

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

**PETITION OF THE PUC PIPELINE
SAFETY PROGRAM MANAGER AND
STAFF FOR A DECLARATORY RULING
REGARDING THE PROPER
CLASSIFICATION OF CERTAIN
NORTHWESTERN ENERGY PIPELINES**

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**PS25-
PETITION FOR DECLARATORY
RULING**

COMES NOW, the South Dakota Public Utilities Commission Pipeline Safety Program Manager and Staff (herein “Staff”) by and through its undersigned Staff Attorney pursuant to ARSD § 20:10:01:34, and files this Petition for a Declaratory Ruling.

INTRODUCTION

Pursuant to SDCL § 49-34B-3, the South Dakota Public Utilities Commission (Commission) adopts the minimum safety standards set forth in 49 C.F.R. part 192 and is charged with enforcing the same. The proper interpretation of 49 C.F.R. § 192.3 is currently in question as it pertains to pipelines that are owned by NorthWestern Energy (NorthWestern) but operated by Northern Natural Gas (NNG) until May 1, 2025. Pipeline Safety seeks guidance on whether the lines should be classified as transmission lines or distribution lines.

Pursuant to ARSD 20:10:01:34, this Petition contains the following:

- (1) The state statute or commission rule or order in question;
- (2) The facts and circumstances which give rise to the issue to be answered by the commission; and;
- (3) The precise issue to be answered by the commission’s declaratory ruling.

This petition lays out these requirements in detail. Staff respectfully requests the Commission rule, based on the facts and argument herein along with expected input from affected parties, whether the lines at issue are properly classified as transmission lines or distribution lines.

1. State Statute and Federal Law

South Dakota Codified Laws provide:

There is created a pipeline safety inspection program. The federal safety standards adopted as Code of Federal Regulations, title 49 appendix, parts 191, 192, 193, and 199 as amended to January 1, 2023, are adopted as minimum safety standards for this chapter. The commission shall establish and implement a compliance program to enforce these safety standards. The program shall be established and implemented in a manner that fully complies with requirements for state certification under the United States Code, title 49, section 60105, as amended to January 1, 2023.

SDCL § 49-34B-3. Accordingly, certain federal regulations are applicable to the matter at hand:

Distribution Center¹ means the initial 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, for example:

- (1) At a metering location;
- (2) A pressure reduction location; or
- (3) Where there is a reduction in the volume of gas, such as a lateral off a transmission line.

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

Gathering line means a pipeline that transports gas from a current production facility to a transmission line or main.

Transmission line means a pipeline or connected series of pipelines, other than a gathering line, that:

- (1) Transports gas from a gathering pipeline or storage facility to a distribution center, storage facility, or large volume customer that is not down-stream from a distribution center;

¹ Distribution Center was not defined until a revision to federal regulations in 2022.

(2) Has an MAOP² [(Maximum allowable operating pressure)] of 20 percent or more of SMYS³ [(specified minimum yield strength)];

(3) Transports gas within a storage field; or

(4) Is voluntarily designated by the operator as a transmission pipeline.

(Note 1 to transmission line. A large volume customer may receive similar volumes of gas as a distribution center, and includes factories, power plants, and institutional users of gas.)

2. Comparison of Transmission Pipeline Regulation vs. Distribution Pipeline Regulation

The classification of the pipelines at issue matters because there are different requirements for each classification. Attachment 1 provides a comparison of the requirements for each.

3. Facts and Circumstances

Basis of Question

The question about these lines formulated during discussions that occurred with NorthWestern regarding their renewable natural gas (RNG) facilities. It was Pipeline Safety's understanding that these lines that were owned and operated by NNG. During the discussion it became known that NorthWestern owned a portion these lines and NNG only operated and maintained the lines.

Pipeline Safety asked about records for inspecting the lines that were operated by NNG and found that the lines had been inspected by PHMSA as part of the transmission system. It was

² MAOP "means the maximum pressure at which a pipeline or segment of a pipeline may be operated under this part."

³ SMYS "means specified minimum yield strength is: (1) For steel pipe manufactured in accordance with a listed specification, the yield strength specified as a minimum in that specification; or (2) For steel pipe manufactured in accordance with an unknown or unlisted specification, the yield strength determined in accordance with § 192.107(b)."

also discovered that NNG had been reporting the portion owned by NorthWestern on NNG's annual report as transmission facilities. Meanwhile, NorthWestern has also been reporting the same lines as distribution on its annual report and they were unaware that NNG was reporting these facilities.

On May 1, 2025, the maintenance agreement between NorthWestern and NNG was terminated. NorthWestern began operating and maintaining its portion of the pipeline. As part of that change, NorthWestern is identifying and modifying the transition points on these lines to make the ownership change clear in each situation.

History

In the early 1990s, the predecessor companies of NorthWestern Energy and Northern Natural Gas Company entered into a series of Pipeline Construction, Ownership and Operating Agreement, wherein the parties agreed to jointly participate in financing the construction of several branch lines and related facilities (Pipelines). Under the terms of the agreements, NorthWestern constructed the Pipelines. Upon completion of the Pipelines, the parties jointly owned the Pipelines and NNG was responsible for performing operation and maintenance services on all of the jointly owned Pipelines. In June 1991, the parties entered into a Pipeline Construction, Ownership and Operating Agreement regarding the Parkston project and the Webster project. In September 1992, the parties entered into a Pipeline Construction, Ownership and Operating Agreement regarding the Scotland project and the Parker project.

During this time frame it was common practice for NWE and other operators in the state to consider these lines with less than 20% SMYS were treated as high pressure distribution in South Dakota. The South Dakota pipeline safety regulations became effective in 1994.

The parties continue to jointly own the Parkston, Webster, Scotland and Parker Pipelines. Over the years, there have been several agreements attempting to clarify the parties' respective ownership interests in the jointly owned Pipelines. The parties' current ownership interests in the jointly owned Pipeline are set forth in an Operating and Maintenance Agreement dated January 31, 2018 as amended.

NNG has continuously operated and maintained the jointly owned Parkston, Webster, Scotland and Parker Pipelines from the time the pipelines were placed in-service until today. NNG, as the operator of the jointly owned Pipeline, reported the Pipelines to PHMSA under NNG's operator identification number as transmission lines. Consistent with NNG's operating procedures, NNG operated the Pipeline as a transmission line. Under PHMSA regulations, an operator may voluntarily designate a pipeline as transmission. Given NNG's status as a transmission pipeline owner and operator, NNG chose to operate these lines as transmission lines and has filed these lines with FERC. See Attachment 2.

Effective May 1, 2025, NNG will no longer operate and maintain NWE's portion of the jointly owned Pipelines. NorthWestern and NNG will be responsible for operating and maintaining their own respective pipeline facilities. NNG will be responsible for operation and maintenance of the NNG-owned facilities. NorthWestern will be responsible for operation and maintenance of the NorthWestern owned facilities. Likewise, each of the parties will be responsible for compliance and applicable regulatory reporting on their respective pipeline facilities. NNG will notify PHMSA that it is no longer the operator of record for the subject pipeline segments within 60 days of May 1, 2025. These pipelines do not meet the state definition of a transmission pipeline as outlined in SDCL 49-41B-2.1 since they operate at less than 20% SMYS.

NorthWestern Energy Pipelines Affected

Scotland/Menno Branch Line fed from the NNG “Parkston” line near Tripp.

Groton Branch Line fed from the NNG “Webster” line near Ferney

Bristol Branch Line (runs from Bristol to Webster) fed from the NNG “Webster” line near Bristol

Marion/Parker Branch Line fed from NNG “Parker” Line, approximately 2 miles east of Canistota.

Previous Related Dockets

1. PS09-005 – In the Matter of the Petition of the Commission Pipeline Safety Program Manager for a Declaratory Ruling Regarding Whether the Crooks Municipal Utilities Gas Line should be Classified as a Transmission or Distribution Line for Pipeline Safety Purposes.
2. PS11-001 - In the Matter of the Petition for Declaratory Ruling of the South Dakota Public Utilities Commission regarding 49 CFR 192.3.

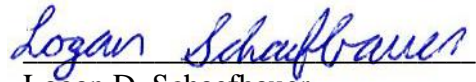
For additional historical context, Staff has also attached pipeline safety letters from past years.

See Attachments 3 - 8.

4. Precise Issue to be Answered by the Commission’s Declaratory Ruling

The precise issue to be answered by the Commission is whether the lines identified in this docket should be considered distribution or transmission.

Dated this 23rd day of September 2025.



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