

March 11, 1977

Mr. William T. Nichols
Marshall, Hawks, McKinney
& Hendrix
810 Merchants National
Bank Building
Topeka, Kansas 66612

Dear Mr. Nichols:

This responds to your letter of December 17, 1976, concerning gas pipeline distribution systems in mobile home parks.

Your letter is being reviewed by our Office, and we will respond to your particular questions in the near future.

Sincerely,

Cesar DeLeon
Acting Director
Office of Pipeline
Safety Operations

MARSHALL, HAWKS, McKINNEY & HENDRIX

December 17, 1976

Mr. Cesar DeLeon
Acting Director
Materials Transportation Bureau
Office of Pipeline Safety
400 Seventh Street SW
Washington, D.C. 20590

Re: Title 49, Code of Federal Regulations
Part 192, Section 192.3
Interpretations Concerning Service Lines

Dear Mr. DeLeon:

By letter of September 17, 1976, you responded to my letter of August 13, 1976, concerning gas pipeline distribution systems in mobile home parks. As is often the case, your letter raised certain further questions which we need to have answered.

Your letter indicates that the lines downstream of a master meter in a mobile home park would only be those of the gas distribution company if that company owns the line. You further stated that even if the company does not own the lines, it may nonetheless be responsible for the compliance of those lines with Part 192 if it operates the lines.

We would request some further clarification of exactly what is meant by "operates the lines". In the situation involving mobile home parks in Topeka, the owners of the parks have been required by the gas distribution company to install the piping within the park. If the owner balked at doing this, then his tenants would receive no gas service. The gas distributed through the system in the park is solely for the use of the mobile home tenants and is not used by the owner of the park. The owner of the park is prohibited by the Kansas Corporation Commission from making a separate charge for gas consumed by the individual tenant. In many cases, the individual tenants are billed directly by the gas distribution company from individual submeters located at each mobile home site. When this is the case, the mobile home park owner is then charged of the difference between the volume registered on the master meter for the billing period and the volume derived from adding together all the volumes registered at all the individual submeters for the billing period. With these situations in mind, could you please advise us further as to exactly what is meant by "operates the lines?"

In your September 17 letter you also state that where a mobile home park owner buys gas from a public utility via a master meter and then sells and distributes the gas by pipeline to others who consume the gas, the pipeline and park owner are subject to the jurisdiction of Part 192. As previously stated, the Kansas Corporation Commission specifically prohibits mobile home park operators from selling or making a separate charge for the natural gas consumed at the individual mobile home sites. Does this prohibition placed on the mobile home park owners alter your interpretation that mobile home park owners are subject to the jurisdiction of Part 192?

Accompanying the amendment to the definition of "service line", which became effective May 10, 1973, was a report issued by the Office of Pipeline Safety which appears in the Federal Register, Volume 38, Number 68, Tuesday, April 10, 1973, at pages 9083 and 1984. Therein the Office of Pipeline Safety reported:

"The OPS does not agree that customers owning lines that come within the definition of service line thereby become operators. An operator means a person who engages in the transportation of gas. Transportation of gas means the gathering (with certain exceptions), transmission, or distribution of gas by pipeline or the storage of gas in or affecting interstate or foreign commerce. Transportation of natural gas ends with the sale coupled with delivery of the gas to the ultimate consumer so that, after the sale, the gas becomes a consumer item and is no longer in commerce..."

Further the Office of Pipeline Safety reported:

"Customer-owned lines between the distribution main and the meter are presently classed as service lines and no objections were made to the proposal which would have continued such classification. Invariably the meter itself is owned by the distribution company and as a practical matter, the safe condition of the line to that meter is made the responsibility of the company. Therefore, whether the line upstream of the meter is owned by the distribution company or the customer, that line is involved in the transportation of gas and brought within the regulations by its classification as a service line. The responsibility that this places on the distribution company is consistent with the fact that ownership of the gas does not change normally until the gas goes through the meter.

"...'service line' is now defined as including a customer meter or the connection to a customer's piping, which ever is further downstream. What constitutes a customer meter codes not depend on its ownership, but rather on its function which is to measure the transfer of gas from an operator to an ultimate consumer..."

The above-quoted language was evidently intended to clarify the responsibilities in the delivery of gas in the home-owner situation. However, we feel an analogous situation exists with respect to service in mobile home parks. The ultimate consumers are the persons living in the mobile homes.

Certainly the owner of the mobile home park should not be classed as the ultimate consumer. If submeters are located at the individual mobile homes, such meters are owned by the gas distribution company. Even though the lines upstream of the submeter or the connection at the mobile home are now owned by the persons living in the mobile homes, these lines are used by the gas distribution company to get the natural gas to these ultimate consumers. We do not feel the owners of the mobile home parks should be classed as operators merely because they own the lines in the parks. The owners of the mobile home parks were required by the gas distribution company to install these distribution systems before gas service would be provided to individual mobile homes. Certainly the owners of the mobile home parks have made no profit from owning these lines and they are specifically prohibited from reselling gas.

Does the Office of Pipeline Safety interpret the situation existing in mobile home parks to be analogous to the situation existing in residential subdivisions? Does the Office of Pipeline Safety interpret the responsibility placed on gas distribution companies for compliance of non-owned lines used to provide service to ultimate consumers in individual residences to be analogous to the responsibility gas distribution companies should have for compliance of non-owned lines used to get natural gas to ultimate consumers who live in mobile homes located in mobile home parks? We feel service to individual mobile homes is analogous to service to individual homes in residential subdivisions. We feel the gas distribution companies should be responsible for compliance of all lines through which the natural gas is transported up to the meter at the individual residence or mobile home or to the connection to the piping at the individual residence or mobile home.

There is one further question which we would ask the Office of Pipeline Safety to answer. The Kansas Legislature has authorized the state corporation commission to adopt such rules and regulations as may be necessary to be in conformance with the Natural Gas Pipeline Safety Act of 1968 (49 USCA 1671 et seq.). The Kansas Legislature further directed that for the purpose of gas pipeline safety such rules and regulations shall be applicable to all public utilities and all municipal corporations or quasi-municipal corporations rendering gas utility service. This legislative directive is found in K.S.A. 66-1,150. The Kansas Corporation Commission in its rules and regulations has stated specifically that owners of mobile home parks are not considered to be operating a utility.

Our question is, since the legislative directive makes any state corporation commission rules and regulations applicable only to public utilities, does the Office of Pipeline Safety feel the lines located in the mobile home parks and owned by the park owner are not within the jurisdiction of our state corporation commission, but are subject to the exclusive jurisdiction of the Office of Pipeline Safety?

The questions we have posed are important to the members of the Greater Topeka Mobile Housing Association. We feel that at the very least, there should be a joint responsibility for compliance of the lines in the parks. Certainly the gas distribution companies are equipped to

monitor, inspect and maintain these lines and the owners of the mobile home parks are not so equipped. We feel the best and most equitable solution to the present problems would entail the placement of full responsibility for compliance of these lines with the gas distribution company.

We appreciate your time and effort in this matter and look forward to receiving your response.

Very truly yours,

MARSHALL, HAWKS, MCKINNEY & HENDRIX

William T. Nichols