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May 24, 2001

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DANAK. JOYCE
General Counsel

FILED
MAY 24 2001

Missouri Public
Service Commission

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

RE: Case No. GE-2001-586

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and eight (8) conformed copies of a **STAFF RECOMMENDATION**.

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Sincerely yours,

Robert V. Franson
Assistant General Counsel
(573) 751-6651
(573) 751-9285 (Fax)
rfranson@mail.state.mo.us

RVF:ccl
Enclosure
cc: Counsel of Record

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED³

MAY 24 2001

Missouri Public
Service Commission

In the Matter of the Application of)
Missouri Public Service for a Permanent)
Waiver from Certain Provisions of 4 CSR)
240-40.030(11)(B)5. and 4 CSR 240-)
40.030 (12)(M)1.B. for a Pipeline)
Segment near Nevada, Missouri)

Case No. GE-2001-586

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and for its recommendation states:

1. On May 12, 1998, Missouri Public Service (MPS) filed an Application for Permanent Waiver and Request for Expedited Treatment. MPS sought a waiver from certain provisions of 4 CSR 240-40.030(11)(B)5., 4 CSR 240-40.030(12)(M)1.B., and 49 CFR 192.619 (a)(2)(ii) for three miles of pipeline located in Nevada, Missouri (Pipeline).

2. On September 25, 1998, the Missouri Public Service Commission (Commission) granted a three year waiver from the provisions and ordered MPS and PSC to perform certain actions.

3. On April 20, 2001, MPS filed an Application for Permanent Waiver or Variance from the same provisions.

4. In the attached Memorandum, which is labeled Appendix A, the Staff recommends that the Commission grant MPS a permanent waiver of compliance with certain provisions of 49 CFR 192.619(a)(2)(ii) and associated written interpretations by OPS, which correspond to

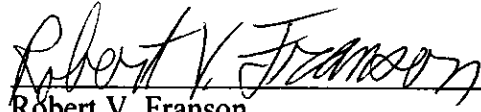
4 CSR 240-40.030(11)(B)5. and 4 CSR 240-40.030(12)(M)1.B. for the Pipeline. Staff recommends that MPS be allowed to continue to operate the Pipeline at an Maximum Allowable Operating Pressure (MAOP) of 175 psig as permitted by the waiver granted in Case No. GO-98-508. In accordance with 49 USC Section 60118(d), such a waiver "is not inconsistent with gas pipeline safety".

5. Staff also recommends that the Commission order these specific provisions contained in the Appendix about notice to the Secretary of Transportation and that the Commission issue its Order on or before July 12, 2001 to allow review by the necessary authorities.

WHEREFORE, the Staff recommends that the Commission grant MPS, a permanent waiver of 4 CSR 240-40.030(11)(B)5. and 4 CSR 240-40.030 (12)(M)1.B. and 49 CFR 192.619 (a)(2)(ii); allow MPS to continue operating the Pipeline at an MAOP of 175 psig; find that such a permanent waiver "is not inconsistent with gas pipeline safety"; issue its Order by July 12, 2001; and provide the notice to the Secretary of Transportation.

Respectfully submitted,

DANA K. JOYCE
General Counsel

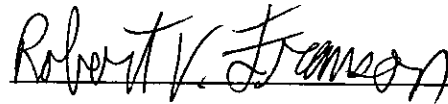


Robert V. Franson
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Missouri Bar No. 34643

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 24th day of May 2001



Service List for
Case No. GE-2001-586
Verified: May 23, 2001 (ccl)

Office of the Public Counsel
P.O. Box 7800
Jefferson City, MO 65102

Gary W. Duffy
Brydon, Swearengen & England PC
312 East Capitol Avenue, P.O. Box 456
Jefferson City, MO 65102-0456

MEMORANDUM

TO: Missouri Public Service Commission Official Case File
Case No. GE-2001-586, Missouri Public Service

FROM: Warren Wood, Gas Department and John Kottwitz, Gas Department – Safety/Engineering

Warren J. Wood 5-21-01 *Thomas E. Schwane Jr.* 5/23/01
Project Coordinator / Date General Counsel's Office / Date

SUBJECT: Staff Recommendation for Approval of a Permanent Waiver from Certain Provisions of 49 CFR Part 192, and the Corresponding Provisions of 4 CSR 240-40.030

DATE: May 18, 2001

Initial Missouri Public Service Waiver Request in Case No. GO-98-508

On May 12, 1998, Missouri Public Service (MPS) filed an APPLICATION FOR PERMANENT WAIVER AND REQUEST FOR EXPEDITED TREATMENT (Initial Application) requesting a waiver from certain provisions of 4 CSR 240-40.030(11)(B)5., 4 CSR 240-40.030(12)(M)1.B., and 49 CFR 192.619(a)(2)(ii). The Initial Application was received by the Missouri Public Service Commission (Commission) and assigned Case No. GO-98-508. MPS requested permission to raise the Maximum Allowable Operating Pressure (MAOP) to 175 pounds per square inch gauge (psig) for approximately three miles of steel pipeline (Pipeline) located in Nevada, Missouri, by using a maximum test pressure of 175 psig instead of the required 262.5 psig (1.5 times 175 psig). In its Initial Application, MPS explained the reasons for this waiver request and agreed to leak survey the three-mile segment more frequently than required (annually instead of every third year). On June 11, 1998, the Commission Gas Department's Safety/Engineering Staff (Staff) filed its recommendation for approval of the Initial Application (See Attachment A). The Commission issued its ORDER GRANTING WAIVER on July 22, 1998, granting the waiver for three years beginning on September 25, 1998 (ending on September 25, 2001). The Commission indicated that at the end of the three-year period, MPS could apply for another waiver and the Commission will be able to evaluate the operation history of the line. A copy of the Order, Staff Memorandum, and Application were forwarded to the U.S. Department of Transportation - Office of Pipeline Safety (OPS) to provide written notice of the granted waiver, in accordance with 49 USC §60118(d). OPS received this written notice sixty days prior to the effective date, as required by 49 USC §60118(d). OPS did not object to the waiver, and it became effective on September 25, 1998.

On November 5, 1998, MPS raised the pressure to 175 psig and conducted a leak survey. As ordered by the Commission, the Staff performed random observations of the leak survey. On November 17, 1998, the Staff filed its memorandum and reported the following:

Only one leak indication was detected during the leak survey, and it was an extremely small leak located at an aboveground pipe thread for a service line. This leak was located in a farm field, at a site remote from the clubhouse served by that service line. This leak was classified in accordance with Commission regulations and MPS procedures.

Current Missouri Public Service Waiver Request in Case No. GE-2001-586

On April, 20, 2001, MPS filed an APPLICATION FOR PERMANENT WAIVER OR VARIANCE (Application) requesting a waiver from certain provisions of 4 CSR 240-40.030(11)(B)5., 4 CSR 240-40.030(12)(M)1.B., and 49 CFR 192.619(a)(2)(ii). The Application is identical in scope to the Initial Application and requests that the "three year" waiver be granted on a permanent basis. The Application restates the need to continue the MAOP of the Pipeline at 175 psig. The Application also restates the reasons for the waiver as contained in the Initial Application (See the **Missouri Public Service Waiver Request** section of Attachment A). The Application states that the Pipeline has been operating safely at an MAOP of 175 psig under the three-year waiver granted in Case No. GO-98-508. In addition, annual leak surveys were conducted on February 9, 1999, March 6, 2000, and March 28, 2001 with no leaks detected. As a further condition to the grant of a permanent waiver, MPS would agree to continue the annual leak surveys of the Pipeline.

The Application further requests that if the Commission grants the waiver, that it be forwarded to the U.S. Department of Transportation - Office of Pipeline Safety (OPS) in a manner that will provide OPS with a 60-day review period as required by 49 U.S.C. §60118(d). MPS requests that the Commission act on the Application sufficiently in advance of the expiration of the existing waiver on September 25, 2001, so that the existing waiver does not expire.

Staff Response

The Company's Application is identical in scope to the Initial Application, so the Staff's responses to the Initial Application regarding the justification and safety issues are still applicable (See Attachment A). The Commission's Order in Case No. GO-98-508 granted the Initial Application for a three-year period and indicated that at the end of the three-year period, MPS could apply for another waiver and the Commission will be able to evaluate the operation history of the Pipeline. MPS has now submitted another waiver in the form of this Application for a permanent waiver. The Staff has taken action to evaluate the operating history of the Pipeline.

Two Staff members conducted a gas safety inspection at the MPS office in Nevada, Missouri during the week of April 23, 2001. As a part of that inspection, the Staff reviewed records for operation of the Pipeline under the waiver granted in Case No. GO-98-508. The Pipeline has been operating at or near the new MAOP of 175 psig since it was established on November 5, 1998. The MPS records for the annual leak surveys for 1999, 2000 and 2001 have been reviewed and no leaks were detected. There have been no underground leaks from the Pipeline while operating under the waiver. Cathodic protection of the Pipeline has been maintained as required under the pipeline safety regulations. The essential valves in the Pipeline have been inspected annually and found in satisfactory condition. The Staff's evaluation has determined that the Pipeline has operated safely under the waiver.

The Staff has reviewed the Application and finds it acceptable in regards to pipeline safety. The Staff agrees with MPS that granting the Application will not reduce pipeline safety, and should actually increase pipeline safety when compared to the minimum requirements. The Staff believes that safety will continue to be adequately addressed by leak surveying the Pipeline each calendar year, instead of once every third calendar year under the Missouri regulations, or once every fifth calendar year under the Federal regulations. The safety benefits derived from leak surveying the Pipeline three or five times more frequently than required have exceeded, and will continue to exceed, any safety benefits that would have resulted from a one-time pressure test at 262.5 psig (9% of the Pipeline's specified minimum yield strength) instead of 175 psig (6% of the Pipeline's specified minimum yield strength). The Staff believes that pipeline safety has not been compromised for the Pipeline while operating under the initial waiver since November 5, 1998, and believes that pipeline safety will not be compromised if the waiver is made permanent.

In 1998, MPS worked with the Staff regarding the pipeline safety content of the Initial Application. Because a Federal regulation and written interpretations by OPS were involved, the Staff contacted OPS for input. OPS is in the U.S. Department of Transportation - Research and Special Programs Administration (RSPA). OPS was concerned over the precedent that could be set if all alternatives had not been exhausted. MPS addressed this concern and then OPS indicated that a waiver request in this specific fact situation may be appropriate, as discussed in the Staff's response to the Initial Application (See Attachment A). As stated previously, OPS did not object to the waiver granted in Case No. GO-98-508 and it became effective on September 25, 1998. The Staff believes that OPS will concur with making this waiver permanent.

Staff Recommendations

As provided for in 49 USC §60118(d), the Staff recommends that the Commission permanently waive compliance with certain provisions of 49 CFR 192.619(a)(2)(ii) and associated written interpretations by OPS, which correspond to 4 CSR 240-40.030(11)(B)5. and 4 CSR 240-40.030(12)(M)1.B., for the Pipeline. Specifically, the Staff recommends that MPS be allowed to continue operating the Pipeline at an MAOP of 175 psig, as permitted by the waiver granted in Case No. GO-98-508. If the Commission permanently grants this waiver, the Staff recommends that it continue to be conditioned on MPS conducting an annual leak survey over the Pipeline. In accordance with 49 USC §60118(d), such a permanent waiver "is not inconsistent with gas pipeline safety".

As provided for in 49 USC §60118(d), the Secretary of Transportation must receive written notice at least sixty (60) days prior to the effective date of any waiver. If the Commission grants a waiver, the Staff recommends the effective date be set seventy-five (75) days from the date the order is issued, and no later than the expiration of the current waiver on September 25, 2001. Seventy-five (75) days will allow for adequate processing and mail time, and will not detract from the sixty (60) days required for review by RSPA/OPS. Further, the Staff would recommend that the notice sent to the Secretary of Transportation:

- 1) be transmitted by certified mail, with the receipt date noted in this official case file;
- 2) contain the Application, this memorandum and the Commission order, so that all justification is provided to RSPA/OPS; and,
- 3) be addressed to Stacey L. Gerard, Associate Administrator for Pipeline Safety; U.S. Department of Transportation - RSPA/Office of Pipeline Safety; 400 Seventh Street, S.W., Room 7128; Washington, DC 20590.

MPS requested expedited treatment of this Application, so that the existing waiver does not expire on September 25, 2001. To allow seventy-five (75) days for the required review by RSPA/OPS, the Staff recommends that the Commission issue its order regarding the Application on or before July 12, 2001.

ATTACHMENT A: Missouri Public Service Commission Official Case Memorandum in Case No. GO-98-508

MEMORANDUM

TO: Missouri Public Service Commission Official Case File
Case No. GO-98-508, Missouri Public Service

FROM: ^{OK} John Kottwitz, Gas Department - Gas Safety *WKS* *pm*

FILED
JUN 11 1998
MISSOURI
PUBLIC SERVICE COMMISSION

Wes Anderson
Utility Operations Division / Date

Thomas R. Schwan Jr. 6/10/98
General Counsel's Office / Date

SUBJECT: Staff Recommendation for Approval of a Waiver from Certain Provisions of 49 CFR Part 192, and the Corresponding Provisions of 4 CSR 240-40.030

DATE: June 9, 1998

Missouri Public Service Waiver Request

On May 12, 1998, Missouri Public Service (MPS) filed an APPLICATION FOR PERMANENT WAIVER AND REQUEST FOR EXPEDITED TREATMENT (Application) requesting a waiver from certain provisions of 4 CSR 240-40.030(11)(B)5., 4 CSR 240-40.030(12)(M)1.B., and 49 CFR 192.619(a)(2)(ii). MPS states that it needs to raise the Maximum Allowable Operating Pressure (MAOP) for approximately three miles of steel pipeline located in Nevada, Missouri, from 118¹ pounds per square inch gauge (psig) to 175 psig. Provisions of the above-referenced regulations would require MPS to use a test pressure of 1.5 times the desired MAOP of 175 psig, which equals 262.5 psig, when uprating the MAOP of this steel pipeline segment from 118 psig to 175 psig. The Application requests a waiver from the provisions that require the 1.5 factor to be used when uprating this pipeline segment. If the waiver is granted, MPS agrees to conduct a leak survey of the pipeline segment when the pressure is raised to 175 psig, and annually thereafter. MPS asserts that safety will not be compromised if the waiver is granted, and points to the fact that the hoop stress² of the pipeline at an MAOP of 175 psig would only be 6% of the pipe's Specified Minimum Yield Strength (SMYS). Also, this pipeline segment has already passed a leak survey at a test pressure of 175 psig on September 9, 1997, when the pipeline segment was uprated from 60 psig to 118 psig.

The increase in MAOP from 118 psig to 175 psig is needed in order to serve the increased demand for natural gas of an industry served by this 3-mile pipeline segment in Nevada, Missouri. The Application discusses the alternatives considered by MPS for uprating the pipeline segment. The 13-mile MPS pipeline segment located upstream of this 118 psig MAOP pipeline segment has an MAOP of 175 psig, but due to its age and condition, MPS does not want to raise the pressure to 262.5 psig that would be required to allow for uprating the downstream segment. The 118 psig MAOP pipeline segment can not be taken out of service for pressure testing because it is the only supply line for the entire city of Nevada, and using

¹The MAOP of 118 psig is contained in the MPS Application. An MAOP is calculated by dividing the uprating pressure (175 psig) by a factor (in this case 1.5). The correct MAOP for the segment is actually 116.67 psig (175 psig / 1.5), and not 118 psig. To be consistent with the Application, this memorandum will refer to the MAOP as 118 psig, even though the established MAOP of the segment is actually 116.67 psig.

² "Hoop Stress" is defined at 4 CSR 240-40.030(1)(B)11. as the stress in a pipe wall produced by the pressure in the pipe, acting circumferentially in a plane perpendicular to the longitudinal axis of the pipe.

MO PSC Case No. GO-98-508
Official Case File Memorandum
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Liquefied Natural Gas (LNG) in a populated area to maintain supply to the city of Nevada could pose a risk to public safety. MPS, working with their natural gas supplier, attempted to use a portable compressor to raise the pressure in the 118 psig MAOP pipeline segment on April 22, 1998, but the compressor had insufficient volume. Because MPS is unable to provide a 262.5 psig test pressure, MPS has chosen to request a waiver that allows a 175 psig test pressure to be used.

The Application further requests that if the Missouri Public Service Commission (Commission) grants the waiver, that it be forwarded to the U.S. Department of Transportation - Office of Pipeline Safety (OPS) in a manner that will provide OPS with a 60-day review period as required by 49 U.S.C. §60118(d). MPS requests expedited treatment of this Application due to the need to complete required construction prior to the 1998-99 heating season.

Staff Response

The Federal regulations at 49 CFR 192.619(a)(2)(ii) require that when establishing the MAOP of a segment of steel pipeline operated at 100 psig or more, one of the limitations is that the MAOP can not exceed "the pressure obtained by dividing the highest pressure to which the segment was tested after construction ... by a factor determined in accordance with the following table...". The 118 psig MAOP pipeline segment was installed after November 11, 1970, so the applicable factors contained in the table vary from 1.1 to 1.5 depending on the pipeline's class location, which can be Class 1 to Class 4 as defined in accordance with 49 CFR 192.5 [4 CSR 240-40.030(1)(C)]. Because the 3-mile pipeline segment is in a Class 3 location (denoting high population), a factor of 1.5 is required to be used. The Federal regulations for uprating are contained in subpart K of 49 CFR Part 192. While subpart K does not specifically state that the factors in 49 CFR 192.619(a)(2)(ii) must be used when uprating a steel pipeline segment to an MAOP of 100 psig or more, OPS has issued written interpretations (including Advisory Bulletin 74-7) stating that the factors must be used to determine the test pressure during uprating. When 4 CSR 240-40.030 was amended in 1989 to include numerous regulations that were more stringent than the Federal regulations, most Missouri operators were unaware of the OPS position that the factors must be used during uprating to establish a new MAOP because they did not have access to the OPS written interpretations. To remove this confusion, the Missouri regulations at 4 CSR 240-40.030(11)(B)5. and 4 CSR 240-40.030(12)(M)1.B. specifically state that the factors must be used during uprating procedures to establish the MAOP.

The Commission Gas Department's Gas Safety Staff (Staff) has reviewed the Application and finds it acceptable in regards to pipeline safety. The Staff agrees with MPS that granting the Application will not reduce pipeline safety, and should actually increase pipeline safety when compared to the minimum requirements. The Staff believes that safety will be increased by leak surveying the 3-mile pipeline segment each calendar year, instead of once every third calendar year under the Missouri regulations, or once every fifth calendar year under the Federal regulations. The safety benefits derived from leak surveying this pipeline three or five times more frequently than required, would exceed any safety benefits that would result from a one-time pressure test at 262.5 psig (9% of SMYS) instead of 175 psig (6% of SMYS).

The Staff believes that pipeline safety will not be compromised for the noted pipeline segment. The Staff has confirmed with MPS personnel that this steel pipeline segment has no history of leakage and has been cathodically protected since its installation in 1971 and 1996. Most importantly, this pipeline segment has already passed an uprating procedure in September of 1997 that involved raising the pressure from 60 psig to 175 psig in four equal steps, and conducting a leak survey after each pressure increase. Because of the recent uprating procedure conducted in September of 1997, the Staff does not believe there is any safety benefit in requiring MPS to conduct four pressure increases and leak surveys again versus raising the pressure directly to 175 psig and conducting a leak survey.

MPS worked with the Staff regarding the pipeline safety content of the Application. Because a Federal regulation and written interpretation are involved, the Staff contacted OPS for input. OPS is in the U.S. Department of Transportation - Research and Special Programs Administration (RSPA). OPS was concerned over the precedent that could be set if all

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Official Case File Memorandum
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alternatives had not been exhausted. To address the OPS concern, MPS made arrangements with its interstate pipeline supplier to provide a portable compressor so that the last alternative to a waiver could be attempted. MPS attempted to conduct an uprating procedure for the 118 psig MAOP pipeline segment on April 22, 1998, but the compressor had insufficient volume to overcome the pipeline's base flow and raise the pressure. A portable compressor with sufficient volume is not available to MPS. The Staff has informed OPS that the MPS attempt to try the portable compressor alternative was unsuccessful, and that the other alternatives involved an increased risk to public safety or the unjustified time and expense of replacing the 13-mile pipeline segment that supplies the 3-mile segment. OPS acknowledged that complying with a requirement that will not increase public safety may not be appropriate where the compliance alternatives would increase the risk to public safety. Also, OPS acknowledged that requiring MPS to replace the 13-mile pipeline segment was not appropriate in this case. Therefore, OPS indicated that a waiver request in this specific fact situation may be appropriate.

Staff Recommendations

As provided for in 49 USC § 60118(d), the Staff recommends that the Commission waive compliance with certain provisions of 49 CFR 192.619(a)(2)(ii) and associated written interpretations by OPS, which correspond to 4 CSR 240-40.030(11)(B)5. and 4 CSR 240-40.030(12)(M)1.B., for the 3-mile steel pipeline segment described by MPS in the Application. Specifically, the Staff recommends that MPS be allowed to increase the MAOP of this pipeline segment to 175 psig by raising the pressure to 175 psig and conducting a leak survey. If the Commission grants this waiver, the Staff recommends that it be conditioned on MPS following the proposal in the Application to conduct an annual leak survey over the involved pipeline segment. In accordance with 49 USC § 60118(d), such a waiver "is not inconsistent with gas pipeline safety".

As provided for in 49 USC § 60118(d), the Secretary of Transportation must receive written notice at least sixty (60) days prior to the effective date of any waiver. If the Commission grants a waiver, the Staff recommends the effective date be set seventy-five (75) days from the date the order is issued. This will allow for adequate processing and mail time, and will not detract from the sixty (60) days required for review by RSPA/OPS. Further, the Staff would recommend that the notice sent to the Secretary of Transportation:

- 1) be transmitted by certified mail, with the receipt date noted in this official case file;
- 2) contain the Application, this memorandum and the Commission order, so that all justification is provided to RSPA/OPS; and,
- 3) be addressed to Richard B. Felder, Associate Administrator for Pipeline Safety; U.S. Department of Transportation - RSPA/Office of Pipeline Safety; 400 Seventh Street, S.W., Room 2335; Washington, DC 20590.

MPS requested expedited treatment of this Application due to the need to complete required construction prior to the 1998-1999 heating season. For this reason and to allow for the required review by RSPA/OPS, the Staff recommends that the Commission issue its order regarding the Application in an expedited manner as requested by MPS.

COPIES: Director - Utility Operations Division
Director - Advisory and Public Affairs Division
Director - Utility Services Division
General Counsel
Manager - Gas Department
Lisa M. Ulrich, Associate Engineer, MPS
Gary W. Duffy, Attorney for MPS
Office of the Public Counsel