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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

**IN THE MATTER OF MR. MICHAEL
MOYAL AND THE MASTER METER
SYSTEM AT THE MILLSTREAM MOTEL**

Docket No. 16-2593-01

**UTAH DIVISION OF PUBLIC UTILITIES'
REQUEST FOR AGENCY ACTION
ON NOTICE OF PROBABLE
VIOLATION, PROPOSED HAZARDOUS
FACILITY ORDER, PROPOSED CIVIL
PENALTY, AND PROPOSED
COMPLIANCE ORDER AGAINST
MR. MICHAEL MOYAL**

Pursuant to Utah Code Ann. §§ 54-4a-1 et seq., 54-13-1 et seq., and 63G-4-201, the Utah Division of Public Utilities (Division) hereby files this Request for Agency Action on Notice of Probable Violation, Proposed Hazardous Facility Order, Proposed Civil Penalty, and Proposed Compliance Order against Mr. Michael Moyal (Request) with the Public Service Commission of Utah (Commission) in connection with Mr. Moyal's operation of a natural gas master meter system (Master Meter System) at the Millstream Motel located at 1450 Washington Blvd, Ogden, Utah (Motel). Mr. Moyal has

represented that he is the owner of the Motel and is the operator of its Master Meter System.

The Division respectfully requests that the Commission: (1) find that beginning May 10, 2016, Mr. Moyal violated and continues to violate, as described more particularly below, Utah Code Ann. §§ 54-13-2 and 54-13-3 and Commission rule R746-409-1 et seq.; (2) issue a Hazardous Facility Order pursuant to R746-409-6 suspending operation of the Master Meter System pursuant to Utah Code Ann. §§ 54-13-2 and 54-13-3 and R746-409-1 et seq. until such time as the Commission issues an order finding that the Master Meter System (a) has been brought into compliance or (b) has ceased operation; (3) assess Mr. Moyal civil penalties up to the amount of \$1,000,000 pursuant to Utah Code Ann. § 54-13-8 and R746-409-6; (4) issue a Compliance Order pursuant to R746-409-6 directing Mr. Moyal (a) to take specific corrective action to comply with Utah Code Ann. §§ 54-13-2 and 54-13-3 and R746-409-1 et seq. or (b) cease operation of the Master Meter System; and (5) order such other relief as the Commission deems appropriate.

The Division's specific concerns are presented in and supported by its Notice of Probable Violation, Proposed Hazardous Facility Order, Proposed Civil Penalty, and Proposed Compliance Order (collectively, Notice) attached as Exhibit A and incorporated herein.

I. JURISDICTION AND LEGAL AUTHORITY

Pursuant to delegation from the U.S. Department of Transportation, the State of Utah regulates, inspects, and enforces intrastate gas pipeline safety requirements, including those involving natural gas master meter systems.¹

The Commission has jurisdiction over this matter pursuant to Title 54, Chapter 13 of the Utah Code. Furthermore, pursuant to Utah Code Ann. § 54-13-3:

The Commission shall adopt and shall enforce rules pursuant to Section 54-13-2 including rules which:

(1) incorporate the safety standards established under the federal Natural Gas Pipeline Safety Act¹ that are applicable to intrastate pipeline transportation; and

(2) require persons engaged in intrastate pipeline transportation to:

(a) maintain records and to submit reports and information to the commission to enable the commission to determine whether the person is acting in compliance with this chapter or rules adopted under this chapter; and

(b) maintain a plan for inspection and maintenance of each pipeline facility that is available to the commission upon commission request.²

Consistent therewith, in R746-409-1 et seq. the Commission sets forth certain rules pertaining to the transportation of intrastate natural gas and operation of natural gas master meter systems.

¹Utah's authority is described at:

https://primis.phmsa.dot.gov/comm/FactSheets/States/UT_State_PL_Safety_Regulatory_Fact_Sheet.htm

² Internal citation omitted.

II. BACKGROUND

The Division's Pipeline Safety Section (Pipeline Safety) became concerned that Mr. Moyal was operating a natural gas master meter system at the Motel. Pipeline Safety's initial repeated verbal requests to Mr. Moyal failed to result in a meeting. Pipeline Safety then sent Mr. Moyal a letter dated August 28, 2015, attached as Exhibit B, directing him to respond in writing by September 15, 2015 with the time and date he would meet with Pipeline Safety. No response was received by Pipeline Safety.

On November 19, 2015, the Attorney General's Office sent Mr. Moyal a letter, attached as Exhibit C, stating the attempts that Pipeline Safety had made to contact him and informing him that he had a legal duty to permit inspection of the Master Meter System. This November letter included specific statutory references detailing his obligations and the possibility and amount of civil penalties for non-compliance.

Mr. Moyal responded to the November letter, and on January 6, 2016, Pipeline Safety met with Mr. Moyal at the Motel. Consequently, Pipeline Safety determined that Mr. Moyal was operating the Master Meter System at the Motel and that the Master Meter System lacked required cathodic protection. Pipeline Safety informed Mr. Moyal of his noncompliance and explained his options: he could bring the Master Meter System into compliance or cease operating the Master Meter System by disconnecting, purging, and capping the ends of the system. He also was told that if he continued to operate the Master Meter System but did not bring it into compliance, he would be subject to further action, including imposition of civil penalties. Pipeline Safety never received notice from Mr. Moyal following this discussion that the Master Meter System had been brought into compliance or had been disconnected, purged, and capped.

Accordingly, on February 10, 2016, the Attorney General's Office sent Mr. Moyal a warning letter,³ attached as Exhibit D, confirming in writing that Pipeline Safety had determined that the Master Meter System was not in compliance with applicable pipeline safety statutes and regulations. Means of compliance, the option to cease operating the Master Meter System, and the possibility of penalties for noncompliance were again explained. Mr. Moyal was given two weeks after receipt of the February letter to inform Pipeline Safety or the Attorney General's Office whether the Master Meter System would be brought into compliance or would cease operation. In the letter, Mr. Moyal also was informed that a Complaint and Notice of Probable Violation would be filed against him if the Master Meter System continued to operate without being in compliance.⁴

Mr. Moyal did not respond within the two-week period, but thereafter contacted Pipeline Safety indicating that he had consolidated tenants into two buildings and that the Master Meter System continued to operate. See Exhibit E attached hereto.

Based upon this information, on April 7, 2016, Pipeline Safety conducted a site visit at the Motel concerning the Master Meter System. Pipeline Safety found that the Master Meter System was not in compliance with applicable laws and regulations and that Mr. Moyal's action of consolidating tenants failed to bring the Master Meter System into compliance. In particular, Pipeline Safety found that the Master Meter System lacked required cathodic protection and associated records; that Mr. Moyal did not have required written procedures for operation, maintenance, and emergency response

³R746-409-3(D) states, "When information obtained from an inspector or from other appropriate sources indicated that further action is warranted, the Division shall issue a warning letter and, if necessary, commence proceedings before the Commission."

⁴ The Division asserts that this Request for Agency Action is substantially similar to a complaint.

regarding the Master Meter System; and that Mr. Moyal lacked procedures for providing customers required Public Awareness information about the Master Meter System.

After the April site visit, the Attorney General's Office sent Mr. Moyal a letter dated April 19, 2016 reiterating what Pipeline Safety had discovered and giving Mr. Moyal an extension until May 9, 2016 to comply or to cease operating the Master Meter System. See Exhibit F attached hereto. In this April letter, the Attorney General's Office informed Mr. Moyal that his failure to comply would result in the Division filing a proceeding against him before the Commission.

On May 9, 2016, Mr. Moyal submitted his Plan of Action in which he indicated that he was going meet with Whitaker Construction to evaluate his property and obtain a bid to install a cathodic protection system for the Master Meter System. See Exhibit H attached hereto.

Pipeline Safety then corresponded with Brent Hunziker of Whitaker Construction concerning the status of the bid. By email dated September 2, 2016, Whitaker Construction indicated that it had not been contacted by Mr. Moyal to proceed with any cathodic protection installation. See Exhibit I attached hereto.

The meeting, site visit, emails, and letters from Pipeline Safety and the Attorney General's Office occurred after repeated attempts over many months to engage Mr. Moyal in discussions concerning his Master Meter System and to assist him with bringing it into compliance or ceasing to operate the system. Throughout this process, it has been consistently difficult to meet with Mr. Moyal and to access the Motel and its Master Meter System.

Consequently, due to Mr. Moyal's repeated disregard of applicable pipeline safety statutes and rules, the Division files this Request and seeks the relief stated below.

III. REQUEST FOR AGENCY ACTION

The attached and incorporated Notice provides details of and support for the Division's Request. Based on information contained in the Notice, the Division requests that the Commission:

A. Find Violations

The Division requests that the Commission find that Mr. Moyal has violated Utah Code Ann. § 54-13-1 et seq. and Commission Rule R746-409-1 et seq. because:

1. the Master Meter System lacks appropriate external corrosion control (Probable Violation Item No. 1);
2. no corrosion control records are maintained for the Master Meter System (Probable Violation Item No. 2);
3. certain other records are not maintained for the Master Meter System (Probable Violation Item No. 3);
4. no written procedural manual for operations, maintenance, and emergency response exists for the Master Meter System (Probable Violation Item No. 4); and
5. no written procedure for providing customers public awareness messages twice annual exists for the Master Meter System (Probable Violation Item No. 5).

B. Issue Hazardous Facility Order

The Division requests that pursuant to Utah Code Ann. §§ 54-13-2 and 54-13-3 and R746-409-6 the Commission issue a Hazardous Facility Order mandating that Mr. Moyal cease operation of the Master Meter System until such time as the Commission

determines that the Master Meter System is (a) in compliance with applicable statutes and regulations or (b) has ceased operation. A Proposed Hazardous Facility Order is incorporated into the Notice. Civil penalties and a Compliance Order may be issued in addition to a Hazardous Facility Order.⁵

C. Impose Civil Penalty

The Division requests that pursuant to Utah Code Ann. § 54-13-8 and R746-409-6 the Commission impose upon Mr. Moyal civil penalties of up to \$1,000,000. Utah Code Ann. § 54-13-8 states:

(1) Any person engaged in intrastate pipeline transportation who is determined by the commission, after notice and an opportunity for a hearing, to have violated any provision of this chapter or any rule or order issued under this chapter, is liable for a civil penalty of not more than \$100,000 for each violation for each day the violation persists.

(2) The maximum civil penalty assessed under this section may not exceed \$1,000,000 for any related series of violations.

Utah Code Ann. § 54-13-8 lists factors to be considered by the Commission when determining the amount of the penalty. In determining the recommended penalty, the Division considered the factors set forth in the statute. In particular, the recommended penalty was selected because the Division concluded that Mr. Moyal did not make “any good faith in attempting to achieve compliance.” The Division informed Mr. Moyal of what needed to be corrected, and, despite frequent promises, the Motel Master Meter System remains noncompliant and in operation. During the course of this docket, the Division will seek additional information to present to the Commission regarding the

⁵ See R746-409-6(B).

appropriate civil penalty. The Commission may assess a civil penalty in addition to issuing a Hazardous Facility Order and a Compliance Order.⁶

D. Issue Compliance Order

Pursuant to Utah Code Ann. §§ 54-13-2 and 54-13-3 and R746-409-6, the Division requests that the Commission order Mr. Moyal to take the specific corrective actions stated in the Proposed Compliance Order or cease use of the Master Meter System. A Proposed Compliance Order is incorporated into the Notice. A Compliance Order may be issued in addition to issuing a Hazardous Facility Order and imposing civil penalties.⁷

E. Order Additional Relief as Appropriate

The Division further respectfully requests that the Commission order such other relief as it deems appropriate.

IV. CONCLUSION

The Division requests that the Commission: (1) find that Mr. Moyal violated and continues to violate, as specified above, Utah Code Ann §§ 54-13-2 and 54-13-3, and Commission rule R746-409-1 et seq. as the rule existed from May 10, 2016 to the present time; (2) issue a Hazardous Facility Order as described above pursuant to R746-409-6; (3) assess Mr. Moyal civil penalties up to the amount of \$ 1,000,000 pursuant to Utah Code Ann. § 54-13-8 and R746-409-6; (4) issue a Compliance Order pursuant to Utah Code Ann. §§ 54-13-2 and 54-13-3 and R746-409-6 as described above mandating that Mr. Moyal (a) must take specific corrective action to comply with

⁶ Id.

⁷ Id.

Utah Code Ann. §§ 54-13-2 and 54-13-3 and R746-409-1 et seq. or (b) cease operating the Master Meter System; and (5) order such other relief as the Commission deems appropriate.

DATED this 20th day of October, 2016.



Patricia E. Schmid
Attorney for the Utah Division
of Public Utilities

CERTIFICATE OF SERVICE

I certify that I caused a true and correct copy of the foregoing Utah Division of Public Utilities Request for Agency Action to be served this 20th day of October, 2016, by email and/or USPS mail, postage prepaid, to the following:

Mr. Michael Moyal
1450 Washington Blvd.
Ogden, UT 84404
memoyal@gmail.com

Chris Parker, Director, Division of Public Utilities
Chrisparker@utah.gov

Al Zadeh, Pipeline Safety Lead
azadeh@utah.gov

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State of Utah
Department of Commerce
Division of Public Utilities

FRANCINE GIANI
Executive Director

THOMAS BRADY
Deputy Director

CHRIS PARKER
Director, Division of Public Utilities

GARY HERBERT
Governor
SPENCER J. COX
Lieutenant Governor

**NOTICE OF PROBABLE VIOLATION, PROPOSED HAZARDOUS
FACILITY ORDER, PROPOSED CIVIL PENALTY, AND PROPOSED
COMPLIANCE ORDER**

VIA EMAIL AND CERTIFIED MAIL – RETURN RECEIPT REQUESTED

October 20, 2016
Mr. Michael Moyal
Millstream Motel
1450 Washington Blvd.
Ogden, UT 84404
memoyal@gmail.com

Dear Mr. Moyal:

You have represented that you own the Millstream Motel located at 1450 Washington Blvd, Ogden, Utah (Motel) and operate its natural gas master meter system (Master Meter System). As detailed below, you have failed to comply with applicable statutes and regulations in connection with your operation of the Master Meter System. This letter constitutes your Notice of Probable Violation, Proposed Hazardous Facility Order, Proposed Civil Penalty, and Proposed Compliance Order (collectively, Notice).

On January 6, 2016, you met with representatives from the Utah Pipeline Safety Section (Pipeline Safety) of the Utah Division of Public Utilities (Division) at the Motel. Later, on April 7, 2016, Pipeline Safety conducted a site visit at the Motel.

Based on the January meeting, the April site visit, and information available to the Division, it appears that you have committed probable violations of the Public Service Commission of Utah's (Commission) statutes pertaining to pipeline safety found at Utah Code Ann. § 54-13-1 et seq., the Commission's rules found at R746-409-1 et seq., and the federal Pipeline Safety Regulations, Title 49, Code of Federal Regulations adopted by the Public Service Commission of Utah (Commission) in Utah Code Ann. §§ 54-13-2 and 54-13-3 and R746-409-1 et seq.

The Probable Violations, Proposed Hazardous Facility Order, Proposed Civil Penalty, and Proposed Compliance Order comprising the Notice are discussed individually below. In addition, the Proposed Hazardous Facility Order and the Proposed Compliance Order are attached.

PROBABLE VIOLATIONS

1. 49 C.F.R. § 192.463 External corrosion control states:

Cathodic protection

(a) Each cathodic protection system required by this subpart must provide a level of cathodic protection that complies with one or more of the applicable criteria contained in Appendix D of this part. If none of these criteria is applicable, the cathodic protection system must provide a level of cathodic protection at least equal to that provided by compliance with one or more of these criteria....

You failed to have operational cathodic protection for the Master Meter System that provided a level of cathodic protection compliant with Appendix D of Part 192.

During the April site visit, Pipeline Safety staff noted that while at some time a cathodic protection system had been installed on the Master Meter System, it was no longer operable and had been disconnected from the Master Meter System.

Consequently, you were directed to install an appropriate cathodic protection system or to cease operating the Master Meter System and inform Pipeline Safety.

To date, neither Pipeline Safety nor the Attorney General's Office have received notice that an appropriate cathodic protection system has been installed on the Master Meter System or that you have ceased operating the Master Meter System.

2. 49 C.F.R. § 192.491 Corrosion control records states:

(a) Each operator shall maintain records or maps to show the location of cathodically protected piping, cathodic protection facilities, galvanic anodes, and neighboring structures bonded to the cathodic protection system. Records or maps showing a stated number of anodes, installed in a stated manner or spacing, need not show specific distances to each buried anode.

(b) Each record or map required by paragraph (a) of this section must be retained for as long as the pipeline remains in service.

(c) Each operator shall maintain a record of each test, survey, or inspection required by this subpart in sufficient detail to demonstrate the adequacy of corrosion control measures or that a corrosive condition does not exist. These records must be retained for at least 5 years, except that records related to §§ 192.465 (a) and (e) and 192.475(b) must be retained for as long as the pipeline remains in service.

You failed to maintain records or maps to show the location of cathodically protected piping, cathodic protection facilities, galvanic anodes, and neighboring structures bonded to the cathodic protection system for the Master Meter System. You also failed to maintain a record of each test, survey, or inspection required by 192.465(a) to demonstrate the adequacy of corrosion control measures or that a corrosive condition does not exist and failed to maintain the same as required for the Master Meter System. Additionally, you did not produce any records evidencing when the cathodic protection system that had been installed on the Master Meter System stopped providing an adequate level of cathodic protection.

At the time of the April site visit, Pipeline Safety informed you that you were required to maintain corrosion control records for the Master Meter System. You did not produce any records.

To date, neither Pipeline Safety nor the Attorney General's Office have received evidence of your compliance or that you have ceased operating the Master Meter System.

3. 49 C.F.R. § 192.603 states:

General Provisions

(a) ...

(b) Each operator shall keep records necessary to administer the procedures established under § 192.605.

You did not keep records necessary to administer the procedures established under Section 192.605 that pertain to master meter pipeline systems. You failed to keep records demonstrating that you:

- Reviewed and updated, in accordance with Section 192.605(a), the Master Meter System's manual at intervals not exceeding 15 months, but at least once each calendar year.

* * *

- Provided, in accordance with Section 192.616(j), its customers public awareness messages twice annually.

* * *

- Performed a leak survey, in accordance with Section 192.723(b)(2) of your system, with leak detector equipment, as frequently as necessary, but at least once every five (5) calendar years at intervals not exceeding 63 months.

At the time of the April site visit, Pipeline Safety informed you that you were required to keep maintenance and operations records for the Master Meter System. You did not produce any such records.

To date, neither Pipeline Safety nor the Attorney General's Office have received evidence of your compliance or that you have ceased operating the Master Meter System.

4. 49 C.F.R. § 192.605 states:

Procedural Manual for Operations, Maintenance, and Emergencies

(a) General. Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

You failed to prepare and follow a manual of written procedures for conducting operations and maintenance activities and for emergency response pertaining to operation of master meters. The manual should have included master meter procedures pertaining to:

- Section 192.605(b)(1) for operating, maintaining, and repairing the pipeline in accordance with each of the requirements of 192 subpart L and subpart M.
- Section 192.605(b)(2) for controlling corrosion in accordance with the operations and maintenance requirements of part 192 subpart I.
- Section 192.605(b)(3) for making construction records, maps, and operating history available to appropriate operating personnel.
- Section 192.605(b)(4) for gathering of data needed for reporting incidents under Part 191 of this chapter in a timely and effective manner.
- Section 192.605(b)(8) for periodically reviewing the work done by operator personnel to determine the effectiveness, and adequacy of the procedures used in normal operation and maintenance and modifying the procedures when deficiencies are found.

- Section 192.605(b)(9) for taking adequate precautions in excavated trenches to protect personnel from the hazards of unsafe accumulations of vapor or gas, and making available when needed at the excavation, emergency rescue equipment, including a breathing apparatus and, a rescue harness and line.
- Section 192.605(b)(11) for responding promptly to a report of a gas odor inside or near a building, unless the operator's emergency procedures under § 192.615(a)(3) specifically apply to these reports.
- Section 192.605(e) for:
 - Continuing surveillance, in accordance with Section 192.613(a)
 - Emergency response, in accordance with Section 192.615
 - Investigation of failures, in accordance with Section 192.617.

At the time of the April site visit, Pipeline Safety staff informed you that you were required to have a written procedures manual for operations, maintenance, and emergencies pertaining to master meters. You did not produce such a manual.

To date, neither Pipeline Safety nor the Attorney General's Office have received evidence of your compliance or that you have ceased operating the Master Meter System.

5. 49 C.F.R. § 192.616 states:

Public Awareness

(a)...

(j) Unless the operator transports gas as a primary activity, the operator of a master meter or petroleum gas system is not required to develop a public awareness program as prescribed in paragraphs (a) through (g) of this section. Instead the operator must develop and implement a written procedure to provide its customers public awareness messages twice annually. If the master meter or petroleum gas system is located on property the operator does not control, the operator must provide similar messages twice annually to persons controlling the property. The public awareness message must include:

- (1) A description of the purpose and reliability of the pipeline;**
- (2) An overview of the hazards of the pipeline and prevention measures used;**
- (3) Information about damage prevention;**
- (4) How to recognize and respond to a leak; and**
- (5) How to get additional information.**

You did not develop and implement a written procedure to provide your customers public awareness messages twice annually regarding the Master Meter System.

At the time of the April site visit, Pipeline Safety informed you that you were required to have written procedures for providing your master meter customers public awareness messages. You did not produce written procedures for providing your customers public awareness messages.

To date, neither Pipeline Safety nor the Attorney General's Office have received evidence of your compliance or that you have ceased operating the Master Meter System.

PROPOSED HAZARDOUS FACILITY ORDER

Pursuant to Commission Utah Code Ann. §§ 54-13-2 and 54-13-3 and R746-409-6, the Division requests that the Commission adopt a Hazardous Facility Order suspending the use of your Master Meter System until such time as you present the Commission with evidence supporting a finding that (1) the facility is no longer hazardous because you have provided a level of cathodic protection that complies with one or more of the applicable criteria contained in 49 CFR Part 192, Appendix D or (2) that you have ceased operating the Master Meter System, and the Commission rescinds its order. The Commission may issue a Hazardous Facility Order in addition to imposing a Civil Penalty and issuing a Compliance Order.

The Commission may issue a Hazardous Facility Order if it finds that "a particular intrastate pipeline facility is hazardous to life or property" pursuant to R746-409-6. Pursuant to a Hazardous Facility Order, the Commission may suspend or restrict use of the facility until the hazardous conditions have been corrected. The Division believes that your Master Meter System merits a Hazardous Facility Order because the system lacks appropriate cathodic protection and has not been maintained consistent with pipeline safety laws for a significant period of time. The Division's recommendation is supported by this Notice, Utah Code Ann. § 54-13-1 et seq., and R746-409-1 et seq.

Please refer to the Proposed Hazardous Facility Order, which is made part of this Notice.

PROPOSED CIVIL PENALTY

The Division proposes that the Commission find you liable for a civil penalty of up to \$1,000,000, the maximum penalty allowable by law, for violations commencing May 10, 2016 and continuing to the present time, with the amount to be determined based on evidence and the statutory considerations described below. In addition to imposing a Civil Penalty, the Commission may issue a Hazardous Facility Order and a Compliance Order.

Under R746-409-6, the Commission may impose civil penalties upon you. Utah Code Ann. § 54-13-8, states that if the Commission finds after notice and an opportunity for hearing that you have violated any provision of Chapter 54-13-1 et seq. or R746-409-1 et seq. you are liable for civil penalties. Utah Code Ann. § 54-13-8 provides that the Commission can order that you are "liable for a civil penalty of not more than \$100,000 for each violation for each day the violation persists" [and that] ... [t]he maximum civil

penalty assessed under this section may not exceed \$1,000,000 for any related series of violations.”

Utah law sets forth how penalties for violations shall be calculated. Utah Code Ann. § 54-8-13(4) states:

- (4) In determining the amount of the penalty, the commission shall consider:
 - (a) the nature, circumstances, and gravity of the violation; and
 - (b) with respect to the person found to have committed the violation:
 - (i) the degree of culpability;
 - (ii) any history of prior violations;
 - (iii) the effect on the person’s ability to continue to do business;
 - (iv) any good faith in attempting to achieve compliance;
 - (v) the person’s ability to pay the penalty; and
 - (vi) any other matter, as justice may require.

The Division has reviewed the circumstances and sought supporting documents involved in this case. In connection with the Request for Agency Action, the Division will conduct discovery to aid it in applying the statutory considerations set forth above to update its penalty recommendation to the Commission.

PROPOSED COMPLIANCE ORDER

The Division proposes that the Commission adopt a Compliance Order pursuant to applicable statutes including Utah Code Ann. § 54-13-1 et seq., R746-409-1 et seq., United States Code § 60118, and applicable rules pertaining to Proposed Violation Item Nos. 1, 2, 3, 4, and 5. In addition to issuing a Compliance Order, the Commission may issue a Hazardous Facility Order and impose civil penalties.

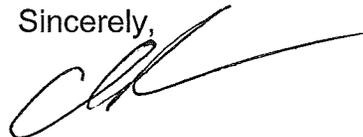
Please refer to the enclosed Proposed Compliance Order, which is made a part of this Notice.

RESPONSE TO THIS NOTICE

Documents, material, and information you submit are subject to being made publicly available pursuant to Utah’s Government Access and Records Management Act (GRAMA). If you believe that all or a portion of what you provide qualifies for confidential or protected treatment under GRAMA, submit the documents in compliance with Utah Code Ann. § 63G-2-101 et seq.

If you have questions, please contact Patricia E. Schmid, Assistant Attorney General for the Division, at (801) 366-0380.

Sincerely,



Chris Parker
Director, Division of Public Utilities

cc: Al Zadeh, Lead, Pipeline Safety (w/ enclosures)
Patricia E. Schmid, Utah Attorney General's Office (w/ enclosures)
Ogden City Attorney (w/ enclosures)
Ogden City Code Enforcement (w/ enclosures)

Encls.: Proposed Hazardous Facility Order
Proposed Compliance Order

PROPOSED COMPLIANCE ORDER FOR MR. MOYAL PERTAINING TO
THE MASTER METER SYSTEM AT THE MILLSTREAM MOTEL, OGDEN, UTAH

Pursuant to Utah Code Ann. § 54-13-1 et seq. and Public Service Commission of Utah (Commission) Rule R746-409-1 et seq., in particular R746-409-6, the Division of Public Utilities (Division) proposes that the Commission issue to Mr. Michael Moyal a Compliance Order incorporating the following remedial requirements to ensure the compliance of his master meter system at the Millstream Motel (Master Meter System) with pipeline safety regulations. The Division also proposes that written documentation of steps taken to satisfy the Compliance Order and certification that the Compliance Order Items have been completed must be filed with the Commission and Pipeline Safety no later than 60 days after the Final Order has been issued by the Commission.

The Division proposes that the Compliance Order incorporate the following:

1. Mr. Moyal is required to comply with Utah Code Ann. § 54-13-1 et seq. and R746-409 insofar as they pertain to operation of a natural gas master meter system.
2. The Commission finds that Mr. Moyal has failed to comply with Probable Violation Item Nos. 1, 2, 3, 4, and 5 from the Notice of Probable Violation (NOPV).
3. Unless superseded by a Hazardous Facility Order, in regard to Probable Violation Item No. 1 of the NOPV pertaining to the lack of cathodic protection for the Master Meter System, Mr. Moyal must (a) bring the Master Meter System into compliance by ensuring the system provides a level of cathodic protection that complies with one or more of the applicable criteria contained in 49 CFR Part 192, Appendix D, adopted by reference by Utah Code Ann. §§ 54-13-2 and 54-13-3 and by R746-409-1 or (b) cease operating the Master Meter System;
4. In regard to Probable Violation Item Nos. 2 and 3 of the NOPV pertaining to the lack of cathodic protection records, Mr. Moyal must (a) prepare and maintain the required records or (b) cease operating the Master Meter System;
5. In regard to Probable Violation Item No. 4 of the NOPV pertaining to Mr. Moyal not preparing and following a manual of written procedures for conducting operations and maintenance activities and for emergency response pertaining to the Master Meter System, Mr. Moyal must (a) prepare and follow a manual of written procedures for conducting operations and maintenance activities and for emergency response pertaining to the Master Meter System or (b) cease operating the Master Meter System; and
6. In regard to Probable Violation Item 5 of the NOPV pertaining to Mr. Moyal not developing and implementing a written procedure to provide customers public awareness messages twice annually concerning the Master Meter System, Mr. Moyal must (a) develop and implement a written procedure for delivering public awareness messages twice annually containing all the required elements in 49 CFR § 192.515(j) concerning the Master Meter System or (b) cease operating the Master Meter System.

7. Insofar as they pertain to operation of a natural gas master meter system, Mr. Moyal must comply fully with Utah Code Ann. § 54-13-1 et seq. and R746-409 which establish safety standards and rules for Natural Gas Pipeline Safety in Utah and incorporate Part 192 of the Code of Federal Regulations, including integrity management and operator qualification requirements.

8. Written documentation of steps taken to satisfy the Compliance Order and certification that the Compliance Order Items have been completed must be filed with the Commission and Pipeline Safety no later than 60 days after the Final Order has been issued by the Commission.



GARY HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

State of Utah
Department of Commerce
Division of Public Utilities

FRANCINE GIANI
Executive Director

THOMAS BRADY
Deputy Director

CHRIS PARKER
Director, Division of Public Utilities

August 28, 2015

Michael Moyal
Millstream Motel
1450 Washington Blvd
Ogden UT 84404

Dear Mr. Moyal,

The Utah Public Service Commission (Commission) is authorized by Title 54, Chapter 13 of the Utah State Code to adopt rules and regulations in conformance with the Natural Gas Pipeline Safety Act of 1968, as amended, and other applicable laws. The Commission, by orders issued in Docket No. 89-999-06, has adopted Title 49 CFR Parts 190, 191, 192, 198, 199, and Part 40 along with certain subsequent amendments. Through delegation from the U.S. Department of Transportation, the Division of Public Utilities' Pipeline Safety Staff (UTPS) regulates, inspects, and enforces intrastate gas pipeline safety requirements.

A Master Meter System is defined as a small gas distribution system where gas is purchased through a single meter and distributed to multiple buildings within a privately owned and operated facility, such as a mobile home park or apartment complex.

Our records indicate that your property located at **1450 Washington Blvd in Ogden Utah** is considered a master meter system under Utah Code. As a property owner, you are required to comply with Utah Code.

We have tried repeatedly to schedule an appointment with you without success. We need to **schedule a meeting within the next two months** to discuss pipeline safety, inspect the property and provide information to you concerning compliance. If you are not available, we can meet with any maintenance personnel you employ that are familiar with the natural gas system.

It is paramount you **respond in writing by September 15, 2015** with the date and time you will meet with our inspector. If we don't receive a response from you by this date, this will be referred to the Division of Public Utilities' legal department for enforcement options.

Mailing address: Division of Public Utilities
Pipeline Safety Section
P.O. Box 146751
Salt Lake City UT 84114-6751

Email: pipelinesafety@utah.gov

Sincerely,

Connie Hendricks

Connie Hendricks
Administrative Assistant
801-530-6286
chendricks@utah.gov

cc: Al Zadeh
Dave Coombs

STATE OF UTAH
OFFICE OF THE ATTORNEY GENERALSEAN D. REYES
ATTORNEY GENERALSPENCER E. AUSTIN
Chief Criminal DeputyPARKER DOUGLAS
Chief of Staff & Federal SolicitorTYLER R. GREEN
Solicitor GeneralBRIDGET K. ROMANO
Chief Civil Deputy

November 19, 2015

*CERTIFIED MAIL RETURN RECEIPT REQUESTED*Michael Moyal
Millstream Motel
1450 Washington Blvd
Ogden UT 84404RE: NOTICE REGARDING INSPECTION OF MASTER METER SYSTEM – WARNING
LETTER

Dear Mr. Moyal,

You have failed to respond to the Utah Division of Public Utilities' Pipeline Safety Staff's (Safety Staff) requests for an appointment to inspect the master meter system on your property located at 1450 Washington Boulevard in Ogden, Utah. Because of your failure to comply with the law as detailed below and your unresponsiveness, the Attorney General's Office (AG Office) has become involved. If necessary, the AG Office will institute legal proceedings against you as described below.

To avoid immediate legal action against you, by December 19, 2015, send your written response indicating a time and date during business hours you will meet with the Safety Staff for the inspection by mail to:

Division of Public Utilities
Pipeline Safety Section
P.O. Box 146751
Salt Lake City UT 84114-6751Or by email to:
pipelinesafety@utah.gov

The Safety Staff has repeatedly requested to meet with you about your master meter system. In addition to verbal requests, the Safety Staff sent you a letter dated August 28, 2015 directing you to respond in writing by September 15, 2015 with the time and date you would meet with the Safety Staff (Attachment 1).

Michael Moyal
Millstream Motel
November 19, 2015
Page 2

Nonetheless, you have failed to comply with federal and state laws and regulations that require you to allow inspection of your master meter system. The U.S. Department of Transportation has delegated responsibility for pipeline safety, including master meter system safety, to the Division of Public Utilities. Utah statutes have incorporated federal safety standards, including but not limited to, the Natural Gas Pipeline Safety Act of 1968, 49 U.S.C. 60101, and related laws and regulations. Furthermore, you are specifically ordered to allow inspection by Utah Code Ann. Section 54-13-4, which states:

Officers, employees, or agents authorized by the commission, upon presenting appropriate credentials to the person in charge, may inspect and examine, at reasonable times and in a reasonable manner, the records and properties of any person engaged in intrastate pipeline transportation to the extent those records and properties are relevant to determining whether the person is acting in compliance with this chapter or rules under this chapter.

If the Safety Staff does not receive your written response by the date specified above, the AG Office will initiate legal proceedings against you. The AG Office will file a Complaint and Notice of Probable Violation with the Public Service Commission (Commission). The Complaint and Notice of Probable Violation will request, among other things, that you be ordered (1) to comply with applicable law and (2) be assessed penalties related to your noncompliance. In addition, if necessary, the AG Office will file further proceedings against you in District Court. This letter satisfies the requirement under Commission rule R746-409 that you be provided notice before proceedings are initiated before the Commission.

The maximum civil penalty assessed after notice and an opportunity for hearing under Utah Code Ann. Section 54-13-8 may not exceed "\$100,000 for each violation for each day the violation persists," and "the maximum civil penalty assessed under this section may not exceed \$1,000,000 for any related services of violations." When assessing a penalty, the Commission shall consider various factors as specified by the above referenced statute.

If you have any questions, please contact me by phone at (801) 366-0380, or by email at pschmid@utah.gov.

Sincerely,


Patricia E. Schmid
Assistant Attorney General

Attachment

cc: Chris Parker
Al Zadeh



GARY HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

State of Utah
Department of Commerce
Division of Public Utilities

FRANCINE GIANI
Executive Director

THOMAS BRADY
Deputy Director

CHRIS PARKER
Director, Division of Public Utilities

August 28, 2015

Michael Moyal
Millstream Motel
1450 Washington Blvd
Ogden UT 84404

Dear Mr. Moyal,

The Utah Public Service Commission (Commission) is authorized by Title 54, Chapter 13 of the Utah State Code to adopt rules and regulations in conformance with the Natural Gas Pipeline Safety Act of 1968, as amended, and other applicable laws. The Commission, by orders issued in Docket No. 89-999-06, has adopted Title 49 CFR Parts 190, 191, 192, 198, 199, and Part 40 along with certain subsequent amendments. Through delegation from the U.S. Department of Transportation, the Division of Public Utilities' Pipeline Safety Staff (UTPS) regulates, inspects, and enforces intrastate gas pipeline safety requirements.

A Master Meter System is defined as a small gas distribution system where gas is purchased through a single meter and distributed to multiple buildings within a privately owned and operated facility, such as a mobile home park or apartment complex.

Our records indicate that your property located at **1450 Washington Blvd in Ogden Utah** is considered a master meter system under Utah Code. As a property owner, you are required to comply with Utah Code.

We have tried repeatedly to schedule an appointment with you without success. We need to **schedule a meeting within the next two months** to discuss pipeline safety, inspect the property and provide information to you concerning compliance. If you are not available, we can meet with any maintenance personnel you employ that are familiar with the natural gas system.

It is paramount you **respond in writing by September 15, 2015** with the date and time you will meet with our inspector. If we don't receive a response from you by this date, this will be referred to the Division of Public Utilities' legal department for enforcement options.

Mailing address: Division of Public Utilities
Pipeline Safety Section
P.O. Box 146751
Salt Lake City UT 84114-6751

Email: pipelinesafety@utah.gov

Sincerely,

Connie Hendricks

Connie Hendricks
Administrative Assistant
801-530-6286
cshendricks@utah.gov

cc: Al Zadeh
Dave Coombs

STATE OF UTAH
OFFICE OF THE ATTORNEY GENERALSEAN D. REYES
ATTORNEY GENERALSPENCER E. AUSTIN
Chief Criminal DeputyPARKER DOUGLAS
Chief of Staff & Federal SolicitorTYLER R. GREEN
Solicitor GeneralBRIDGET K. ROMANO
Chief Civil Deputy

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

February 10, 2016

Mr. Michael Moyal
Millstream Motel
1450 Washington Blvd.
Ogden, UT 84404RE: NOTICE—YOU MUST COMPLY WITH STATUTES, REGULATIONS, AND RULES
REGARDING MASTER METER SYSTEMS

Dear Mr. Moyal,

Based upon information provided by the Pipeline Safety Staff as a result of its January 6, 2016 meeting with you on your property, you are the owner and operator of a natural gas pipeline system which is defined as a “master meter system.” Accordingly, you must comply with the statutes, regulations, and rules enacted by the Utah Legislature, the Public Service Commission of Utah (Commission), and the federal government, and you are subject to the jurisdiction of the Commission and the Utah District Court. This means you must either cease the provision of gas service or comply with the above-mentioned provisions, as outlined below.

You are specifically subject to, without limitation, Utah Code Ann. Section 54-13-1 through 54-13-8 and Commission Administrative Rule R746-409. Under these provisions, as the owner and operator of a master meter system, you must comply with certain pipeline safety statutes and regulations including, but not limited to, the federal Natural Gas Act and related federal and state legislation.¹ For example, you must: report certain accidents or incidents related to your master meter system and file related accident or incident reports; have [on your property] “a plan for the operation and maintenance of [your master meter system];” and have [on your property] “a plan to minimize hazards resulting from an incident involving [your master meter system]” which complies with the “essential requirements stated in Title 49 CFR Part 192.615.” A “gas detector leak survey” may also be required.² You can find the applicable statutes, regulations, and rules on Utah’s Pipeline Safety webpage at publicutilities.utah.gov/pipeline.html.

¹ See, e.g. Utah Code Ann. Sections 54-13-2 and 54-13-3.

² R746-409-4 through R746-409-7.

Consequences for failing to comply with applicable statutes, regulations, and rules, after notice and opportunity for hearing before the Commission or District Court, include substantial fines. These fines may be up to but not more than \$100,000 per violation per day, but may not exceed \$1,000,000 "for any related series of violations."³ The Pipeline Safety Staff is available to assist you with these compliance requirements. You can contact Connie Hendricks at (801) 530-6286 for more information and assistance.

If you choose to cease operating and using the master meter system, you would no longer be subject to the above statutes, regulations, and rules. There are certain steps that you must take to properly cease operating and using your master meter system. In order for you to cease owning and operating a master meter system, you must: turn off the valve upstream from the meter, notify Questar Gas Company to lock and tag the valve, and blow out the residual gas from inside the downstream pipes. The Pipeline Safety Staff is available to assist you with this option, and can be contacted as set forth above.

Within two weeks after the receipt of this letter, please inform the Pipeline Safety Staff and me in writing of your intentions. Send written notice of your decision to the Pipeline Safety Staff at:

Division of Public Utilities
Pipeline Safety Section
P.O. Box 146751
Salt Lake City UT 84114-6751

or by email to:
pipelinesafety@utah.gov

and to me at:

Patricia E. Schmid
Assistant Attorney General
160 East 300 South, 5th Floor
P.O. Box 140857
Salt Lake City, UT 84114-0857

or by email to:
pschmid@utah.gov

Should you continue to own and operate your master meter system without complying with the applicable statutes, regulations, and rules, the Attorney General's Office will initiate legal proceedings against you. The Attorney General's Office will file a Complaint and Notice of Probable Violation with the Commission or the Utah District Court. The Complaint and Notice of Probable Violation will request, among other things, that you be ordered (1) to comply with applicable law and (2) be assessed penalties related to your noncompliance. This letter satisfies the requirement under Commission Administrative Rule R746-409 that you be provided notice before proceedings are initiated before the Commission.

³ Utah Code Ann. Sections 54-13-8(1) and (2).

The Utah Division of Public Utilities, its Pipeline Safety Section, and the Attorney General's Office work together to promote and protect the public safety relating to the ownership and operation of master meter systems. Statutory penalties are designed to help ensure that owners and operators of master meter systems do not disregard the law. You must protect the public by complying with applicable statutes, regulations, and rules.

If you have any questions, please contact me by phone at (801) 366-0380, or by email at pschmid@utah.gov.

Sincerely,



Patricia E. Schmid
Assistant Attorney General

cc: Chris Parker
Al Zadeh

Michael E Moyal <memoyal@gmail.com>

Thu, Mar 17, 2016 at 1:30 PM

To: Patricia Schmid <pschmid@utah.gov>

Hello Patricia,

This is Michael Moyal from the Millstream Motel located at 1450 Washington Blvd in Ogden Utah.

The purpose of this email is to confirm that I have received your letter and that I am addressing your concerns regarding pipeline safety.

Although we have closed down and shut off 6 buildings since the beginning of February, the short term plan is to continue to consolidate the few people that are staying on the property into 2 small buildings while awaiting a sale of the property and ultimate tear down. The property has recently been listed with Markus Millichap for a quick sale and it is presently being evaluated for a complete tear down and rebuild into an assisted living community.

Although we have never had a problem at this property we do take natural gas safety very seriously. whenever we smell anything remotely resembling natural gas, we (my staff and my HVAC contractor) investigate immediately and call Questar gas for a 2nd opinion and to take action if we don't immediately find the source of the smell and a safe remedy.

Please feel free to contact me should you have any questions.

Michael Moyal 310 430 4596

Thank you for your assistance and patience with this matter.

Michael Moyal

On Fri, Mar 11, 2016 at 10:44 AM, Patricia Schmid <pschmid@utah.gov> wrote:

[Quoted text hidden]

STATE OF UTAH

OFFICE OF THE ATTORNEY GENERAL



SEAN D. REYES

ATTORNEY GENERAL

SPENCER E. AUSTIN
Chief Criminal DeputyPARKER DOUGLAS
Chief of Staff & Federal SolicitorTYLER R. GREEN
Solicitor GeneralBRIDGET K. ROMANO
Chief Civil Deputy*VIA BOTH CERTIFIED MAIL -- RETURN RECEIPT REQUESTED -- AND EMAIL*

April 19, 2016

Mr. Michael Moyal
Millstream Motel
1450 Washington Blvd
Ogden UT 84404
memoyal@gmail.com

RE: MASTER METER SYSTEM – EXTENSION OF TIME UNTIL MAY 9, 2016 FOR COMPLIANCE AND RETURN OF FORM

Dear Mr. Moyal,

On April 7, 2016, you met with David Coombs and Connie Hendricks from the Utah Division of Public Utilities' Pipeline Safety Staff (Safety Staff) at the site of the Millstream Motel. Safety Staff discussed your master meter system with you and conducted another inspection of the system for the purpose of (1) verifying changes that you said you had made to the facility since the previous inspection in January and (2) reiterating what you must do to bring your master meter system into compliance. During this meeting, Safety Staff gave you until May 9, 2016, a date which has been approved by Safety Staff management, to submit your plan of action to Safety Staff or to me, or further legal actions will be commenced before the Public Service Commission of Utah (Commission).

You and Safety Staff discussed several topics during the April 7, 2016 inspection. Some of the important parts of those discussions are noted below.

Mr. Coombs clarified that the Safety Staff and Division of Public Utilities (Division) do not mandate use of a specific contractor to install cathodic protection, and that your

impression that Safety Staff did so was inaccurate. As a courtesy during the April meeting, you were provided with a list of contractors.

You indicated that you expected the property to be sold soon, but later informed us that a potential sale had not materialized and that you were exploring other options. You said that you would like to get out of the motel business. You noted that you are not taking on any new renters and that you have posted a "no vacancy" sign.

With Safety Staff, you discussed actions you had taken since the January inspection. Specifically with regard to natural gas usage and your master meter system, you indicated that you had consolidated tenants into two buildings, and that 12 rooms were rented. You also indicated that all gas heat had been turned off to those 12 rooms and that gas was only used for the three or four water heaters providing hot water to those rooms. You showed Safety Staff what you said was the only meter on the property, a meter in a locked storage facility in the north building that still has tenants. Mr. Coombs inspected the previously installed cathodic protection computer and determined that because the cathode protection system lacked a physical connection to the existing pipeline, there was no cathodic protection system in place.

Mr. Coombs explained the regulatory system and process, and provided you with a copy of PHMSA's "Guidance Manual for Operators of Small Natural Gas Systems" and Safety Staff forms pertaining to master meter systems and operators. These forms included the emergency plan, operation and maintenance plan, public awareness plan and handout, and a plan of action. Mr. Coombs indicated that if his management agreed, you would have until May 9, 2016 to return the plan of action form to Safety Staff or to me (management has agreed to the May 9th deadline). On the action plan form, you would explain how and when the facility will be brought into compliance with applicable laws and regulations. Mr. Coombs reiterated that you have two options: voluntarily comply or have an action filed with the Commission to mandate your compliance.

The Commission has issued new rules affecting master meter system operations, and some reports that were previously not required for master meter systems, are now required. A copy of the new rules is included. You must comply with these new rules. Please contact Pipeline Safety at (801) 530-6285 if you have any questions about the new rules.

The Division, the Safety Staff, and the Attorney General's Office work together with master meter system systems and operators to promote and protect the public safety. We will take further action if your written action plan is not received by May 9th, 2016. Please review

prior correspondence from me for more details, but in summary, the Attorney General's Office will file with the Commission a Complaint and Notice of Probable Violation or a Request for Agency Action. The Complaint and Notice of Probable Violation or Request for Agency Action will request, among other things, that you (1) be ordered to comply with applicable law and (2) be assessed penalties related to your noncompliance. In addition, if necessary, the Attorney General's Office will file further proceedings against you in District Court. This letter satisfies the requirement under Commission rule R746-409 that you be provided notice before proceedings are initiated before the Commission.

You are specifically subject to, without limitation, Utah Code Ann. Section 54-13-1 through 54-13-8 and Commission Administrative Rule R746-409. Under these provisions, as the owner and operator of a master meter system, you must comply with certain pipeline safety statutes and regulations including, but not limited to, the federal Natural Gas Act and related federal and state legislation.¹ Appropriate cathodic protection is required. In addition, for example, you must: report certain accidents or incidents related to your master meter system and file related accident or incident reports; file an annual report no later than March 15 of each year with the Commission; have [on your property] a plan for the operation and maintenance of [your master meter system]; and have [on your property] a plan to minimize hazards resulting from an incident involving [your master meter system] which complies with the "essential requirements stated in Title 49 CFR Part 192.615; and a gas detector leak survey may be required."² You can find the applicable statutes, regulations, and rules on Utah's Pipeline Safety webpage. The webpage can be found at publicutilities.utah.gov/pipeline.html.

Consequences for failing to comply with applicable statutes, regulations, and rules, after notice and opportunity for hearing before the Commission or District Court, include substantial fines. These fines may be up to but not more than \$100,000 per violation per day, but may not exceed \$1,000,000 "for any related series of violations."³ The Pipeline Safety Staff is available to assist you with these compliance requirements. You can contact Connie Hendricks at (801) 530-6286 for more information and assistance.

To avoid the commencement of legal action against you before the Commission, by May 9, 2016, send your completed written action plan by mail or email to:

¹ See, e.g. Utah Code Ann. Sections 54-13-2 and 54-13-3.

² See R746-409-4 through R746-409-6.

³ Utah Code Ann. Sections 54-13-8(1) and (2).

Division of Public Utilities
Pipeline Safety Section
P.O. Box 146751
Salt Lake City UT 84114-6751
pipelinesafety@utah.gov

or

Patricia E. Schmid
Attorney General's Office
160 East 300 South, 5th Floor
P.O. Box 140857
Salt Lake City, UT 84114-0857
pschmid@utah.gov

An additional copy of the action plan form is attached for your convenience.

If you have any questions, please contact me by phone at (801) 366-0380, or by email at pschmid@utah.gov.

Sincerely,



Patricia E. Schmid
Assistant Attorney General

Attachment

cc: Chris Parker
Al Zadeh
Connie Hendricks

THE PLAN OF ACTION

Complete and Return No Later Than MAY 9, 2016

FACILITY NAME: _____

STREET ADDRESS: _____

CITY: _____ STATE _____ ZIP CODE _____

PLEASE PROVIDE A SHORT NARRATIVE OUTLINING PROPOSED ACTION TO BE TAKEN OR WORK ALREADY PERFORMED:

NAME OF CONTRACTOR WHO WILL OR HAS ALREADY PERFORMED WORK:

PROJECTED OR ACTUAL DATE WORK TO BE COMPLETED: _____

Authorized Signature/Title

Date

Telephone Number

THANK YOU FOR YOUR COOPERATION

HOME / PUBLICATIONS / ADMINISTRATIVE CODE

UTAH ADMINISTRATIVE CODE

The Utah Administrative Code is the body of all effective administrative rules as compiled and organized by the Division of Administrative Rules (see Subsection 63G-3-102(5); see also Sections 63G-3-701 and 702).

NOTE: For a list of rules that have been made effective since April 1, 2016, please see the [codification segue](#) page.

NOTE TO RULEFILING AGENCIES: Use the RTF version for submitting rule changes.

Download the [RTF file](#)

R746. Public Service Commission, Administration.**Rule R746-409. Pipeline Safety.**

As in effect on April 1, 2016

Table of Contents

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- [R746-409-2. Definitions.](#)
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- [R746-409-4. Reporting and Notification Requirements.](#)
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- [R746-409-6. Remedies.](#)
- [KEY](#)
- [Date of Enactment or Last Substantive Amendment](#)
- [Notice of Continuation](#)
- [Authorizing, Implemented, or Interpreted Law](#)

R746-409-1. General Provisions.

A. Scope and Applicability -- Pursuant to Title 54, Chapter 13, the following rules shall apply to persons engaged in the transportation of gas as defined in CFR Title 49 Parts 191 and 192.

B. Adoption of parts of CFR Title 49 -- The Commission adopts and incorporates by this reference the following parts of CFR Title 49, effective September 1, 2015:

1. Part 190 with the exclusion of Part 190.223 which is superseded by Title 54, Chapter 13, Part 8, Violation of chapter -- Penalty;
2. Part 191;
3. Part 192;
4. Part 198; and
5. Part 199.

C. Persons engaged in the transportation of gas, including distribution of gas through a master-metered system, shall comply with the requirements of CFR Title 49, identified in Section R746-409-1.B, including all minimum safety standards.

R746-409-2. Definitions.

For purposes of these rules, the following terms shall bear the following meanings:

- A. "Authorized Inspector" means a person employed or authorized by the Commission or the director of the Division.
- B. "CFR" means the Code of Federal Regulations;
- C. "Commission" means the Public Service Commission of Utah;
- D. "Division" means the Division of Public Utilities, Utah Department of Commerce;
- E. "Federally Reportable Incident" has the same meaning set forth in Part 191.3. Definitions, Incident.
- F. "Operator" has the same meaning set forth in CFR Title 49, Part 191.3, Definitions, Operator.

- G. "Part 190" means CFR Title 49, Part 190, Pipeline Safety Programs and Rulemaking Procedures.
- H. "Part 191" means CFR Title 49, Part 191, Transportation of Natural and Other Gas by Pipeline; Annual Reports, Incident Reports, and Safety-Related Condition Reports.
- I. "Part 192" means CFR Title 49, Part 192, Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards.
- J. "Part 198" means CFR Title 49, Part 198, Regulations for Grants to Aid State Pipeline Safety Programs.
- K. "Part 199" means CFR Title 49, Part 199, Drug and Alcohol Testing.
- L. "Pipeline Facility" has the same meaning set forth in Part 191.3 Definitions, Pipeline facility.
- M. "State Reportable Incident" means an event that falls within the definition of a federally reportable incident or a safety-related condition as identified in CRF Title 49, Part 191.23, Reporting safety-related conditions, or meets one or more of the following:
1. Results in damage to any segment of:
 - a. steel main, twelve inches or greater in diameter, or
 - b. transmission pipeline;
 2. Requires removal from service or repair of any segment of:
 - a. steel main, twelve inches or greater in diameter, or
 - b. transmission pipeline;
 3. Results in property damage of \$15,000 or more, including the loss to the operator and others, or both, but excluding the cost of gas that is lost;
 4. Results in the loss of gas service to ten or more customers; or
 5. Results in the known evacuation of any highly populated areas including commercial businesses, office buildings, eateries, schools, churches or public meeting places.
- N. "Transportation of Gas" has the same meaning set forth in CFR Title 49, Part 191.3, Definitions, Transportation of gas.

R746-409-3. Inspections.

A. Access for inspection

1. During Normal Business Hours -- During normal business hours, an authorized inspector, upon presentation of appropriate credentials, may enter an operator's offices and pipeline facilities to inspect and examine the records and pipeline facilities, if the records and pipeline facilities are relevant to determining compliance with applicable state and federal pipeline safety statutes, rules and regulations.
2. Outside of Normal Business Hours -- For incidents occurring outside of normal business hours, an authorized inspector, upon presentation of appropriate credentials, may enter an operator's pipeline facilities involved in or associated with an incident to inspect and examine the pipeline facilities, if inspection of the pipeline facility is relevant to determining compliance with applicable state and federal pipeline safety statutes, rules and regulations.

B. Reasons for Inspection -- Inspections are ordinarily conducted pursuant to one of the following:

1. Routine inspection, including but not limited to a compliance inspection;
2. A complaint received from a member of the public;
3. Information obtained from a previous inspection;
4. A pipeline incident; or
5. When deemed appropriate by the Commission.

C. 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.

D. 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.

R746-409-4. Reporting and Notification Requirements.

A. An operator must comply with the notification and reporting requirements contained in Part 191 and Section R746-409-4.

B. Telephonic notification to the Division.

1. For incidents requiring immediate notice under Part 191.5, an operator must also provide contemporaneous telephonic notification of the same information required under Part 191.5 to the Division at

(844)-GAS-2525 or (844)-427-2525.

2. State Reportable Incidents. An operator must provide telephonic notice to the Division at (844)-GAS-2525 or (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.

C. Written Reports required by Part 191. For all reports required under Part 191, including updates and supplemental reports, an operator shall contemporaneously furnish these reports to the Commission and the Division in accordance with Section R746-409-4.F.

D. Excavation Damage Quarterly Report. Each operator with more than 10,000 customers shall file a quarterly excavation damage report within 60 days after the end of the each quarter with the Commission and the Division in accordance with Section R746-409-4.F on a form approved by the Division.

E. 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.

F. Filing of Written Reports:

1. All required written reports shall be filed with the Commission in accordance with Commission's filing requirements posted on the Commission's website at <http://www.psc.utah.gov> at the "Filing Req" tab under the Document column labeled "Pipeline Safety."

2. All required written reports shall be filed electronically with the Division at the following e-mail address: pipelinesafety@utah.gov.

R746-409-5. Written Plans.

A. An operator must develop and implement all plans required in Parts 192 and 199, including operations and maintenance plans, emergency response plans, public awareness plans, operator qualifications plans, anti-drug and alcohol misuse plans, and integrity management plans (both transmission and distribution). These plans must be made available to the Commission or the Division upon request.

R746-409-6. Remedies.

A. Rules of Practice and Procedure -- The Commission's Rules of Practice and Procedure, R746-100, shall govern and control proceedings before the Commission regarding pipeline safety, with the exception of the additional remedies and procedures specified herein.

B. Hazardous Facility Order -- If the Commission finds, after notice and a hearing, that a particular intrastate pipeline facility is hazardous to life or property, it may issue a Hazardous Facility Order requiring the owner or operator of the intrastate pipeline facility to take corrective action. Civil penalties set forth in Section 54-13-8 may also be imposed. Corrective action may include suspended or restricted use of the facility, physical inspection, testing, repair, replacement, or other action as may be appropriate.

C. Waiver of Notice and Hearing -- The Commission may waive the requirement for notice and hearing in Subsection (B) above before issuing an order pursuant to this section when it or the Division determines that the failure to do so would result in the likelihood of serious harm to life or property. However, the Commission shall include in the order an opportunity for hearing as soon as practicable after issuance of the order.

D. Hazardous Conditions -- The Commission may find an intrastate pipeline facility to be hazardous under paragraph 2 of this section if:

1. Under the facts and circumstances the Commission determines the particular facility is hazardous to life or property; or

2. The intrastate pipeline facility, or a component thereof, has been constructed or operated with equipment, material, or technique which the Commission determines is hazardous to life or property, unless the operator involved demonstrates to the satisfaction of the Commission that, under the particular facts and circumstances involved, such equipment, material, or technique is not hazardous to life or property.

E. Considerations -- In making a determination under paragraph (D)(2) of this section, the Commission may consider, if relevant:

1. The characteristics of the pipe and other equipment used in the intrastate pipeline facility involved, including its age, manufacturer, physical properties, including its resistance to corrosion and deterioration, and the method of its manufacture, construction, or assembly;

2. The nature of the materials transported by the facility, including their corrosive and deteriorative qualities, the sequence in which the materials are transported, and the pressure required for the transportation;

3. The aspects of the areas in which the intrastate pipeline facility is located, in particular the climatic and geologic conditions, including soil characteristics, associated with the areas, and the population density and population and growth patterns of such areas;

4. A recommendation of the National Transportation Safety Board issued in connection with an investigation conducted by the board;

5. Other factors as the Commission may consider appropriate.

F. Contents of Hazardous Facility Order -- A Hazardous Facility Order issued by the Commission shall contain the following information:

1. A finding that the pipeline facility is hazardous to life or property;
2. The relevant facts which form the basis for the finding;
3. The legal basis for the order;
4. The nature and description of particular corrective action required of the respondent;
5. The date by which the required action must be taken or completed and, where appropriate, the duration of the order.

G. No Longer Hazardous -- The Commission shall rescind or suspend a Hazardous Facility Order whenever it determines that the facility is no longer hazardous to life or property.

KEY

rules and procedures, safety, pipelines

Date of Enactment or Last Substantive Amendment

March 30, 2016

Notice of Continuation

March 31, 2016

Authorizing, Implemented, or Interpreted Law

54-13-3; 54-13-5; 54-13-6

ADDITIONAL INFORMATION

CONTACT

For questions regarding the *content* or *application* of rules under Title R746, please contact the promulgating agency (Public Service Commission, Administration). A list of agencies with links to their homepages is available at <http://www.utah.gov/government/agencylist.html> or from <http://www.rules.utah.gov/contact/agencycontacts.htm>.

THE PLAN OF ACTION

Complete and Return No Later Than May 9, 2016FACILITY NAME: Millstream MotelSTREET ADDRESS: 1450 Washington BlvdCITY: Dodden STATE VT ZIP CODE 84404

PLEASE PROVIDE A SHORT NARRATIVE OUTLINING PROPOSED ACTION TO BE TAKEN OR WORK ALREADY PERFORMED:

I've been in contact with several of the
Cathodic Protection contractors and although a couple
haven't called back, Brent from Whittaker Construction
Company is in the process of researching the proper course
of action for my situation, we will either be placing
cathodic protection on the lines, or replacing the lines
that are still necessary for the property, until the tear
down of all the buildings occurs.

NAME OF CONTRACTOR WHO WILL OR HAS ALREADY PERFORMED WORK:

Whittaker Construction Company, Brigham City, UTPROJECTED OR ACTUAL DATE WORK TO BE COMPLETED: Not yet determined
Waiting for contractor plan of action

[Signature] Owner 4-25-16 310-430-4596

Authorized Signature/Title Date Telephone Number

THANK YOU FOR YOUR COOPERATION

From: Brent Hunziker <brenth@whitcon.com>
Date: Thu, Sep 1, 2016 at 3:20 PM
Subject: RE: Millstream Motel (Michael Moyal) cathodic installation bid
To: David Coombs <dcoombs@utah.gov>

Exhibit H

David,

As of today, I still have not heard anything back from anyone at the Millstream Motel owner.

Thanks

Brent Hunziker

V.P. Operations

Whitaker Construction Company

Brigham City, Utah 84302

P.O. Box 430

Office – 435-723-2921

Fax – 435-723-5808

Cell – 801-589-6876

