

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

In the Matter of the Application of the Missouri )  
Association of Natural Gas Operators, Inc. for a )  
Permanent Waiver From the Provisions of 20 )  
CSR 4240-40.020(2)(D)1B for Estimated ) **File No. GE-2022-0214**  
Property Damage Threshold for a Federal Incident, )  
And 20 CSR 4240-40.020(7)(B) Distribution System )  
Mechanical Fitting Failure Reports )

**STAFF RESPONSE AND REQUEST FOR CLARIFICATION**

**COMES NOW** the Staff of the Missouri Public Service Commission, by and through counsel, and for its *Staff Response and Request for Clarification* states:

**Background**

1. On February 7, 2022, the Missouri Association of Natural Gas Operators, Inc. (“MANGO”) filed an application with the Commission requesting a permanent waiver for its members from the provisions of 20 CSR 4240-40.020(2)(D)1.B., which requires federal reporting at \$50,000 property damage; and from 20 CSR 4240-40.020(7)(B), which sets the requirement for annual distribution system Mechanical Fitting Failure reports. MANGO noted in its application that its members consist of Investor Owned or Municipal Utility Natural Gas Operators in Missouri that operate a natural gas distribution system and are under the safety jurisdiction of the Missouri Public Service Commission.

2. MANGO stated in its application that the primary concern its application requests to address is the recent amendments to Federal Rule provisions found in the United States Department of Transportation Pipeline and Hazardous Materials Safety Administration (“PHMSA”) Rules, 49 CFR § 191.3(1)(ii) and 49 CFR § 191.12, that were published in the *Federal Register*, Vol. 86, No. 6, Jan. 11, 2021, and that have not yet been reflected in the Commission’s corresponding Rules.

3. On February 8, 2022, the Commission issued an order (“Commission Order”) and directed Staff to file a pleading about whether it is appropriate to amend the Commission’s Rules to reflect MANGO’s requested relief.

4. On February 22, 2022, Staff filed a pleading in response to the Commission Order in which Staff noted that the Commission recently amended the same Commission Rule at issue in MANGO’s application and Staff was in the process of considering the federal amendments cited in MANGO’s application. Staff further stated in its response that if the Commission granted MANGO a temporary waiver from 20 CSR 4240-40.020(2)(D)1.B. and 20 CSR 4240-020(7)(B), such a temporary waiver could reduce federal reporting requirements for MANGO members. On that same day, MANGO filed a *Supplement to Application* that contained a list of MANGO members who were primarily interested in the relief sought by MANGO’s application.

5. On March 9, 2022, the Commission issued its *Order Granting Temporary Waiver* (“Temporary Waiver Order”) that grants a one year waiver of Commission Rule 20 CSR 4240-40.020(2)(D)1.B. and Commission Rule 20 CSR 4240-40.020(7)(B) to the MANGO members listed in MANGO’s *Supplement to Application*. The effective date on the Temporary Waiver Order is March 19, 2022.

6. On March 14, 2022, MANGO filed a *Motion for Reconsideration* in which MANGO requested the Commission issue an amended order that grants a temporary waiver for the entire MANGO membership, a list of whom was included as Appendix A to the motion. On March 17, 2022, MANGO filed an *Amendment to Motion for Reconsideration*, in which MANGO made some corrections to its original Appendix A.

**Staff Response to MANGO’s Motion for Reconsideration**

7. Staff has reviewed MANGO’s *Motion for Reconsideration, Amendment to Motion for Reconsideration* and the included membership lists, Appendix A and Appendix A-Amended, and has no objection to the Commission granting MANGO’s request that the Commission reconsider its Temporary Waiver Order and amend it to include the MANGO members listed in Appendix A-Amended.

**Staff Request for Clarification**

8. Staff has reviewed the Commission’s Temporary Waiver Order and notes that in the body of the order the Commission states “[t]he waiver will not leave a void in gas safety reporting for property damage because the federal regulation requires reporting at \$122,000.” Staff concurs that Federal Rule, specifically 49 CFR § 191.3, does currently define a reportable incident to include “estimated property damage of \$122,000,” but as noted in the response Staff filed on February 22, 2022, the Commission has not yet adopted recent amendments to the Federal Rules, including the amendments to 49 CFR § 191.3.<sup>1</sup>

9. Staff recommends the Commission make it abundantly clear, and clarify that during the duration of any waiver of Commission Rule 20 CSR 4240-40.020(2)(D)1.B., entities subject to the waiver are ordered to comply with the current definition of reportable incident contained in 49 CFR § 191.3.

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<sup>1</sup> The Commission is currently considering an amendment to the Commission’s gas safety rules to incorporate this federal amendment, as well as others, in Case No. GW-2022-0237.

**WHEREFORE**, Staff submits its *Staff Response and Request for Clarification* and requests the Commission issue an order consistent as set forth herein, and grant such other and further relief as the Commission considers reasonable in the circumstances.

Respectfully submitted,

**/s/ Jamie S. Myers**

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**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing was served via e-mail on counsel for the parties of record to this case on this 17<sup>th</sup> day of March, 2022.

**/s/ Jamie S. Myers**