

included in the fully distributed cost calculation through a general allocation.

(D) HVAC services means the warranty, sale, lease, rental, installation, construction, modernization, retrofit, maintenance or repair of heating, ventilating and air conditioning (HVAC) equipment.

(E) Regulated gas corporation means a gas corporation as defined in section 386.020, RSMo, subject to commission regulation pursuant to Chapter 393, RSMo.

(F) Utility contractor means a person, including an individual, corporation, firm, incorporated or unincorporated association or other business or legal entity, that contracts, whether in writing or not in writing, with a regulated gas corporation to engage in or assist any entity in engaging in HVAC services, but does not include employees of a regulated gas corporation.

(2) A regulated gas corporation may not engage in HVAC services, except by an affiliated entity, or as provided in sections (8) and (9) of this rule.

(3) No affiliated entity or utility contractor may use any vehicles, service tools, instruments, employees, or any other regulated gas corporation assets, the cost of which are recoverable in the regulated rates for regulated gas corporation service, to engage in HVAC services unless the regulated gas corporation is compensated for the use of such assets at the fully distributed cost to the regulated gas corporation.

(A) The determination of a regulated gas corporation's cost in this section is defined in subsection (1)(D) of this rule.

(4) A regulated gas corporation may not use or allow any affiliated entity or utility contractor to use the name of such regulated gas corporation to engage in HVAC services unless the regulated gas corporation, affiliated entity or utility contractor discloses, in plain view and in bold type on the same page as the name is used on all advertisements or in plain audible language during all solicitations of such services, a disclaimer that states the services provided are not regulated by the commission.

(5) A regulated gas corporation may not engage in or assist any affiliated entity or utility contractor in engaging in HVAC services in a manner which subsidizes the activities of such regulated gas corporation, affiliated entity or utility contractor to the extent of changing the rates or charges for the regulated gas corporation's services above or below the rates or charges that would be in effect if

the regulated gas corporation were not engaged in or assisting any affiliated entity or utility contractor in engaging in such activities.

(6) Any affiliated entities or utility contractors engaged in HVAC services shall maintain accounts, books and records separate and distinct from the regulated gas corporation.

(7) The provisions of this rule shall apply to any affiliated entity or utility contractor engaged in HVAC services that is owned, controlled or under common control with the regulated gas corporation providing regulated services in the state of Missouri or any other state.

(8) A regulated gas corporation engaging in HVAC services in the state of Missouri five (5) years prior to August 28, 1998, may continue providing, to existing as well as new customers, the same type of services as those provided by the regulated gas corporation five (5) years prior to August 28, 1998.

(A) To qualify for this exemption, the regulated gas corporation shall file a pleading before the commission for approval.

1. The commission may establish a case to determine if the regulated gas corporation qualifies for an exemption under this rule.

(9) The provisions of this section shall not be construed to prohibit a regulated gas corporation from providing emergency service, providing any service required by law or providing a program pursuant to an existing tariff, rule or order of the commission.

AUTHORITY: sections 386.760.1, RSMo Supp. 1998 and 393.140, RSMo 1994. Original rule filed Dec. 17, 1998, effective Aug. 30, 1999.*

**Original authority: 386.710.1, RSMo 1998 and 393.140, RSMo 1939, amended 1949, 1967.*

4 CSR 240-40.018 Natural Gas Price Volatility Mitigation

PURPOSE: This rule represents a statement of commission policy that natural gas local distribution companies should undertake diversified natural gas purchasing activities as part of a prudent effort to mitigate upward natural gas price volatility and secure adequate natural gas supplies for their customers.

(1) Natural Gas Supply Planning Efforts to Ensure Price Stability.

(A) As part of a prudent planning effort to secure adequate natural gas supplies for their customers, natural gas utilities should structure their portfolios of contracts with various supply and pricing provisions in an effort to mitigate upward natural gas price spikes, and provide a level of stability of delivered natural gas prices.

(B) In making this planning effort, natural gas utilities should consider the use of a broad array of pricing structures, mechanisms, and instruments, including, but not limited to, those items described in (2)(A) through (2)(H), to balance market price risks, benefits, and price stability. Each of these mechanisms may be desirable in certain circumstances, but each has unique risks and costs that require evaluation by the natural gas utility in each circumstance. Financial gains or losses associated with price volatility mitigation efforts are flowed through the Purchased Gas Adjustment (PGA) mechanism, subject to the applicable provisions of the natural gas utility's tariff and applicable prudence review procedures.

(C) Part of a natural gas utility's balanced portfolio may be higher than spot market price at times, and this is recognized as a possible result of prudent efforts to dampen upward volatility.

(2) Pricing Structures, Mechanisms and Instruments:

- (A) Natural Gas Storage;
- (B) Fixed Price Contracts;
- (C) Call Options;
- (D) Collars;
- (E) Outsourcing/Agency Agreements;
- (F) Futures Contracts; and
- (G) Financial Swaps and Options from Over the Counter Markets; and

(H) Other tools utilized in the market for cost-effective management of price and/or usage volatility.

AUTHORITY: sections 386.250, RSMo 2000 and 393.130, RSMo Supp. 2003. Original rule filed May 1, 2003, effective Dec. 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; 393.130, RSMo 1939, amended 1967, 1969, 2002.*

4 CSR 240-40.020 Incident, Annual and Safety-Related Condition Reporting Requirements

PURPOSE: This rule prescribes requirements and procedures for reporting certain gas-related incidents and safety-related conditions, and for filing annual reports. It applies



to gas systems subject to the safety jurisdiction of the Public Service Commission.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

AGENCY NOTE: This rule is similar to the Minimum Federal Safety Standards contained in 49 CFR part 191, Code of Federal Regulations. Parallel citations to Part 191 are provided for gas operator convenience and to promote public safety.

(1) Scope. (191.1)

(A) This rule prescribes requirements for the reporting of incidents, safety-related conditions and annual pipeline summary data by operators of gas pipeline facilities located in Missouri and under the jurisdiction of the commission.

(B) This rule does not apply to gathering of gas on private property outside of—

1. An area within the limits of any incorporated or unincorporated city, town or village; or

2. Any designated residential or commercial area such as a subdivision, business or shopping center or community development.

(2) Definitions. (191.3) As used in this rule and in the PHMSA Forms referenced in this rule—

(A) Administrator means the administrator of PHMSA or his or her delegate;

(B) Commission means the Public Service Commission, Designated commission personnel means the Pipeline Safety Program Manager at the address contained in section (5) (191.7) for required correspondence and means the list of staff personnel supplied to the operators for required telephonic notices;

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

1. An event that involves a release of gas from a pipeline or of liquefied natural gas (LNG) or gas from an LNG facility and—

A. A death or personal injury necessitating inpatient hospitalization; or

B. Estimated property damage, including cost of gas lost, of the operator or

others, or both, of fifty thousand dollars (\$50,000) or more;

2. An event that results in an emergency shutdown of an LNG facility; or

3. An event that is significant, in the judgment of the operator, even though it did not meet the criteria of paragraphs (2)(C)1. or 2.;

(D) Gas means natural gas, flammable gas, manufactured gas or gas which is toxic or corrosive;

(E) LNG facility means a liquefied natural gas facility as defined in 193.2007 of 49 CFR part 193;

(F) Master meter system means a pipeline system for distributing gas within, but not limited to, a definable area, such as a mobile home park, housing project or apartment complex, where the operator purchases metered gas from an outside source for resale through a gas distribution pipeline system. The gas distribution pipeline system supplies the ultimate consumer who either purchases the gas directly through a meter or by other means, for instance, by rents;

(G) Municipality means a city, village or town;

(H) Operator means a person who engages in the transportation of gas;

(I) Person means any individual, firm, joint venture, partnership, corporation, association, county, state, municipality, political subdivision, cooperative association or joint stock association, and includes any trustee, receiver, assignee or personal representative of them;

(J) Pipeline or pipeline system means all parts of those physical facilities through which gas moves in transportation including, but not limited to, pipe, valves and other appurtenances attached to pipe, compressor units, metering stations, regulator stations, delivery stations, holders and fabricated assemblies;

(K) PHMSA means the Pipeline and Hazardous Materials Safety Administration of the United States Department of Transportation; and

(L) Transportation of gas means the gathering, transmission or distribution of gas by pipeline, or the storage of gas in or affecting interstate or foreign commerce.

(3) Telephonic Notice of Federal Incidents. (191.5)

(A) At the earliest practicable moment following discovery, each operator shall give notice, in accordance with subsection (3)(B), of each federal incident as defined in section (2) (191.3).

(B) Each notice required by subsection (3)(A) shall be made by telephone to 800-

424-8802 and shall include the following information:

1. Names of operator and person making report and their telephone numbers;

2. Location of the incident;

3. Time of the incident;

4. Number of fatalities and personal injuries, if any; and

5. All other significant facts known by the operator that are relevant to the cause of the incident or extent of the damages.

(4) Missouri Reporting Requirements.

(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 shall 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 facilities, or where there is a suspicion by the operator that the event may involve a release of gas involving the operator's actions or facilities, and involves—

A. A death;

B. A personal injury involving medical care administered in an emergency room or health care facility, whether inpatient or outpatient, beyond initial treatment and prompt release after evaluation by a health care professional; or

C. Estimated property damage, including cost of gas lost, to the gas operator or others, or both, of ten thousand dollars (\$10,000) or more; or

2. An event that is significant, in the judgement of the operator, even though it did not meet the criteria of paragraph (4)(A)1.

(B) Exceeding the two (2)-hour notification time period in (4)(A) requires submission of a written explanation of reasons with the operator's incident report.

(C) Within thirty (30) days of a telephone notification made under subsection (4)(A) each gas operator shall submit U.S. Department of Transportation Form PHMSA F 7100.1 or PHMSA F 7100.2, as applicable, to designated commission personnel. These two (2) incident report forms for gas distribution systems (PHMSA F 7100.1, revised March 2004) and gas transmission and gathering systems (PHMSA F 7100.2, revised January 2002) are incorporated by reference. The forms are published by the U.S. Department of Transportation Office of Pipeline Safety, Room 2103, 400 7th St. SW, Washington DC 20590. The forms are available at <http://ops.dot.gov/library/forms/forms.htm> or upon request from the pipeline safety