

**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)	Case No. _____
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.)	

**APPLICATION FOR PERMANENT
WAIVERS OF COMPLIANCE**

COMES NOW the Missouri Association of Natural Gas Operators, Inc. (“MANGO” or “Applicant”), on behalf of its members, and, pursuant to 20 CSR 4240-40.030(18), 20 CSR 4240-40.020(2)(D)1B, 20 CSR 4240-40.020(7)(B), 49 CFR § 191.3(1)(ii), 49 CFR § 191.12 and 49 USC § 60118(d), states the following to the Missouri Public Service Commission (“Commission”) as its *Application for Permanent Waivers of Compliance*:

1. Applicant is a Missouri not-for-profit corporation whose members consist of Investor Owned or Municipal Utility Natural Gas Operators in the State of Missouri that operate a natural gas distribution system and are under the safety jurisdiction of the Commission. Its mailing address is at 2304 W Broadway #330, Sedalia, MO, 65301.

2. The purpose of MANGO is to work with the Missouri Public Service Commission for the mutual benefit of all Gas Utilities in the state of Missouri, and all other legal powers permitted a Nonprofit Corporation. MANGO is in good standing. A certified copy of MANGO’s certificate of good standing is attached hereto as **Appendix A**.

3. Communications in regard to this Application should be addressed the undersigned counsel and to:

Carla Richardson
Summit Natural Gas of Missouri, Inc.
Manager of Pipeline Safety-Missouri
Branson Office
116 Chiefs Court
Branson, MO 65616
417-527-7719
crichardson@summitnaturalgas.com

4. The Applicant requests that the Commission grant permanent waivers of compliance (“waivers”) for its members’ gas distribution systems operating in Missouri. The purpose of the waivers is to exempt the Applicant members from the provisions of 20 CSR 4240-40.020(2)(D)1B, which sets at fifty-thousand dollars (\$50,000.00) the estimated amount of property damage triggering Federal Incident reporting requirements; and from 20 CSR 4240-40.020(7)(B), which sets forth the requirement for annual distribution system Mechanical Fitting Failure (“MFF”) reports. The Applicant requests that the Commission relieve Applicant’s members of the reporting requirement regarding a Federal Incident for property damage greater than fifty-thousand dollars, and for the requirement to submit annual MFF reports, as conditioned upon their compliance with 49 CFR § 191.3(1)(ii) and 49 CFR § 191.12.

5. Commission Rule 20 CSR 4240-40.030(18) states as follows:

Upon written request to the secretary of the commission, the commission, by authority order and under such terms and conditions as the commission deems appropriate, may waive in whole or part compliance with any of the requirements contained in this rule. Waivers will be granted only on a showing that gas safety is not compromised. If the waiver request would waive compliance with a federal requirement in 49 CFR part 192, additional actions shall be taken in accordance with 49 USC 60118 except when the provisions of subsection (17)(G) apply.

6. The Applicant’s primary concern with the existing requirements found in 20 CSR 4240-40.020(2)(D)1B and 20 CSR 4240-40.020(7)(B) is that the corresponding Federal 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, were amended as published in the *Federal Register*, Vol. 86, No. 6, Jan 11, 2021, (2237)¹ to “ease regulatory burdens on the construction, operation, and maintenance of gas transmission, distribution, and gathering pipeline systems without adversely affecting safety.” *Id.* at 2210 (**Appendix B**).

7. 20 CSR 4240-40.020(2)(D)1B currently states as follows:

(D) Federal incident means any of the following events:

1. An event that involves a release of gas from a pipeline, gas from an underground natural gas storage facility (UNGSTF), liquefied natural gas (LNG), liquefied petroleum gas, refrigerant gas, or gas from an LNG facility, and that results in one (1) or more of the following consequences:

B. Estimated property damage of fifty thousand dollars (\$50,000) or more, including loss to the operator and others, or both, but excluding the cost of gas lost.

8. 49 CFR § 191.3(1)(ii), as amended, effective as of March 12, 2021, sets the dollar amount of estimated property damage triggering incident report requirements, including loss to the operator and others, at one hundred and twenty-two thousand dollars (\$122,000.00). 49 CFR § 191.3(1)(ii), as amended, reads in its entirety:

Incident means any of the following events:

...
(ii) Estimated property damage of \$122,000 or more, including loss to the operator and others, or both, but excluding the cost of gas lost. For adjustments for inflation observed in calendar year 2021 onwards, changes to the reporting threshold will be posted on PHMSA’s website. These changes will be determined in accordance with the procedures in appendix A to part 191.²

9. 20 CSR 4240-40.020(7)(B) currently states as follows:

(7) Distribution System—Annual Report and Mechanical Fitting Failure Reports.

¹ Docket No. PHMSA—2018—0046; Amdt Nos. 191-29.

² Applicant notes that the Estimated Property Damage threshold will not remain at \$122,000, but will be adjusted annually to account for inflation.

(B) Mechanical Fitting Failure Reports. (191.12)

1. Each mechanical fitting failure, as required by 20 CSR 4240-40.030(17)(E) (192.1009), must be submitted on a Mechanical Fitting Failure Report Form (U.S. Department of Transportation Form PHMSA F 7100.1-2). An operator must submit a mechanical fitting failure report for each mechanical fitting failure that occurs within a calendar year not later than March 15 of the following year. Alternatively, an operator may elect to submit its reports throughout the year. In addition, an operator must also report this information to designated commission personnel.

2. The Mechanical Fitting Failure Report Form (October 2014) is incorporated by reference in subsection (5)(G).

10. 49 CFR § 191.12, as amended, and effective as of March 12, 2021, which set forth the requirement for annual reports on Mechanical Fitting Failures as was defined in 49 CFR § 192.1009, *was removed in its entirety and reserved.*

11. In support of its request for these waivers, Applicant submits that gas safety would not be compromised by the granting the waivers because 20 CSR 4240-40.020(2)(D)1B and 20 CSR 4240-40.020(7)(B) represent reporting metrics and are not themselves safety regulations.

12. The PHMSA concluded that, considering the totality of all leak reporting requirements, collection of annual MFF reports every time there is a release from a mechanical joint no longer yields data useful to predicting gas leaks, stating:

[b]ecause MFF report data . . . confirmed PHMSA's expectations regarding the frequency and characteristics of mechanical joint failure without yielding new statistically significant causal or predictive insights, PHMSA had determined that additional information collection via a dedicated MFF report form is unnecessary . . .

PHMSA agrees that access to quality safety-related information is critical to implementation of an effective regulatory and enforcement program. However, these safety programs benefit from the flexibility both to create targeted information collection activities to address safety issues and to remove those information collection activities that are no longer necessary or have not proven useful. Here, PHMSA has determined that its original purpose for introducing a dedicated MFF

reporting requirement has been satisfied.

Id. at 2218.

13. Additionally, the raising of the monetary threshold for incident reporting from \$50,000 to \$122,000 (and to provide for automatic adjustment in the future) to account for inflation since the promulgation of 49 CFR § 191.3 in 1984 and was “[b]ased on the average annual Consumer Price Index from the Bureau of Labor Statistics of the U.S. Department of Labor, [that] \$50,000 in 1984 is \$122,000 in 2019 dollars.” *Id.* at 2219. PHMSA added that, “[t]he revision to the incident definition has no direct safety impact, better reflects the intent of the original property damage criterion, and only impacts reports of releases without significant safety or environmental consequences.” *Id.* at 2221.

14. In further support of its request for these waivers, the Applicant submits that the Immediate Notice of Missouri Incident requirements found in 20 CSR 4240-40.020(4)(A)1C would not be compromised as result of granting the requested waivers bringing the CSR provisions mentioned herein into line with their parallel CFR provisions, as the threshold requirement for reporting state incidents is significantly lower than federal incidents. 20 CSR 4240-40.020(4)(A)1C reads, in its entirety:

(A) Within two (2) hours following discovery by the operator, or as soon thereafter as practicable if emergency efforts to protect life and property would be hindered, each gas operator must notify designated commission personnel by telephone of the following events within areas served by the operator:

1. An event that involves a release of gas involving the operator’s actions or pipeline system, or where there is a suspicion by the operator that the event may involve a release of gas involving the operator’s actions or pipeline system, and results in one (1) or more of the following consequences—

...

C. Estimated property damage of ten thousand dollars (\$ 10,000) or

more, including loss to the gas operator or others, or both, and including the cost of gas lost[.]

15. Applicant asks that the Commission grant the permanent waivers requested herein as to Commission Rule 20 CSR 4240-40.020(2)(D)1B, conditioned upon reporting of applicable incidents where estimated property damage of \$122,000 or more (or as may be adjusted in the future in accordance with the inflation provisions); and 20 CSR 4240-0.020(7)(B) such that Applicants are not required to file the Mechanical Fitting Failure Reports described therein.

20 CSR 4240-4.017(1) WAIVER

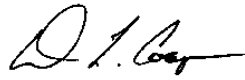
16. Commission Rule 20 CSR 4240-4.017(1) requires “[a]ny person that intends to file a case shall file a notice with the secretary of the commission a minimum of sixty (60) days prior to filing such case.” Because it did not file such a notice within the time period prescribed by that rule, Applicant seeks a waiver of the 60-day pre-filing notice requirement.

17. Under 20 CSR 4240-4.017(1)(D), a waiver of the pre-filing notice requirement may be granted for good cause. In this regard, Applicant declares, as verified below, that within the 150 days prior to this application Applicant members have not had communication with the Office of the Commission (as defined in 20 CSR 4240-4.015(10)) regarding any substantive issue likely to be in this case. Good cause for the requested waiver exists in accordance with Commission Rule 20 CSR 4240-4.017(1)(D) (“Good cause for waiver may include, among other things, a verified declaration from the filing party that it has had no communication with the office of the commission within the prior one hundred fifty (150) days regarding any substantive issue likely to be in the case . . .”).

18. Therefore, as authorized by 20 CSR 4240-4.017(1)(D), the Applicant moves the Commission for a waiver of the 60-day notice requirement of 20 CSR 4240-4.017(1) and acceptance of this application at this time.

WHEREFORE, for the foregoing reasons, the Applicant requests that the Commission issue an order waiving the 60-day notice requirement of 20 CSR 4240-4.017(1), and granting permanent waivers 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, as described herein.

Respectfully submitted,



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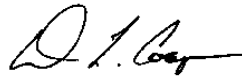
ATTORNEYS FOR APPLICANT

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic mail to the following this 7th day of February, 2022:

Office of the General Counsel
staffcounsel@psc.mo.gov

Office of the Public Counsel
opc@opc.mo.gov



AFFIDAVIT

State of Missouri)
)
County of Stone) ss

I, Carla Richardson, having been duly sworn upon my oath, state that I am the Chairman of the Missouri Association of Natural Gas Operators, Inc. ("MANGO"), that I am duly authorized to make this affidavit on behalf of MANGO, that I have knowledge of the matters stated herein, and that said matters are true and correct to the best of my information, knowledge, and belief. Additionally, no representative of MANGO has had any communication with the office of the Missouri Public Service Commission as defined in Commission Rule 20 CSR 4240-4.015(10) within the one hundred fifty (150) days immediately preceding the filing of the Application regarding any substantive issue likely to be addressed in this case.

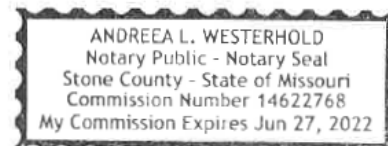
Carla Richardson

Subscribed and sworn before me this 26 day of January, 2022.

Andrea L. Westerhold

Notary Public

My Commission Expires June 27, 2022



STATE OF MISSOURI



John R. Ashcroft
Secretary of State

CORPORATION DIVISION
CERTIFICATE OF GOOD STANDING

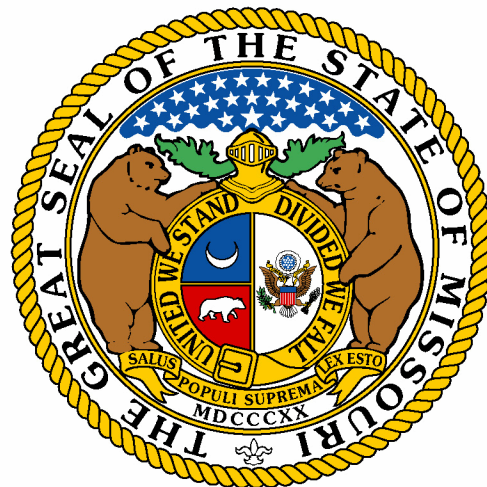
I, JOHN R. ASHCROFT, Secretary of State of the State of Missouri, do hereby certify that the records in my office and in my care and custody reveal that

Missouri Association of Natural Gas Operators, Inc.
N00053493

was created under the laws of this State on the 13th day of December, 1995, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I hereunto set my hand and cause to be affixed the GREAT SEAL of the State of Missouri. Done at the City of Jefferson, this 28th day of January, 2022.


Secretary of State



Certification Number: CERT-01282022-0028