

U.S. Department of Transportation  
Research and Special Programs Administration  
400 Seventh Street, S W  
Washington. D C 20590

JUN 3 0 2003

Mr. Eddie B. Smith  
Manager, Gas Pipeline Safety Branch  
Public Service Commission of Kentucky  
P.O. Box 615  
730 Schenkel Lane  
Frankfort, Kentucky 40602

Dear Mr. Smith:

The Office of Pipeline Safety (OPS) has reviewed the March 4, 2003, Order of the Public Service Commission of Kentucky (Commission) that grants Catlettsburg Refining, LLC (CRLLC) a waiver from compliance with 49 CFR Part 192, Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards. The waiver allows CRLLC to design and construct two pipelines in accordance with the American Society of Mechanical Engineers (ASME) B31.3 Piping Code standard, instead of complying with Part 192 regulations.

CRLLC owns and operates a refinery in Catlettsburg, Kentucky, that receives natural gas from a transmission pipeline. CRLLC intends to build a hydrogen plant and two pipelines on the refinery grounds for the purpose of converting the natural gas to hydrogen and utilizing the hydrogen to manufacture clean fuels. The pipelines pass through a utility tunnel connecting the two halves of the plant, which are located on opposite sides of Interstate 64.

Because the natural gas and hydrogen pipelines pass under Interstate 64, which is clearly not within the fence lines of the refinery or the hydrogen plant, the pipelines are subject to Part 192 of the Federal pipeline safety regulations. However, given that these pipelines will be operated as an integral part of the refinery, are in compliance with ASME B31.3, and are installed in an underground structure, we have no objection to the waiver of Part 192 in this case.

OPS agrees with the Commission's conclusion that granting the requested waiver is not inconsistent with pipeline safety.

Sincerely,  
Stacey L. Gerard  
Associate Administrator for Pipeline Safety

**Reynolds, James**

From: Shoab, Mohammed (OPSATLNTA)  
Sent: Monday, June 16, 2003 2:38 PM  
To: Reynolds, James  
Subject: FW: Waiver Request relating to proposed gas lines - Catlettsburg Refining, LLC (KY PSC)

James:

I discussed this waiver request with Dallas Rea in detail and upon my request, he summarized the issue as follows. If you have any question, please call me. Thanks.

M.Shoab

-----Original Message-----

From: Rea, Dallas (OPSATLNTA)  
Sent: Friday, June 13, 2003 2:08 PM  
To: Shoab, Mohammed  
Subject: Waiver Request relating to proposed gas lines - Catlettsburg Refining, LLC (KY PSC)

Mo,

You asked if the two proposed gas pipelines would be covered under Part 192. My comments are listed below.

1. If these lines were hazardous liquid lines, they would likely be excepted from Part 195 per 195.1 (b)(7) - the refining/in-plant piping exception. 192.1 does not specifically allow for such an exception for gas piping. In practice, customer owned (direct sale large volume customer) piping that is located downstream of the customer property/fence line or meter (whichever is furthest downstream), is not considered covered by Part 192.
2. Interpretation letters prior to 1993 indicate that the proposed lines would not fall under Part 192, since the consumer owns the gas and there is no transportation of gas between a producer and consumer. The logic used was that transportation subject to Part 192 begins at the outlet of the production facility, and ends at the delivery to the consumer. This logic is used by the KY PSC in their finding that the natural gas line is not covered by Part 192. Similarly, the KY PSC finds that there is no transportation involved of the hydrogen line (no custody transfer is involved).
3. Interpretation letters were sent to several operators in 1993, rescinding the previous interpretations. The new policy conveyed that consumer-owned gas pipelines, other than lines located downstream of a service line, are subject to Part 192. The pipelines that these letters addressed traverse public and/or private lands.
4. From a practical matter, if the proposed lines were completely within the refinery/plant grounds (no interstate highway splitting the plants), the lines would be considered part of the plant, along with all of the other fuel and feedstock lines within the plant (see comment 1 above).

Conclusions:

1. The PSC findings, in part, are based on logic that is similar to that used in OPS's pre-1993 interpretation letters . that the "transportation of gas" begins at the outlet of the production facility, and ends at the delivery to the consumer.
2. 1993 interpretation letters expanded the scope of 192 "transportation" to include consumer owned gas pipelines, other than lines located downstream of a service line. These letters specifically addressed certain consumer-owned pipelines that traverse public/private properties.
3. In practice, customer owned (direct sale large volume customer) piping that is located downstream of the customer property line/fence or meter (whichever is furthest downstream), is not considered covered by Part 192.
4. The proposed lines, because they cross an interstate highway, may be subject to Part 192.

Recommendation:

Give this one to legal to decide.

COMMON WEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION OF CATLETTSBURG )  
REFINING, LLC FOR A DEVIATION ) CASE NO. 2003-00011  
FROM 49 CFR PART 192 AND )  
807 KAR 5:022 )

ORDER

Catlettsburg Refining, LLC ("CRLLC") has filed a letter with the Commission seeking a deviation from 49 CFR Part 192 and 807 KAR 5:022.

CRLLC owns and operates a refinery located in Catlettsburg, Kentucky. CRLLC is a subsidiary of Marathon Ashland Petroleum LLC, a joint venture between Marathon Oil Company and Ashland Inc. Interstate 64 divides the refinery into two parts: the refinery property and the H-Coal Site. CRLLC plans to construct two pipelines under the Interstate 64 right-of-way through an existing tunnel. It is for these pipelines, one a natural gas line and the other a hydrogen product pipeline, that CRLLC seeks the waiver and deviation.

CRLLC has requested this deviation to allow it to design and construct the pipeline facilities to refinery piping standards based upon the American Society of Mechanical Engineers ("ASME") B31.3 Piping Code. CRLLC states that these standards are compatible and exceed the standards under the regulations for which it seeks a deviation. Commission Staff toured the CRLLC facilities that will be affected.

Pursuant to the provisions of 49 U.S.C.A. § 60118, the state authority, acting under an agreement with the Secretary of Transportation, may waive compliance with a safety standard. Likewise, 807 KAR 5:022, Section 18, authorizes the Commission to grant a waiver of its safety regulations.

A formal hearing was held on January 28, 2003 to determine whether the waiver and deviation requested by CRLLC should be granted and to hear evidence concerning the requested waiver and deviation of 49 CFR Part 192 and 807 KAR 5:022. During the hearing, counsel for CRLLC asked that CRLLC be granted a waiver from complying with pipeline standards and be allowed to comply with refinery standards in the construction, inspection, and maintenance of the subject pipeline. It is CRLLC's contention that the requirements of 49 CFR Part 192 are met and are exceeded by the refinery standards under which CRLLC will construct its facilities.

CRLLC presented as its first witness, John W. Lane, in his capacity as professional engineer and capital budget coordinator for CRLLC.<sup>1</sup> As part of his testimony, Mr. Lane introduced into evidence a binder of documents marked as Applicant Collective Exhibit 1 ("Exhibit 1").<sup>2</sup> Exhibit 1 contains drawings of the facilities and examples of procedures in use by CRLLC. These are the procedures CRLLC employs for inspecting and maintaining pressure-relieving devices in its refinery under the American Petroleum Institute ("API") Standards Code Sections 570 and 576. Mr. Lane testified that these sections as presented in Exhibit 1 are representative of industry standards for the refining industry and that such standards would be most applicable for inspections of the two pipelines in

<sup>1</sup>Transcript of Evidence ("T.E.") at 14, 25.

<sup>2</sup> T.E. at 19.

<sup>10</sup> T.E. at 17, 30.

industry standards. Likewise, CRLLC alleges that the pipeline herein is non-jurisdictional in accordance with 49 CFR Part 192 in that it is not transporting natural gas to customers, but is in fact process piping used only in its manufacturing process.

The Commission, having reviewed the record herein, makes the following findings:

1. 49 CFR Part 192(1) applies to the transmission of gas, which is defined in 49 CFR Part 192(3) to mean "the gathering, transmission, or distribution of gas by pipeline ... in or affecting interstate or foreign commerce."

2. The definitions in 49 CFR Part 192(3) of "gathering line" and "service line" clearly indicate that the transportation of gas begins at the outlet of a production facility and runs to the point where ownership of the gas passes to the consumer, or to the point where gas has been sold and delivered to the consumer. The Kentucky regulations contain similar definitions.

3. Both the sale and delivery of natural gas to CRLLC occur before the gas enters the CRLLC facility. Therefore, CRLLC is the consumer for the sale and delivery of the natural gas.

4. The natural gas line to be constructed will be an extension of the existing refinery system. The natural gas will be transported within the Refinery Site to the H-Coal hydrogen production facility for the sole purpose of conversion into hydrogen gas.

5. The hydrogen gas manufactured in the H-Coal Site is then to be transported back to the Refinery Site where it is consumed in the refinery process. There is no sale or transmission of gas from a gathering line or storage facility to or for any customer. Therefore, there is no transportation affecting interstate or foreign commerce.

Based upon the foregoing findings, it appears that the facilities in question are not subject to 49 CFR Part 192 and 807 KAR 5:022. However, to the extent that the waiver requested by CRLLC is required, and based upon this Commission's conclusion that granting the waiver requested by CRLLC is not inconsistent with pipeline safety, the waiver should be granted.

The Commission, being otherwise sufficiently advised, HEREBY ORDERS that the waiver of 49 CFR Part 192 and the deviation from 807 KAR 5:022 requested by CRLLC are granted.

Done at Frankfort, Kentucky, this 3rd day of March, 2003.

By the Commission