



Public Service Commission

State of North Dakota

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June 14, 2018

Kristine A. Anderson
Corporate Attorney & Regulatory Affairs
202 S. Main Street
P.O. Box 68
Le Sueur, MN 56068

RE: Request for Jurisdictional Determination
Case No. PU-18-196

Dear Kristine Anderson:

Thank you for your June 1, 2018 letter on behalf of Dakota Natural Gas, LLC (DNG) requesting a jurisdictional determination regarding the applicability of N.D.C.C. ch. 49-22.1 (Siting Act) to a proposed pipeline intending to provide service to an end-use retail natural gas customer and the Drayton, North Dakota community (Drayton Line).

On June 13, 2018, 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 Drayton Line is non-jurisdictional for the purposes of the Siting Act.

As specified in your letter, the Drayton Line will provide market retail natural gas service and does not intend to transport gas for resale. The Drayton Line will consist of 4" steel pipe and will pick up gas from the Viking transmission line at a Town Border Station (TBS) near Donaldson, Minnesota. At the TBS, the pressure will be reduced to 270 pounds per square inch

gauge (psig) and odorant will be placed in the line. DNG will run approximately 1.5 miles of pipe in North Dakota from the border to a regulator station. At the regulator station, part of the line will continue for approximately one mile to serve the large retail customer and an additional section will be added to serve the Drayton community retail customers using 4" and 2" high-density polyethylene pipe. At the regulator station, the pressure will be reduced to 100 psig maximum allowable operating pressure but will be operated at 80 psig.

Under the Siting Act, a gas or liquid transmission facility means, "A gas or liquid transmission line and associated facilities designed for or capable of transporting . . . gas." Distribution lines are non-jurisdictional . In determining the classification of a line, some guidance may be obtained from Title 49 CFR Part 192. Under Title 49 CFR § 192.3, a distribution line is defined as a pipeline other than a gathering or transmission line. The Drayton Line does not fall under the category of a gathering line, 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.¹

As described in your letter and data request responses, the line will operate at less than 20% of System Minimum Yield Strength and does not 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.² DNG asserts that a TBS is generally considered a distribution center because it 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."

The Drayton Line design has many characteristics of a distribution line. It is of shorter length, smaller diameter, downstream from a transmission line, provides service to customers, and the TBS operates as a distribution center.³ As long as a large volume customer does not

¹ Note: A large volume customer may receive similar volumes as a distribution center, and includes factories, power plants, and institutional users of gas.

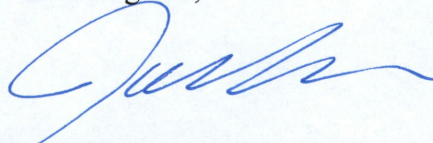
² PHMSA Interpretation, #PI-09-0019 (March 22, 2010).

³ See <https://primis.phmsa.dot.gov/comm/glossary/index.htm?nocache=6290#DistributionLine>; and <https://primis.phmsa.dot.gov/comm/NGDistribution.htm> (Pressure is lowered for distribution, and the odorant is added to help users detect leaks.)

resell gas, the Commission agrees that the Drayton Line is functionally an equivalent to a distribution main downstream of a distribution center for the purposes of the Siting Act.⁴

This determination does not set precedent, or apply to other State or Federal laws, regulations or orders beyond the Siting Act. 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 we can provide further assistance, please do not hesitate to contact us.

Best Regards,



John M. Schuh
Special Assistant Attorney General

⁴ The characteristics listed above are consistent with the June 4, 1985 motion adopting a policy for non-jurisdictional pipelines based upon shorter distances, lower pressures, lower volumes, and generally receive gas from transmission lines for consumption by the end user.