



Public Service Commission

State of North Dakota

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July 12, 2017

Tamie A. Aberle
Director of Regulatory Affairs
Montana-Dakota Utilities Co.
400 North Fourth Street
Bismarck, ND 58501

RE: Request for Jurisdictional Determination
Case No. PU-17-240

Dear Ms. Aberle:

Thank you for your June 1, 2017 letter on behalf of Montana-Dakota Utilities Co., (MDU) requesting a jurisdictional determination regarding the applicability of N.D.C.C. Ch. 49-22 (Siting Act) to a proposed pipeline segment intended to provide service to Clark Equipment Company dba Bobcat (Gwinner Line).

On July 12, 2017, the Public Service Commission discussed your request at the administrative matters portion of its regular meeting and asked me to respond to you. The Commission concluded that, based on the information that you provided, the Gwinner Line as proposed would not be a transmission line for the purposes of the Siting Act.

Under N.D.C.C. Ch. 49-22.1, a gas or liquid transmission facility means, "A gas or liquid transmission line and associated facilities designed for or capable of transporting . . . gas." Your inquiry is understandable because of the lack of express clarity in distinguishing between distribution and transmission in the Siting Act. As a result, when facilities fall within a gray area, the Commission must make a determination on a case-by-case basis based on the facts provided.

As specified in your letter, the Gwinner Line will be a 12-inch, SDR-11 bimodal high-density polyethylene (HDPE) 4710 pipe and will operate at a maximum operating pressure of 102 psi which may be raised to 125 psi pending a U.S. Department of Transportation Pipeline and

Hazardous Materials Safety Administration (PHMSA) rule change. The pipeline will extend 21 miles from a tap on the Alliance Pipeline near Milnor, North Dakota to Bobcat facilities in Gwinner, North Dakota, and will be marketed to serve other customers along the route and around the Bobcat facilities. The pipeline will be connected to a pressure reducing station located at the Alliance Pipeline Tap, will be odorized at the outlet upstream of a shut-off valve, and will be available to provide service from that point. As stated in your letter, MDU believes that this is a functional equivalent to a distribution main downstream of a distribution center.

When classifying a pipeline under the Siting Act, guidance may be obtained from Title 49 CFR Part 192. Part 192 applies to the transportation of natural gas by pipeline, which includes each of the recognized stages of gas pipeline transportation – gathering, transmission, and distribution. Under Title 49 CFR § 192.3, a distribution line is defined as a pipeline other than a gathering or transmission line. The Gwinner Line does not fall under the definition of a gathering as it does not transport gas from a production facility to a transmission line or main.

Under § 192.3, a transmission line is:

[A] pipeline, other than a gathering line, that: (1) Transports gas from a gathering line or storage facility to a distribution center, storage facility, or large volume customer that is not down-stream from a distribution center; (2) operates at a hoop stress of 20 percent or more of SMYS; or (3) transports gas within a storage field.

Note: A large volume customer may receive similar volumes of gas as a distribution center, and includes factories, power plants, and institutional users of gas.

As stated in your letter and as we discussed over the phone, the line will not operate at a hoop stress of 20 percent or more of SMYS, or transport gas within a storage field. Therefore the inquiry centers upon whether the pipeline is “functionally equivalent to a distribution main downstream of a distribution center” or pipeline transporting to a distribution center or large volume customer.¹

The Gwinner Line has the characteristics of a distribution line. The pipeline will be shorter, smaller diameter, lower psi, odorant will be added by MDU at the Alliance outlet, and it will be constructed out of highly advanced plastic rather than steel.² While MDU currently only has plans

¹ See PHMSA Interpretation, #PI-09-0019 (March 22, 2010) (Response No. 1: Intrastate natural gas pipeline that transports gas from a transmission line to a large volume customer such as a powerplant is found to be a transmission line).

²U.S. Department of Transportation PHMSA, *About Pipelines: Natural Gas Pipeline Systems*, <https://primis.phmsa.dot.gov/comm/NaturalGasPipelineSystems.htm?nocache=2177> (Plastic Pipe is most

to extend service to the Bobcat facility, your letter stated that MDU will be marketing the natural gas to additional customers off of the pipeline. Also, during the May 16, 2017 Informal Hearing in Case No. PU-17-123, MDU expressed interest in distributing natural gas to the City of Milnor near the Alliance tap, local farms and businesses, and the City of Gwinner. PHMSA guidance has stated that a distribution center is a “point where gas enters piping used primarily to deliver gas to customers who purchase it for consumption as opposed to customers who purchase it for resale.”³ Due to the characteristics and the intent to create a distribution network along the pipeline, the Commission agrees that the pipeline is “functionally equivalent to a distribution main downstream of a distribution center” for the purposes of the Siting Act.

This determination does not set precedent, or apply to other State or Federal laws, regulations or orders beyond N.D.C.C. Ch. 49-22. If there are changes to your proposed plan of construction that may cause the pipeline to fall within the jurisdiction of the Siting Act, please contact the Public Service Commission for further guidance. We thank you again for your request. If there is further assistance you need, or questions you may have, please do not hesitate to contact us.

Best Regards,

A handwritten signature in blue ink, appearing to read 'John M. Schuh', with a long horizontal flourish extending to the right.

John M. Schuh
Special Assistant Attorney General

commonly installed today for gas distribution.); U.S. Department of Transportation, PHMSA, *About Pipelines: Local Distribution Systems*, <https://primis.phmsa.dot.gov/comm/NGDistribution.htm> (Pressure is lowered for distribution, and the odorant is added to help users detect leaks.)

³ PHMSA Interpretation, #PI-09-0019 (March 22, 2010) (Response No. 6).