



U.S. Department of Transportation
Pipeline and Hazardous Materials
Safety Administration

1200 New Jersey Ave, S.E.
Washington, D.C. 20590

APR 15 2010

Mr. Paul J. Metro
Chief, Gas Safety Division
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: April 22, 2010 PUC Hearing

Dear ^{Paul}Mr. Metro:

I have received your March 24, 2010 request for Pipeline and Hazardous Materials Safety Administration (PHMSA) participation in the upcoming Pennsylvania Public Utility Commission hearing scheduled for April 22, 2010. Please find enclosed PHMSA's written statement for the record. Alex Dankanich will attend the hearing on behalf of PHMSA.

Sincerely,

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Byron Coy, Director, Eastern Region, PHMSA
Mr. Alex Dankanich, Eastern Region Inspector, PHMSA
Ms. Brianne Kurdock, Eastern Region Attorney, PHMSA

CERTIFIED MAIL – RETURN RECEIPT REQUESTED [7009 1410 0000 2472 2469]

**Commonwealth of Pennsylvania
Pennsylvania Public Utility Commission
Marcellus Shale En Banc Hearing
Docket No. I-2010-2163461
April 22, 2010**

**Pipeline and Hazardous Materials Safety Administration
Written Statement**

The following statement provides comments in response to questions posed by the Pennsylvania Public Utility Commission (PUC), in preparation for the En Banc Hearing.

Background

The Pipeline Safety Laws set forth in 49 U.S.C. § 60101 *et seq.* authorize the Secretary of the Department of Transportation (DOT) to prescribe minimum safety standards for pipeline transportation and for pipeline facilities. These standards are codified in 49 C.F.R. parts 190 through 199 and set the minimum safety standards for the design, installation, inspection, emergency plans and procedures, testing, construction, extension, operation, replacement, and maintenance of pipeline facilities. Two-thirds of the United States' energy consumption is transported by more than 2.5 million miles of energy pipelines. PHMSA, along with its state partners, perform inspections and enforce regulations over much of this system to insure adequate protection against the risks to life, property and the environment, posed by pipeline transportation.

PHMSA maintains an excellent relationship with the Pennsylvania PUC Gas Safety Division and seeks to support and augment this relationship by helping the PUC in its efforts to provide a greater measure of protection to the citizens of Pennsylvania. The PUC Gas Safety Division routinely inspects gas distribution and some intrastate transmission lines within Pennsylvania. PHMSA supports the PUC's efforts to obtain the necessary regulatory authority to inspect the remaining intrastate transmission and gas gathering lines within the Pennsylvania borders, including the Marcellus Shale development.

How is a gathering line defined in 49 C.F.R. Part 192?

In 1992, Congress granted DOT specific authority to define gas gathering for purposes of the pipeline safety regulations. A gathering line is defined in the pipeline safety regulations as "a pipeline that transports gas from a current production facility to a transmission line or main." 49 C.F.R. § 192.3. PHMSA further defines "regulated gathering line" by incorporating by reference an American Petroleum Institute (API) Recommended Practice (RP) entitled API RP-80 (First Edition, April 2000) with limitations contained within 49 C.F.R. § 192.8.

Congress also recognized that some rural gathering lines might present unacceptable risks and authorized the DOT to regulate lines where the risk warranted regulation. PHMSA determines which gathering lines are regulated depending on location, which is defined by Class. Class locations are further defined in 49 C.F.R. § 192.5. Based on the current risk data, PHMSA had and continues to elect not to regulate gathering lines in Class 1. PHMSA now regulates onshore gas gathering in areas identified as Class 2 (modified for type B gathering lines), Class 3, and Class 4 locations.

What type of gathering lines are Marcellus shale gathering lines?

The typical Marcellus gathering line has a diameter and a pressure higher than other legacy production and gathering systems within Pennsylvania. Based on experience obtained in the Barnett and Haynesville shale developments in other parts of the country, PHMSA anticipates most of the pipeline facilities associated with the Marcellus development will fall within the Type A classification.

In addition, many of the Marcellus related gathering lines are and will be in Class 1, thus, exempt from PHMSA regulation at this time.

At what point does gathering cease and transmission begin under 49 CFR Part 192?

Transmission begins at a defined point where gathering ceases. This is typically at the outlet of a processing facility used to extract heavy hydrocarbons from the gas stream or a compression facility used to boost the pressure into a transmission line. Transmission is regulated in all class locations. Other federal agencies may use a different definition for gathering.

How do other states regulate gathering lines?

According to the Department of Energy's Energy Information Administration, there are thirty-one states that produce natural gas within the United States. Of those thirty-one, twenty-nine have the statutory authority to regulate gas gathering within their boundaries. Responsibility for regulatory oversight of gathering lines in Alaska rests solely with PHMSA, since the state does not participate in the pipeline safety program. Pennsylvania remains the only other state without this full authority, since Pennsylvania only regulates facilities that meet its definition of a public utility.

Other states have imposed additional requirements beyond Part 192 regulations on intrastate gathering lines. For example, the Colorado Public Utilities Commission, through authority from the state legislature, has enacted regulations requiring operators of gathering lines in Class 1 to install pipeline markers at all crossings of public roads, highways, and railroads. It also imposes requirements for leakage surveys on Type B gathering lines in Class 2, 3, and 4 locations.

In 2007, the Texas Railroad Commission initiated rulemaking to extend its regulatory authority to cover production lines residing in urban and suburban areas in the Barnett shale. Texas modified its administrative code in January 2009 and subjects those production pipelines, as currently recognized by PHMSA, in Class 2, 3, and 4 locations to the same requirements as gathering.

If the PUC decides to regulate the Marcellus Development, how will this decision affect funding reimbursement from PHMSA?

The Pennsylvania Utility Commission currently has a state program certification on file with PHMSA in accordance with 49 U.S.C. § 60105. Therefore, pursuant to 49 U.S.C. § 60107, PHMSA has statutory authority to provide grant funds to the PUC for reimbursement of a portion of its costs (up to 80%) to oversee intrastate natural gas pipeline safety.

PHMSA currently requires state agencies that have a pipeline safety certification to remove any costs in the state agency's reimbursement request that are attributable to its oversight of pipeline facilities that are not subject to the federal pipeline safety laws. The latest PUC Gas Safety Division's evaluation resulted in reduced grant funding since the PUC lacked full authority to inspect all intrastate pipelines subject to the federal pipeline safety regulations. To receive the maximum grant funding available, the state legislature must give the PUC the authority to inspect all intrastate pipelines including but not limited to municipals, co-ops, and privately owned transmission pipelines.

As noted above, many of the Marcellus related gathering lines are and will be in Class 1 locations. Currently, gathering lines in a Class 1 are exempt from PHMSA regulation. However, a state may elect to have more stringent regulations. The PUC could elect to extend its authority to regulate these Class 1 gathering lines beginning at the well head. If such authority is enacted, PHMSA would obviously continue to provide the extent of allowable grant funding described, but would not provide grant funding to reimburse costs associated with Class 1 inspection and compliance activities.

Does PHMSA have any plans to amend its regulation to include Class 1 gathering lines?

PHMSA regularly assesses the effectiveness and appropriateness of the regulations it promulgates and will continue to evaluate the need to revise and refine the current requirements.

Where does responsibility for inspecting non-jurisdictional intrastate transmission pipelines for safety lie? PUC or DOT?

There are no non-jurisdictional intrastate transmission lines. If the PUC does not have the authority to regulate certain intrastate lines, then PHMSA retains the responsibility.

If the PUC enforces the federal gas safety regulations i.e. first metering station, last compressor station downstream, at what physical point should that enforcement begin?

Enforcement regulations would apply to the entire regulated facility. This would include the regulated transmission and gathering pipelines and their upstream facilities affecting the pressure control of the regulated pipeline facility.

How should the responsible agency recover the expense of ensuring the safety of these non-jurisdictional intrastate transmission pipelines?

As mentioned above, states may pass more stringent regulations for intrastate pipeline facilities within their state. Funding of the inspection and enforcement of these facilities is typically accomplished through a fee assessed to the regulated facilities.

How should jurisdictional gathering/intrastate transmission pipelines be assessed - total jurisdictional revenues or pipeline mileage? Why?

PHMSA assesses regulated facilities based on pipeline mileage as the oversight cost is essentially the same for the fixed facility being inspected. A state may also consider a pipeline's throughput capability as an assessment factor.

What should the requirements be for jurisdictional gathering or intrastate transmission pipelines to register with PA One Call and how should that be accomplished?

PHMSA believes that all buried gas pipelines should be covered by the One Call laws of that state. If Pennsylvania elects to extend the PUC's regulatory authority to Class 1 gathering lines, PHMSA suggests that the state review and update its One Call laws.