



Public Service Commission

State of North Dakota

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November 8, 2023

Kristine A. Anderson
Dakota Natural Gas, LLC
1900 Cardinal Lane
P.O. Box 798
Fairbault, MN 55021

RE: Request for Jurisdictional Determination
Case No. PU-23-299

Dear Ms. Anderson:

Thank you for your August 30, 2023, letter on behalf of Dakota Natural Gas, (DNG) requesting a jurisdictional determination regarding the applicability of N.D.C.C. Ch. 49-22 (Siting Act) to a proposed pipeline segment intended to augment existing service to Larimore and Arvilla, North Dakota.

On November 8, 2023, 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 Larimore and Arvilla 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 line will be fed from an interconnect point with the Xcel Energy pipeline line near Emerado, North Dakota. The line, constructed of 6" HDPE and 4" HDPE pipe, will pick up odorized gas from the custody transfer point with Xcel where DNG will reduce the pressure for its distribution system, which will have at a system MAOP of 125 psig, but which will be operated at or below that level. DNG will run 6" HDPE pipe from the custody

transfer point, transitioning to 4” HDPE pipe as it approaches Arvilla. A line constructed of 4” HDPE pipe will continue to Larimore. Cumulatively, the distribution main will likely total approximately 13.25 miles. The 4-inch and 2-inch segments of the pipeline are exempt from siting as stated in N.D.C.C. Ch 49-22.1-01(7)(a)(4) states:

A pipeline with an outside diameter of four and one-half inches [11.43 centimeters] or less which will not be trenched and will be plowed in with a power mechanism having a vertical knife or horizontally directionally drilled, and its associated facilities.

As stated in your letter, all HDPE pipe will be installed via plowing and/or directional drilling. The exemption does not apply to the 6-inch pipe, but does apply to the 4-inch and 2-inch pipe that is plowed or directionally drilled.

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 line does not fall under the definition 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.

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.

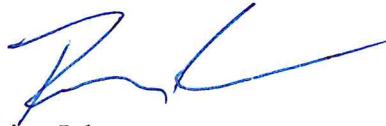
Therefore, the inquiry centers upon whether the pipeline is “functionally equivalent to a distribution main downstream of a distribution center” or pipeline transporting to a distribution center or large volume customer.¹

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).

The line has the characteristics of a distribution line. The pipeline will be shorter, smaller diameter, lower psi, odorant will be added at or before the custody transfer point, and it will be constructed out of highly advanced plastic rather than steel.² 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,



Brian Johnson
Special Assistant Attorney General

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 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).