



Public Service Commission

THAD LeVAR
Chair

DAVID R. CLARK
Commissioner

JORDAN A. WHITE
Commissioner

State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Memorandum

Date: January 19, 2016

Re: Docket No. 15-R409-01, Amendment to Rule R746-409 Re: Pipeline Safety – Changes to Proposed Rule

On December 30 and 31, 2015, Questar Gas Corporation (Questar) and the Division of Public Utilities (Division), respectively, filed comments with the Commission in response to the proposed amendment to Rule R746-409 published in the Utah State Bulletin Number 2015-23 on December 1, 2015. We appreciate the comments from the Division and Questar, both during the rule amendment comment period and the two previous rounds of informal draft rule review. Based on these comments, we have determined four changes to the proposed rule are appropriate. The comments and our decisions on the comments are summarized below.

1. **R746-409-2.M.3 pertaining to state reportable incidents.**

- a. Proposed rule amendment wording: “Results in property damage of \$15,000 or more, including the cost of gas that is lost;”
- b. Revised proposed wording: “Results in property damage of \$15,000 or more, including the loss to the operator and others, or both, excluding the cost of gas that is lost;”

Rationale: Questar recommends increasing the property damage amount to \$50,000 or more to ensure consistency with federal regulations. This rule, however, addresses state reportable incidents and reflects the Division’s desire to be informed of and monitor pipeline incidents in support of its regulatory duties. We observe, however, that federal reporting requirements in 49 C.F.R. § 191.3 – Definitions, Incident clarify that the property damage value includes the loss to the operator and others, or both, and excludes the cost of gas that is lost. For consistency, we adopt similar wording for clarity and because doing so is reasonable in light of the fact that gas prices vary. The exclusion of gas costs also recognizes that it can be difficult to determine both the amount and cost of gas lost when evaluating whether an incident should be reported.

2. R746-409-2.M.6 pertaining to state reportable incidents.

- a. Proposed rule amendment wording: “Receives news media coverage of which the utility becomes aware.”
- b. Revised proposed wording: None; section deleted.

Rationale: Questar explains that personnel on site at an incident are occupied with addressing the incident, not identifying others present on the scene. Questar does not believe its employees’ attention should be diverted from addressing the incident to assess whether media is present or not, and to report on their presence. We agree and delete the proposed requirement.

3. R746-409-3.C pertaining to inspections.

- a. Proposed rule amendment wording. “Testing -- To the extent necessary to carry out its responsibilities, the Commission may require testing of portions of intrastate pipeline facilities which have been involved in or affected by an incident.”
- b. Revised proposed wording: Not applicable; no change.

Rationale: Questar recommends changing the language from “the Commission may require testing of portions of interstate pipeline facilities” to “the Commission may require the Utility to test portions of intrastate pipeline facilities.” Questar recommends this change to clarify that the utility shall perform such testing, not some other entity or agency. We observe that this rule applies to pipeline operators, not utilities, and that pipeline operators represent a diverse group of entities, both large and small. We also note that testing of “components involved in or affected by an incident” could include testing by the Division, or a Division consultant. The rule language is also reasonably consistent with a similar requirement in federal regulations in 49 C.F.R. § 190.203(d) Inspections and Investigations. Therefore, we decline to accept Questar’s proposed change.

4. R746-409-3.D pertaining to inspections and the Division’s enforcement abilities.

- a. Proposed rule amendment wording: “Further Action -- When information obtained from an authorized inspector or from other appropriate sources indicates that further action is warranted, the Division shall issue a warning letter to an operator and, if necessary, initiate proceedings, including but not limited to seeking the issuance of Commission subpoenas to compel the production of records and the taking of testimony, hearings and related procedures, before the Commission.”
- b. Revised proposed wording: Not applicable; no change.

Rationale: Questar recommends striking the proposed language because it is duplicative of existing enforcement mechanisms and is therefore unnecessary. Also, Questar asserts the referenced provision is vague as to who would “authorize” such an inspector. The Division supports the Commission’s proposed rule amendment. The Division states this language informs those subject to R746-409 that the Commission’s subpoena power may

be utilized as necessary. We note the term “authorized inspector” is defined in the proposed rule amendment R746-409-2.A. In addition, we note that many operators are subject to the Commission’s jurisdiction solely because they are engaged in the transportation of gas. Therefore, we find that it is reasonable to remind pipeline operators of the Commission’s authority. In addition, this wording is reasonably consistent with similar language in federal regulations in 49 C.F.R. § 190.203 (f) (Inspections and Investigations) and is specifically supported by the Division.

5. R746-409-4.B.2 pertaining to notification requirements applicable to state reportable incidents.

- a. Proposed rule amendment wording: “State Reportable Incidents. An operator must provide telephonic notice to the Division at (844)-GAS-2525 or [\(844\)-427-2525](tel:(844)427-2525) of all state reportable incidents, including the location and known details at the time of reporting, at the earliest practicable moment following discovery.”
- b. Revised proposed wording: “State Reportable Incidents. An operator must provide telephonic notice to the Division at (844)-GAS-2525 or [\(844\)-427-2525](tel:(844)427-2525) of all state reportable incidents, including the location and known details at the time of reporting, at the earliest practicable moment when safely possible following discovery.”

Rationale: Questar recommends changing the phrase “at the earliest practicable moment following discovery” to “as soon as reasonably practicable, after addressing emergency conditions.” Questar reasons that on-site employees focus on abating emergency situations first, and promptly reporting thereafter. Questar maintains that “the earliest practicable moment” could be read to suggest that employees should satisfy reporting requirements concurrently or prior to addressing safety concerns. The Division recommends changing the referenced phrase to “at the earliest practicable moment when safely possible following discovery,” recognizing that emergency actions take precedence over telephonic notification. We agree that safety is paramount when responding to incidents. Therefore, we adopt the Division’s proposed language, noting that this requirement relates to state reportable incidents only. The Division’s proposed language also recognizes the variability of pipeline operators’ incident response/management procedures.

6. R746-409-4.E pertaining to special reports.

- a. Proposed rule amendment wording: “Special Reports Relating to Safety Issues. An operator shall prepare and file special reports relating to safety issues as requested by the Commission or the Division in accordance with in accordance with Section R746-409-4.F.”
- b. Revised proposed wording: “Reports Relating to Safety Issues. An operator shall prepare and file reports relating to safety issues as requested and described by the Commission or the Division in accordance with Section R746-409-4.F.”

Rationale: Questar believes the proposed language is vague as to what constitutes a “special report” or its content and requests clarification. We note that we have previously requested safety-related information from Questar without issue, e.g., June 2014 request for information on Pre-1973 Aldyl-A pipe. Based on Questar’s comment, we clarify that the referenced reports are simply those pertaining to safety-related information or issues as requested by, and as necessary for the Commission and the Division to carry out their statutory duties. In support of this clarification we delete the word “special.” We also clarify that the report will contain the information described by the Commission or the Division.