



Public Service Commission

State of North Dakota

COMMISSIONERS

Julie Fedorchak
Randy Christmann
Sherri Haugen-Hoffart

600 East Boulevard Avenue Dept. 408
Bismarck, ND 58505-0480
Web: www.psc.nd.gov
Phone: 701-328-2400
ND Toll Free: 1-877-245-6685
Fax: 701-328-2410
TDD: 800-366-6888 or 711

October 10, 2022

Travis Jacobson
Director of Regulatory Affairs
Montana-Dakota Utilities, Co.
400 N. Fourth Street
Bismarck, ND 58501

RE: Request for Jurisdictional Determination
Case No. PU-22-363

Dear Travis Jacobson:

Thank you for your request for jurisdictional determination on behalf of Montana-Dakota Utilities, Co. (MDU) regarding the applicability of N.D.C.C. ch. 49-22.1 (Siting Act) to a proposed pipeline segment necessary to initially provide service to North Dakota Soybean Processors, Inc. (NDSP) near Casselton, North Dakota.

As specified in your letter and subsequent correspondence, the company plans to use a six-inch API5L grade X52 steel pipe with a wall thickness of 0.280. The pipeline will operate at 200 pounds per square inch (PSI) and hoop stress of less than 20 percent of system minimum yield strength (SMYS). The extension will include a new tap into the existing WBI Transmission Line, a new town border station, and will include approximately 10,700 feet of six-inch steel main to serve NDSP. MDU requests that the Commission find the NDSP line to be a distribution line not subject to the Siting Act.

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.

On August 24, 2022, the Pipeline Hazardous Materials Safety Administration (PHMSA) published a final rule with an amendment to 49 CFR § 192.3. The amendment includes a definition of “distribution center” and updates the definition of “transmission line.” The final rule is effective on May 24, 2023.

49 CFR § 192.3 will define “transmission line” as:

[A] pipeline or connected series of pipelines, other than a gathering line, that: (1) Transports gas from a gathering pipeline or storage facility to a distribution center, storage facility, or a large volume customer that is not down-stream from a distribution center; (2) Has a MAOP of 20 percent or more of SMYS; (3) Transports gas within a storage field; or (4) Is voluntarily designated by the operator as a transmission pipeline.¹

A pipeline that meets any of the four listed conditions will be a transmission line in accordance with 49 CFR Part 192.

49 CFR § 192.3 will define “distribution center” as:

Distribution Center means the initial 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, for example:

- (1) At a metering location;
- (2) A pressure reduction location; or
- (3) Where there is a reduction in the volume of gas, such as a lateral off a transmission line.

As described in your letter and responses, the line will operate at less than 20 percent of SMYS, does not transport gas within a storage field, and MDU asserts that it is a distribution line. As a result, the inquiry turns upon whether it is downstream from a distribution center.

The proposed line has the functional attributes of a distribution line, and the town border station appears to provide a pressure reduction to deliver gas to an end-use customer for consumption consistent with the new definition of “distribution center.” With these considerations, the Commission agrees that the proposed line has the characteristics of a distribution main downstream of a distribution center and that there is a rational basis for a determination as distribution line under the Siting Act.

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

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,

A handwritten signature in blue ink, consisting of a large, stylized initial 'J' followed by a series of loops and a long horizontal tail.

John M. Schuh
Special Assistant Attorney General