



State of Utah

Department of Commerce Division of Public Utilities

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Division's Report

To: Utah Public Service Commission

From: Utah Division of Public Utilities

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Date: July 9, 2019

Re: **Docket No. 18-2602-01 – Division's Report Responding to Commission's June 14, 2019 Order**

I. Introduction

The Division of Public Utilities (Division) files this report in response to the Public Service Commission of Utah's (Commission or PSC) June 14, 2019 order (Order). The Utah Pipeline Safety Staff (UTPS) is part of the Division.

The Order followed the Commission's April 10, 2019 Hazardous Facility Order (HFO). This June Order instructed the Division "to investigate, research, and report as soon as reasonably possible following the status report, as to what, if any, steps the PSC should compel PEMC [Pacific Energy & Mining Company] or other operator of the Pipeline to take in order to ensure

the Pipeline is not hazardous to life or property.”¹ The Division was directed to include in its report “reference to any applicable statutes, regulations, or industry practices.”²

The Division has no evidence that PEMC or another operator used proper procedures to shut-in the Pipeline. The Division requests the Commission compel PEMC or another operator to detail the process it used to cease Pipeline operations to the extent it has. Further, PEMC and any other current operator should be required to file a plan for continued operation of the Pipeline consistent with pipeline safety law. There remains in the Pipeline pressurized gas and the absence of evidence of compliance with relevant pipeline safety laws. Whether the existence of pressurized gas in the system is consistent with the Commission’s HFO is a question for the Commission, but the Pipeline remains out of compliance with pipeline safety law for a variety of reasons. Without a plan for continued operation and evidence of compliance with relevant laws for operating a pipeline, the Commission should order PEMC or another operator to properly deactivate or abandon the Pipeline.

II. Discussion

A. Operator Status and PEMC’s or Other Operator’s Status Report

1. Operator Status

PEMC has represented that effective May 14, 2019, and through its counsel, that it is no longer the operator of the Pipeline.³ PEMC has represented that Dead Horse Oil Company LLC (Dead Horse) is the operator of the Pipeline.⁴ Dead Horse has also represented that it is the operator of the Pipeline, but has not provided the Division the date upon which it became the Pipeline operator.⁵ To the Division’s knowledge, Dead Horse has not yet obtained an operator

¹ Order at p. 3. The Pipeline is the “approximately 21.19 mile, 16-inch steel natural gas pipeline running from the outlet of PEMC’s processing plant near the intersection of Ruby Ranch Road and Power Line Road to the TD Williams tap near the south side of the Archview Resort northwest of Moab, Utah.” Order at p. 1.

² Order at p. 3.

³ See Exhibits 1, 2, 3, 4a, and 4b. See also Exhibit 5.

⁴ See Exhibits 4a, 4b, and 5.

⁵ See Exhibits 6a, Dead Horse June 10, 2019 fax, and 6b, Dead Horse June 10, 2019 letter received by mail (the content appears identical), 7a, and 7b. It is the Division’s experience that a new operator will generally contact the regulatory agency and inform it of the change in operator and discuss the status of the pipeline, any compliance

identification number from PHMSA. Thus, there remains some uncertainty about who the operator is. Consequently, throughout this report, the Division generally will use “PEMC or another operator.” The Commission may wish to require PEMC and Dead Horse to detail their relationship, as well as identifying who is the Pipeline’s current owner.

2. Status Report

On June 17, 2019, by letter dated June 14, 2019, PEMC filed correspondence with the Commission stating:

Pacific Energy and Mining Company has confirmation from Dead Horse Oil Company the Pipeline valves at Northwest Pipeline’s Interconnect are closed and locked. The valve between the Pacific Energy and Mining’s Gas Plant and the pipeline is closed and locked. Pacific suspended operations of the Gas Plant on Sunday June 9th, 2019.⁶

Because no other filing was made by PEMC or Dead Horse after the date of the Order but on or before June 25, 2019, the Division will treat PEMC’s June 17, 2019, correspondence as the “status report” required by the Commission in its Order.

B. The Division Has No Evidence that PEMC or Another Operator Followed Proper Shut-in Procedures

On June 7, 2019, the Division sent Dead Horse a letter, and copied PEMC, stating that Dead Horse appears to be the new operator of the Pipeline, is subject to the HFO, and must suspend operation of the Pipeline by June 10, 2019.⁷ Dead Horse disputed that the HFO applied to it and

issues such as providing updated policy and procedure manuals, and any outstanding enforcement items with the regulator.

⁶ See Exhibit 5.

⁷ See Exhibit 9.

claimed that the Pipeline was unregulated.⁸ Miscellaneous correspondence ensued between the Division, Dead Horse, and PEMC.⁹

On June 11, 2019, UTPS conducted a site visit and visual inspection of the Pipeline.¹⁰ UTPS found that the valves on the Pipeline - excluding lateral piping for the pig launcher/receivers and blow down bypass - were chained and locked in the open position during its visit. Dead Horse represented that it was its understanding UTPS “closed the valves” during its inspection.¹¹ However, it would not have been possible to operate these valves without breaking the locks. UTPS does not operate valves and did not do so during June 11th site visit.

On June 17, 2019, PEMC filed its status report with the Commission.¹² The Division has received no documentation that PEMC or another operator followed appropriate shutdown procedures. The Division has not received any policy and procedural manuals or maintenance manuals from any other operator of the Pipeline.

On June 26, 2019, UTPS conducted a follow up inspection of the Pipeline.¹³ During this visit, UTPS verified that all valves on the Pipeline were closed and locked. UTPS does not know if a qualified operator closed and locked these valves and if the Pipeline was shut-in by qualified personnel.¹⁴

PEMC’s manual specifies start-up and shut-down procedures.¹⁵ Given that these are the only shut down procedures the Division has for the Pipeline, these procedures may be instructive in

⁸ See Exhibit 6a, 6b, 7a, and 7b.

⁹ See Exhibits 4a, 4b, 5, 6a, 6b, 7a, 7b, 8a, and 8b (slight differences in content), 9, and 10. Of note, the Division’s June 12, 2019 letter to Dead Horse (Exhibit 10) required Dead Horse to submit evidence of a safe and adequate shutdown to the Division by June 14, 2019 and its operation and maintenance and emergency plans to the Division no later than June 26, 2019. As of the date of this report the Division has not received the required information from Dead Horse.

¹⁰ See Exhibit 11.

¹¹ See Exhibit 7a.

¹² See Exhibit 5, and 8a and 8b.

¹³ See Exhibit 12.

¹⁴ Sometime between the UTPS visit on June 11, 2019 and its visit on June 26, 2019, the valves were changed from opened to closed. Even though the valves were open during the June 11th visit, gas did not appear to be flowing through the Pipeline but was packed in it.

¹⁵ See Exhibit 13.

evaluating the actions taken to shut down the Pipeline in response to the HFO. However, UTPS cannot confirm if these PEMC shut down procedures were used as no adequate documentation was provided to UTPS. Although valves are closed and locked now, there have been no representations made concerning when and how these actions were taken, or by whom.

A pipeline is either active, which means the operator must comply with all the relevant safety requirements, or inactive meaning it is purged, sealed, and abandoned permanently, not to be operated again.¹⁶ This Pipeline in its current condition (shut-in at 610 psig) is considered active and the operator must have a current and updated Operations and Maintenance plan and must comply with all the relevant safety requirements that apply to its operation.

The Code of Federal Regulations – Part 192, which has been adopted as Utah law by reference in R746-409-1(B), prescribes procedures that are applicable to PEMC or another operator for this HFO as discussed below in Part IIC of this report. The Division has received no documentation that PEMC or another operator complied with these regulations. Merely closing and locking the valves as PEMC implied Dead Horse did is inadequate to comply with applicable procedures and does not “ensure the Pipeline is not hazardous to life or property.”¹⁷

C. The Commission Should Compel PEMC or Other Operator To Take Certain Actions To Ensure the Pipeline, Which May Not Lawfully Transport Gas, Is Not Hazardous to Life or Property

The fact that the Pipeline is shut-in does not exempt it from the pipeline safety standards. A pipeline is either active or abandoned. This Pipeline is subject to pipeline safety laws and regulations as an active intrastate natural gas pipeline because it has not been deactivated and abandoned. Accordingly, the Commission should compel PEMC or another operator to take certain actions.

¹⁶See Exhibit 14, PHMSA Advisory Bulletin ADB-2016-05.

¹⁷ See Order at p. 3.

As explained in more detail below, PEMC or another operator must have appropriate procedures in place to achieve compliance and to operate and maintain the Pipeline under normal, abnormal, and emergency conditions. Additionally, PEMC or another operator must have appropriate procedures to maintain the Pipeline during this shut-in phase, as well as to deactivate and abandon the Pipeline if it is not to be brought into compliance for operating in the future. This plan should include how long PEMC or another operator expects the Pipeline to remain shut-in and when and if it expects the Pipeline to resume transporting gas or to become deactivated and abandoned. The plan should include documentation strategies that capture all relevant operation and maintenance activities related to the safe operation of this Pipeline as verification of compliance with the safety requirements. In addition, the operator must obtain an OPID from PHMSA in accordance with the requirement of 49 C.F.R. § 191.22 National Registry of Pipeline and LNG operators. Also, PEMC or another operator must have a plan to achieve compliance with applicable procedures and regulations, including remedying outstanding violations. This compliance plan should be complete and comprehensive enough to address and cure the remaining 11 violations the Commission found in this docket.¹⁸

PEMC or another operator must comply with all the safety requirements of CFR 49, Parts 191 and 192 for having an active Pipeline unless the pipeline is deactivated and abandoned. Compliance requires that PEMC or another operator have valid policy and procedures manual, maintenance manual, emergency plans, and perform all the required maintenance procedures and collect all the necessary documentations during this shut-in period; or conduct an abandonment and deactivation procedure in accordance with 49 CFR § 192.727 Abandonment or deactivation of facilities.

¹⁸ UTPS's 2017 and 2018 inspections of the Pipeline resulted in Notices of Probable Violations.

For example, for this active Pipeline, PEMC or another operator must comply with:

Part 192. Subpart M – Maintenance

192.703 General

- a) **No person may operate a segment of pipeline, unless it is maintained in accordance with this subpart.**
- b) **Each segment of pipeline that becomes unsafe must be replaced, repaired, or removed from service.**
- c) **Hazardous leaks must be repaired promptly.**

If a pipeline is not active and is not to resume operation, the operator must isolate and, generally, purge its pipeline in accordance with the following regulation:

192.727 Abandonment or deactivation of facilities.

- a) **Each operator shall conduct abandonment or deactivation of pipelines in accordance with the requirements of this section.**
- b) **Each pipeline abandoned in place must be disconnected from all sources and supplies of gas; purged of gas; in the case of offshore pipeline, filled with water or inert materials; and sealed at the ends. However, the pipeline need not be purged when the volume of gas is so small that there is no potential hazard.**

Because the Pipeline is active, albeit shut-in, the Commission should compel PEMC or another operator to have a valid Operation & Maintenance plan that addresses all the requirements of 49 C.F.R Parts 191 and 192 that apply to the operation of this Pipeline. Once the plan is reviewed and deemed adequate by UTPS and the Commission, PEMC or operator must immediately proceed with the required maintenance activities, which have apparently

lapsed during these proceedings. PEMC or another operator should promptly submit evidence of those activities' completion to UTPS for review. Specifically, PEMC or another operator must.

- 1) Have a qualified operator and properly trained operating personnel.
- 2) Have a shut-in procedure and execute it in accordance with its plan, including documentation requirements, demonstrate compliance with the plan, and make it available to UTPS.
- 3) Continue to perform all the required maintenance on this Pipeline during the shut-in period with adequate documentation that demonstrates compliance with the plan and make it available to UTPS.
- 4) Have a restart or activation plan and make it available to UTPS if PEMC or another operator intends to restart this Pipeline.

If the operator chooses to deactivate this Pipeline it must have:

- 1) A plan for this deactivation in accordance with 49 C.F.R. § 192.727 and any other applicable regulations and make it available to UTPS; and
- 2) Execute the deactivation in accordance to its plan with adequate documentation that demonstrates compliance with the plan and make it available to UTPS.

Also, PEMC or another operator must cure the 11 outstanding violations if the Pipeline is to remain active. The Division emphasizes that one outstanding violation concerns PEMC's failure to perform a leak survey.¹⁹ This is particularly important because on June 11, 2019, UTPS's first inspection following shut-in, the Pipeline pressure was 680 psig and on June 26, 2019, the pressure had decreased to 610 psig. At this point, the cause for the decrease in pressure is unknown but it could have been caused by a number of things such as changes in temperature,

¹⁹ PEMC failed to comply with 49 C.F.R § 192.706 Transmission lines: Leakage surveys, As stated in other documents prepared by the Division and filed with the Commission, the "leakage surveys" PEMC claims satisfied the requirement of this regulation did not.

bleed back through valves, any venting due to operator's activities, or also due to a leak. This pressure change also underlines the importance of compliance with *192.706 Transmission lines: Leakage survey*, which PEMC is in violation of. Also, four other violations concerned operations and maintenance and emergency procedures, and others concerned public awareness—remedying these is necessary for public safety.

The Division has no evidence that PEMC or another operator has complied with the above regulations and requests that the Commission compel PEMC or another operator to report, comply, and take the steps outlined above.

III. Conclusion

Closing and locking the valves, as PEMC implied in its June 17, 2019 status report that Dead Horse has done, does not “ensure the Pipeline is not hazardous to life or property” and arguably does not comply with the HFO. In any event, the Pipeline remains out of compliance with pipeline safety law. The HFO intended to remove hazards and risks associated with the Pipeline. Nothing that PEMC, Dead Horse, or another operator has provided the Division indicates that this has been achieved. Indeed, the fact that the Pipeline was packed with gas at 610 psig on June 26, 2019, and no deactivation and abandonment has occurred indicates that it is an active pipeline and that the hazards and risks that gave rise to the HFO still exist. The Division requests that the Commission compel PEMC or another operator to report, comply, and to take the steps discussed above. Absent a plan for continued operation and evidence of compliance with relevant laws for operating the Pipeline, the Commission should order PEMC or another operator to properly deactivate or abandon the Pipeline.

INDEX TO EXHIBITS

Exhibit 1 – May 9, 2019 Operator Registry Notification filing from Tariq Ahmad of PEMC with the Pipeline and Hazardous Materials Safety Administration (PHMSA).

Exhibit 2 – May 30, 2019 email from Division counsel Patricia Schmid to PEMC Counsel Terry Spencer, Ph.D.

Exhibit 3 – June 7, 2019 email from Ms. Schmid to Mr. Spencer.

Exhibit 4a – June 6, 2019 email from Ms. Schmid to Mr. Spencer.

Exhibit 4b – June 7, 2019 email from Mr. Spencer to Ms. Schmid.

Exhibit 5 – June 14 correspondence from Dan Green, consultant for PEMC, to the Commission.

Exhibit 6a – June 10, 2019 faxed correspondence from Dead Horse to the Division.

Exhibit 6 b – June 10, 2019 correspondence from Dead Horse to the Division (received by mail).

Exhibit 7a – June 12, 2019 correspondence from Dead Horse to the Division.

Exhibit 7b – June 13, 2019 correspondence from Dead Horse to the Division.

Exhibit 8a – June 13, 2019 correspondence from PEMC to the Commission.

Exhibit 8b – June 13, 2019 2nd correspondence from PEMC to the Commission.

Exhibit 9 – June 7, 2019 letter from the Division to Dead Horse.

Exhibit 10 – June 12, 2019 letter from the Division to Dead Horse.

Exhibit 11 – Inspection photos from UTPS' June 11, 2019 Inspection of the Pipeline.

Exhibit 12 – Inspection photos from UTPS' June 26, 2019 Inspection of the Pipeline.

Exhibit 13 – PEMC procedures.

Exhibit 14 – PHMSA Advisory Bulletin ADB-2016-05.