

**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)
Property Damage Threshold for a Federal Incident,)
And 20 CSR 4240-40.020(7)(B) Distribution System)
Mechanical Fitting Failure Reports)

File No. GE-2022-0214

STAFF RESPONSE

COMES NOW the Staff of the Missouri Public Service Commission, by and through counsel, and for its *Staff Response* 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 notes 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 states 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”) directing Staff to file a pleading about whether it is appropriate to amend the Commission’s Rules to reflect MANGO’s requested relief.

Staff Response to Commission Order

4. Federal law requires that the State of Missouri take measures to adopt each applicable federal pipeline safety standard within a prescribed period of time.¹ Goals are set for state programs by PHMSA and enforcement of those goals is by reductions in federal grant-in-aid funding and the potential loss of federal certification if those goals are not met.²

5. The Commission recently amended the same Commission Rule at issue in MANGO’s application, 20 CSR 4240-40.020, to adopt certain previous Federal Rule changes.³ The recent amendments to 20 CSR 4240-40.020 became effective on January 31, 2022, and Staff is now in the process of considering the Federal Rule amendments cited in MANGO’s application⁴, as well as a correction to the Federal Rule amendments cited in MANGO’s application⁵ and additional, subsequently published Federal Rule amendments.⁶

6. Staff notes that in addition to the federal reporting requirements MANGO cites in its application, there are a number of substantive changes to safety requirements

¹ 49 U.S. Code § 60105 requires, among other things, that the state authority adopt each applicable federal pipeline safety standard by the date of its annual certification, or in the event a standard was established within 120 days before the date of the certification, be taking steps to adopt the standard.

² The Commission’s Safety Engineering Department Staff is granted authority to implement the state pipeline safety program by annual certification from the United States Department of Transportation. The annual certification contemplates that a state agency may adopt a safety standard that is additional to or more stringent than the applicable federal standards.

³ See Case File No. GX-2021-0406.

⁴ See *Federal Register*, Vol. 86, No. 6, January 11, 2021.

⁵ See *Federal Register*, Vol. 86, No. 42, March 5, 2021.

⁶ See *Federal Register*, Vol. 86, No. 217, November 15, 2021.

in the recent Federal Rule amendments. Staff is required by the certification process mentioned in paragraph 4 to consider all of the Federal Rule changes, not just the ones specifically cited by MANGO, and in order to do so, Staff intends to file soon a motion with the Commission requesting that the Commission open a working case to consider and invite stakeholders comments on all of the Federal Rule changes.

7. Staff suggests that if the Commission would grant MANGO a temporary waiver from 20 CSR 4240-40.020(2)(D)1.B. and 20 CSR 4240-40.020(7)(B), such a temporary waiver could reduce federal reporting requirements for MANGO members that have pipeline incidents resulting in total damages of between \$50,000 and \$122,000 (but not resulting in a death, injury or reportable volume of gas released), or have reportable failures on mechanical fittings. Staff recommends that the Commission grant this waiver on a temporary basis to cover the intervening time between the effective date of a Commission order granting a temporary waiver in this matter and concluding at the time a final Commission Rule is in effect that contemplates the Federal Rule provisions noted in MANGO's application.

WHEREFORE, Staff submits its *Staff Response* 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 22nd day of February, 2022.

/s/ Jamie S. Myers

