master meter and delivers gas to 145 metered customers of the court. The gas company reads and bills the customer meters and provides necessary repairs and services to the trailer court. The trailer court owner is billed for the difference between the sum of 145 meters and the amount shown on the master meter.

On December 18, 1970, this office sent to the Chairman of each State agency having jurisdiction over gas pipeline safety a letter discussing, among other systems, a mobile home park system supplied from a single master meter. In that situation, there were no separate meters for individual tenants who were charged a flat rate. Under those conditions, the mains and service lines downstream of the master meter are considered to be a distribution system subject to the Natural Gas Pipeline Safety Act, and the landlord of the mobile home park is considered an operator under the gas pipeline safety regulations.

In the situation you now present, the tenants are individually metered with the meters read and billed by the serving gas company. Nevertheless, it is clear that the trailer court owner is responsible for the cost of all gas transmitted through the master meter. As with the master meter system discussed in the December 18, 1970 letter, the landlord in effect is purchasing gas from the company and distributing it from a single master meter to the various tenants in the trailer park.

The fact that the gas is metered to each tenant rather than going unmetered and charged at a flat rate does not affect the designation of the landlord's piping as a distribution system or the landlord as an operator. Under §192.3 of the regulations, a service line is defined as a distribution line that transports gas to a customer meter set assembly from a common source of supply. Where there are individual customer meters, the distribution system is regulated to the outlet side of each customer meter set assembly. The Department considers the word "customer" to mean the last person who purchases the gas before its consumption. The trailer park system in your situation, therefore, more closely approximates a conventional distribution system than the system discussed in the December 18, 1970 letter.

The method by which the owner chooses to service its system does not alter the responsibility. Insofar as compliance with safety regulation is concerned, the landlord is free to contract with any person or company to perform necessary repairs or services on landlord-owned lines or to read the meters and collect the bills. Such arrangements, however, do not divest the owner of the responsibility.

In summary, the pipelines downstream of the master meter providing gas to the tenants in a trailer park constitute a distribution system subject to the Natural Gas Pipeline Safety Act. Whether or not the tenants of the park are individually metered and regardless of the person employed by the trailer park to perform necessary services, the owner of the trailer park's gas distribution system is the operator under our regulations. The operator has the responsibility for complying with the safety regulations including the odorization and cathodic protection requirements which you specifically mentioned.

I trust this answers your inquiry. If there are additional questions, please contact us.

Sincerely,

Joseph C. Caldwell
Director
Office of Pipeline Safety