



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET, HARRISBURG, PA 17120

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

June 6, 2022

Via Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Petition of Westover Property Management Company, L.P. d/b/a Westover Companies for a Declaratory Order Regarding the Applicability of the Gas and Hazardous Liquids Pipeline Act
Docket No. P-2021-3030002
I&E Answer in Opposition to Amended Petition

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the *non-proprietary version* of the Bureau of Investigation and Enforcement's ("I&E") Answer in Opposition to the Amended Petition for Declaratory Order of Westover Property Management Company, L.P. d/b/a Westover Companies ("Westover") with regard to the above-referenced proceeding. ***The proprietary version was submitted to the Secretary Bureau's Sharefile. I&E continues to respectfully request that the Commission rule on this matter expeditiously for the public safety concerns expressed herein, which include another natural gas leak that was discovered on May 9, 2022 on a Westover master meter system in Lansdowne, Pennsylvania, resulting in a subsequent outage of natural gas service.***

Copies are being served on the parties of record in accordance with the attached Certificate of Service. Should you have any questions, please do not hesitate to contact me.

Sincerely,

Stephanie M. Wimer
Senior Prosecutor
Bureau of Investigation and Enforcement
Attorney ID No. 207522
(717) 772-8839
stwimer@pa.gov

SMW/ac
Enclosures

cc: Michael L. Swindler, Deputy Chief Prosecutor (*via email*)
Kayla L. Rost, Prosecutor (*via email*)
As per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Westover Property Management :
Company, L.P. d/b/a Westover Companies :
for a Declaratory Order Regarding the : Docket No. P-2021-3030002
Applicability of the Gas and Hazardous :
Liquids Pipeline Act :

**ANSWER OF THE BUREAU OF INVESTIGATION AND ENFORCEMENT
IN OPPOSITION TO THE AMENDED PETITION FOR DECLARATORY ORDER
OF WESTOVER PROPERTY MANAGEMENT COMPANY, L.P.
d/b/a WESTOVER COMPANIES**

Pursuant to Section 5.65(a) of the Commission’s regulations, 52 Pa. Code § 5.65(a), the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), by and through its prosecuting attorneys, files this Answer in Opposition to the Amended Petition for Declaratory Order (“Amended Petition”) of Westover Property Management Company, L.P. d/b/a Westover Companies (“Westover” or “Company”) and requests that the Commission deny the Company’s Amended Petition, deem Westover to be a pipeline operator subject to the Gas and Hazardous Liquids Pipelines Act, 58 P.S. §§ 801.101, *et seq.* (“Act 127”), and direct Westover to immediately comply with all applicable laws and regulations related to pipeline safety.¹

In the alternative, if the Commission determines that there are outstanding issues of fact, I&E requests that those factual issues be deferred to the pending Complaint proceeding at Docket No. C-2022-3030251, and that the Commission only resolve the following general legal question pertaining to the applicability of Act 127 to master meter systems at apartment

¹ Westover initially filed the Amended Petition on May 11, 2022 without serving the Amended Petition on the Office of Consumer Advocate and Office of Small Business Advocate pursuant to 52 Pa. Code § 5.42(b). Westover re-filed the Amended Petition on May 16, 2022 and therefore I&E’s Answer in Opposition is timely filed.

complexes: Does Act 127 include intrastate natural gas master meter systems operated at apartment complexes in Pennsylvania where the landlord purchases metered gas from an outside source for resale through a gas distribution pipeline system, and then supplies the gas to the ultimate consumer who purchases the gas through non-metered means, such as by rent? For the reasons set forth herein, I&E avers that the answer is “yes.”

Pursuant to 52 Pa. Code § 1.33, I&E hereby incorporates by reference its Answer in Opposition dated January 3, 2022, which was submitted in response to Westover’s original Petition for Declaratory Order.

I. REQUEST FOR EXPEDITED RULING

Since the time that I&E filed its Answer in Opposition to Westover’s original Petition for Declaratory Order, a Westover apartment complex operating a master meter system that I&E alleges is jurisdictional experienced a natural gas leak. On May 9, 2022, a resident at Westover’s Hillcrest Apartments in Lansdowne, PA reported the smell of natural gas to PECO Gas. At 4:30 am on that same day, PECO Gas discovered a gas leak on a fuel line “up and around” an apartment complex wall. After Westover shut off its master meter, the odor dissipated, and the area was made safe. PECO Gas did not restore natural gas to the apartment complex until Westover demonstrated that it retained operator qualified repair persons to fix the leak.

Pipeline Safety Inspectors from the I&E Safety Division who inspected the leak and resulting outage observed significant, active corrosion on the metallic risers at the soil-to-air interface. The corrosion exists on numerous service risers throughout the complex. A pipeline operator who submits to the Commission’s jurisdiction would be required to address

this corrosion pursuant to Subpart I of Part 192. Westover acknowledges that a leak occurred on its system by letter dated May 23, 2022 and addressed to I&E. *See* I&E Exhibit 1.

Currently, Westover does not follow the requisite Federal pipeline safety laws and regulations in its operation of jurisdictional master meter systems at numerous apartment complexes, including the Hillcrest Apartments, in central and eastern Pennsylvania. An immediate threat to public safety exists with each and every day that Westover fails to submit to the Commission’s jurisdiction and implement the pertinent pipeline safety rules.

Additionally, I&E Pipeline Safety Inspectors who have attempted to inspect other apartment complexes operating master meter systems have been informed by the landlords that such systems are not jurisdictional pursuant to the arguments raised by Westover in this matter. In other words, absent a ruling from the Commission, certain apartment complexes in Pennsylvania are refusing to cooperate with I&E and adhere to the requisite pipeline safety standards. Accordingly, for these reasons and in the interests of public safety, I&E respectfully requests an expedited ruling from the Commission.

II. LEGAL STANDARDS APPLICABLE TO DECLARATORY ORDERS

Section 331(f) of the Public Utility Code (“Code”) authorizes the Commission to “issue a declaratory order to terminate a controversy or remove uncertainty.”² Under Section 331(f), the issuance of a declaratory order is subject to the Commission’s discretion.³

Pennsylvania Courts have determined that Commission orders disposing of controversy or uncertainty through such petitions are adjudications, and when final, result in

² 66 Pa.C.S. § 331(f); *see also* 52 Pa. Code § 5.42(a).

³ 66 Pa.C.S. § 331(f).

binding orders like any other Commission order.⁴ Thus, the Commission may use its discretion to grant or deny such petitions to achieve finality on a controversy or uncertainty concerning existing rights, status, or legal relations.⁵ Moreover, the Commission has determined that a declaratory order should be issued only when there is no outstanding issue of fact.⁶

Westover, as the proponent of a rule or order, has the burden of proof.⁷ Such a showing must be by a preponderance of the evidence.⁸ Additionally, the Commission's decision must be supported by substantial evidence in the record. More than a mere trace of evidence or a suspicion of the existence of a fact ought to be established.⁹

With respect to the instant matter, I&E requests that the Commission utilize its discretion to issue a Declaratory Order to provide certainty to the following narrow legal question: Does Act 127 include intrastate natural gas master meter systems operated at apartment complexes in Pennsylvania where the landlord purchases metered gas from an outside source for resale through a gas distribution pipeline system, who then supplies the gas to the ultimate consumer who purchases the gas through non-metered means, such as by rent? To the extent that the Commission deems that there are outstanding issues of fact concerning the specific pipeline configurations at the various Westover apartment complexes

⁴ *Professional Paramedical Services, Inc. v. Pa. Pub. Util. Comm'n*, 525 A.2d 1274, 1276 (Pa. Cmwlth. 1987).

⁵ *Pennsylvania Indep. Petroleum Producers v. Dep't of Envtl. Res.*, 525 A.2d 829 (Pa. Cmwlth. 1987), *aff'd*, 550 A.2d 195 (Pa. 1988), *cert. denied*, 489 U.S. 1096 (1989).

⁶ *Petition of the Pennsylvania State University for Declaratory Order Concerning the Generation Rate Cap of the West Penn Power Company d/b/a Allegheny Power; Petition of the West Penn Power Company d/b/a Allegheny Power for Approval of its Retail Electric Default Service Program and Competitive Procurement Plan for Service at the Conclusion of the Restructuring Transition Period for Tariff 37 Providing Service to the Pennsylvania State University*, Docket Nos. P-2007-2001828 and P-2008-2021608 (Order entered September 11, 2008).

⁷ 66 Pa.C.S. § 332(a).

⁸ *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990).

⁹ *Norfolk & Western Ry. Co. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980).

discussed in its Amended Petition, I&E requests that those factual matters be reserved for the pending Complaint proceeding at Docket No. C-2022-3030251.

III. ANSWER

As further support to deny this Amended Petition, I&E offers the following responses in enumerated fashion:

1. Admitted in part and denied in part. It is admitted that Westover filed an original Petition for Declaratory Order on December 13, 2021 that was prompted by an I&E Safety Division investigation determining that Westover is a pipeline operator that must comply with Act 127, including the Federal pipeline safety laws and regulations. The remaining averment states a conclusion of law to which no response is required. To the extent a response is deemed to be required, it is denied. It is specifically denied that Westover does not operate “master meter systems” as defined in 49 CFR § 191.3.

2. Admitted in part and denied in part. It is admitted that Westover’s original Petition for Declaratory Order sought the relief articulated in Paragraph 2. It is denied that the relief sought by Westover is lawful and appropriate.

3. Admitted.

4. Admitted.

5. Admitted.

6. Admitted in part and denied in part. It is admitted that a controversy has been created by Westover’s refusal to comply with the Federal pipeline safety laws and regulations as adopted by Act 127, which unambiguously include the regulation of master meter systems that are present at Westover apartment complexes in Pennsylvania. It is denied that the applicability of the Federal pipeline safety laws and regulations to Westover’s

master meter systems is uncertain. Nevertheless, the Commission should entertain the Amended Petition by addressing the following legal question: Does Act 127 include intrastate natural gas master meter systems operated at apartment complexes in Pennsylvania where the landlord purchases metered gas from an outside source for resale through a gas distribution pipeline system, who then supplies the gas to the ultimate consumer who purchases the gas through non-metered means, such as by rent? Any outstanding issues of fact should be entertained in the pending Complaint proceeding at Docket No. C-2022-3030251.

7. Admitted in part and denied in part. It is admitted that Westover purchases natural gas from a natural gas distribution company (“NGDC”) and distributes the gas to Westover tenants through pipeline facilities operated by Westover, and that Westover tenants purchase the gas. The remainder of the averments are denied. It is specifically denied that Paragraph 5 of Westover’s original Petition for Declaratory Order contained the averment set forth in Paragraph 7 of Westover’s Amended Petition. Such averment was set forth in Paragraph 1 of the original Petition.

8. Denied. It is denied that Westover’s master meter systems are not subject to pipeline safety regulation overseen by the Commission as authorized by Act 127. I&E is without knowledge or information sufficient to form a belief as to the remainder of the averments in this Paragraph and the same are therefore denied and proof thereof is demanded in the Complaint proceeding.

9. Denied. The averment states a conclusion of law to which no response is required. To the extent a response is deemed to be required, it is denied.

10. Admitted upon information and belief.

11. Admitted upon information and belief.

12. Admitted. By way of further answer, I&E is also responsible for enforcing compliance with other laws and regulations not referenced in this Paragraph that are subject to the Commission's jurisdiction, such as Act 127.

13. Denied. The averment states a conclusion of law to which no response is required. To the extent a response is deemed to be required, it is denied.

14. Denied. The averment states a conclusion of law to which no response is required. To the extent a response is deemed to be required, it is denied.

15. Denied. The averment states a conclusion of law to which no response is required. To the extent a response is deemed to be required, it is denied. By way of further response, I&E never alleged that Westover is subject to Commission regulation pursuant to 52 Pa. Code § 59.33.

16. Denied. The averment states a conclusion of law to which no response is required. To the extent a response is deemed to be required, it is denied. By way of further answer, the Commission was not required to promulgate regulations when implementing Act 127. Act 127 expressly states that “[t]he [C]ommission *may* adopt regulations, consistent with the Federal pipeline safety laws, as *may* be necessary or proper in the exercise of its powers and perform its duties under this act.”¹⁰ It is specifically denied that selective and discriminatory prosecution is increased absent regulations implementing Act 127. It is also denied that binding norms do not exist; Act 127 clearly and unambiguously provides the applicable binding norms.

¹⁰ 58 P.S. § 801.501(a) (emphasis added).

17. Admitted in part and denied in part. The first averment states a conclusion of law to which no response is required. To the extent a response is deemed to be required, it is denied. By way of further answer, the Pennsylvania General Assembly included intrastate natural gas systems, such as Westover's, within the Commission's enforcement jurisdiction by adopting the Federal pipeline safety laws at 58 P.S. § 801.302 and granting the Commission the authority to enforce the same pipeline safety laws at 58 P.S. § 801.501(a)(7). It is admitted that landlords distributing natural gas for purchase to tenants can be construed to be master meter systems subject to Federal pipeline safety laws. It is denied that the General Assembly did not intend to regulate these entities under Act 127 and Westover presents no legislative history to illustrate that the General Assembly omitted master meter systems at apartment complexes from being subject to the Federal pipeline safety standards. The remaining averments set forth in this Paragraph are denied.

18. Denied. The averment states a conclusion of law to which no response is required. To the extent a response is deemed to be required, it is denied. By way of further response, Act 127 speaks for itself, and any interpretation or characterization thereof is denied.

19. Admitted in part and denied in part. It is admitted that I&E asserts that Westover is a pipeline operator as defined in Act 127 because it operates numerous master meter systems throughout its various apartment complexes in Pennsylvania that fit within the definition of "master meter system" at 49 CFR § 191.3. The remainder of the averments state a conclusion of law to which no response is required. To the extent that a response is deemed to be required, they are denied.

20. Denied. The averment states a conclusion of law to which no response is required. To the extent a response is deemed to be required, it is denied. By way of further response, Act 127 speaks for itself, and any interpretation or characterization thereof is denied.

21. Denied. The averment states a conclusion of law to which no response is required. To the extent a response is deemed to be required, it is denied. By way of further response, 49 CFR § 191.3 speaks for itself, and any interpretation or characterization thereof is denied.

22. Denied. The averments in (a) through (d) state a conclusion of law to which no response is required. To the extent a response is deemed to be required, they are denied.

23. Denied. I&E is without knowledge or information sufficient to form a belief as to the averments in this Paragraph and the same are therefore denied and proof thereof is demanded in the Complaint proceeding.

24. Denied. I&E is without knowledge or information sufficient to form a belief as to the averments in (a) through (d) in this Paragraph and the same are therefore denied and proof thereof is demanded in the Complaint proceeding. The averments also state a conclusion of law to which no response is required. To the extent a response is deemed to be required, they are denied.

25. Denied. I&E is without knowledge or information sufficient to form a belief as to the averments in this Paragraph and the same are therefore denied and proof thereof is demanded in the Complaint proceeding.

26. Denied. I&E is without knowledge or information sufficient to form a belief as to the averments in this Paragraph and the same are therefore denied and proof thereof is

demanded in the Complaint proceeding. The averment also states a conclusion of law to which no response is required. To the extent a response is deemed to be required, it is denied.

27. Denied. Tenants consume gas from the central boiler for heating purposes and tenants purchase this gas through rent paid to Westover. I&E Exhibit 2 and I&E Exhibit 3 contain lease agreements for Lansdale Apartments and Concord Court, respectively. Section II in each of these lease agreements states that the “[u]tility service provider will bill Owner and then the resident portion will be allocated based on the square footage of your unit and/or square footage of your unit and the number of persons residing in your unit.” With regard to Black Hawk Apartments, Westover’s Appendix 5 of the Amended Petition provides that natural gas is included in the rental charge. Therefore, the tenants at Lansdale Apartments, Concord Court, and Black Hawk Apartments are the ultimate consumers of the gas who purchase the gas from Westover through rent.

28. Denied. The averment states a conclusion of law to which no response is required. To the extent a response is deemed to be required, it is denied. By way of further answer, the instant matter is distinguishable from Bryant College and the college-owed gas system in Houston, which are described in Westover’s Appendices 6-7, respectively. The U.S. Department of Transportation’s Pipeline and Hazardous Materials Safety Administration (“PHMSA”) found in both instances that the colleges were the ultimate consumers of the gas; the facts did not illustrate that gas was supplied to consumers such as concessionaires and tenants who purchased the gas. Here, however, the ultimate consumers of the gas are Westover’s tenants who purchase the gas through rent. *See* I&E response to Paragraph 27, *supra*. Indeed, PHMSA has found that even in the case of subsidized housing,

tenants who pay rent for the privilege of occupying a housing unit and receiving utilities, including gas, are deemed to be the ultimate consumers. “The fact that they are not billed for the gas and that there are subsidies for utility costs from the government under Department of Housing and Urban Development (HUD) programs are not relevant to the determination that AHA’s gas distribution system is subject to the pipeline safety regulations.”¹¹

29. Denied. The averment states a conclusion of law to which no response is required. To the extent a response is deemed to be required, it is denied.

30. Admitted in part and denied in part. It is admitted that the Commission should find PHMSA letters of interpretation to be persuasive. It is denied that the letters are persuasive for the reasons articulated by Westover. Westover tenants purchase gas from Westover through rent. *See* I&E response to Paragraph 27, *supra*. The gas is supplied to the tenants through Westover’s pipeline facilities. For these simple reasons, Westover operates master meter systems at Lansdale Apartments, Concord Court, and Black Hawk Apartments.

31. Denied. The averment states a conclusion of law to which no response is required. To the extent a response is deemed to be required, it is denied. It is also specifically denied that Westover consumes the gas. The tenants are the ultimate consumers of the gas.

32. Denied. The averments in (a) through (c) state a conclusion of law to which no response is required. By way of further response, Westover failed to provide this Commission with the lease agreements at Lansdale Village and Concord Court demonstrating that tenants purchase the gas through rent. Westover also failed to note that

¹¹ PHMSA Letter of Interpretation to Montana Public Service Commission, PI-01-0113 (June 25, 2001); I&E Exhibit 4.

Westover's Appendix 5 clearly indicates that gas is included in rent at Black Hawk Apartments. Westover's factual assertions raised herein should be regarded with skepticism and any factual disputes should be resolved in the Complaint proceeding. In short, I&E has shown that Westover tenants at Lansdale Apartments, Concord Court, and Black Hawk Apartments purchase the gas through rent and, therefore, are the ultimate consumers of the gas.

33. Denied. I&E is without knowledge or information sufficient to form a belief as to the averments in this Paragraph and the same are therefore denied and proof thereof is demanded in the Complaint proceeding. By way of further answer, PHMSA has found that gas used for consumers' appliances is sufficient for the system to be deemed a master meter system. "Assuming that the gas is transferred to the tenants of the individual units for use in the tenants' appliances, the system has the necessary characteristics and is, therefore, a master meter system subject to the regulations."¹²

34. Denied. The averment states a conclusion of law to which no response is required. To the extent a response is deemed to be required, it is denied. By way of further answer, the definition of master meter system, including the language that Westover quotes in this Paragraph, is set forth in a regulation and not a statute. Additionally, PHMSA has determined that interior piping may be subject to federal regulation if the operator, and not the customer, owns and distributes gas in the piping.¹³

¹² PHMSA Letter of Interpretation to Public Service Commission of Utah, PI-73-0112 (June 18, 1973); I&E Exhibit 5.

¹³ See Westover Appendix 8. See also PHMSA Letter of Interpretation to Minnesota Department of Public Safety, PI-16-0012 (December 6, 2016); I&E Exhibit 6.

35. Admitted in part and denied in part. It is admitted that PHMSA letters of interpretation are fact specific and non-binding. It is denied that PHMSA's letters of interpretation are not persuasive in this situation. Depending on the facts and circumstances of the system, interior piping may be included as part of a regulated master meter system. Therefore, if the interior piping at Woodland Plaza, Country Manor, Norriton East, and Paoli Place (Paoli South) Apartments is owned and used by Westover to distribute and/or transfer gas to the tenants, then such piping is subject to regulation. *See* I&E Exhibit 6.

36. Denied. The averment states a conclusion of law to which no response is required. To the extent a response is deemed to be required, it is denied.

37. Denied. The averment states a conclusion of law to which no response is required. To the extent a response is deemed to be required, it is denied. By way of further answer, "[t]ransporting gas" is defined in the Pipeline Safety Act ("PSA"), in pertinent part, as "the gathering, transmission, or distribution of gas by pipeline, or the storage of gas, in interstate or foreign commerce."¹⁴ The PSA defines "interstate or foreign commerce," in pertinent part, as:

(A) related to gas, means commerce - -

(i) between a place in a State and a place outside that State; or

(ii) that affects any commerce described in subclause (A)(i) of this clause."

¹⁴ 49 U.S.C. § 60101(a)(21).

49 U.S.C. § 60101(a)(8)(A)(i)-(ii). Congress has determined that the intrastate transportation of gas by pipeline substantially affects interstate commerce. Congress reported as follows when defining the transportation of gas covered under the PSA:

The term “transportation of gas” is defined as the gathering, transmission or distribution of gas by pipeline or its storage in or affecting interstate or foreign commerce. With exception as to gathering in certain circumstances, this means all aspects of the transportation of gas from the well head to the consumer. As testified by Secretary Boyd:

‘There is no question but what every element of a gas gathering, transmission, and distribution line is moving gas which is either in or affects interstate commerce. * * * (p. 35).

I don’t think that it even requires any elasticity of the commerce clause of the Constitution to define 99 44/100 percent of this activity as being clearly within the commerce clause. (p. 36).’

H.R. Rep. No. 90-1390, at 18 (May 15, 1968).¹⁵ PHMSA has likewise determined that even though the transportation of gas may entirely be within one State, every element of a gas gathering, transmission, and distribution line is moving gas that is either in or affects interstate commerce.¹⁶ Such transportation of gas includes the distribution of gas within an apartment complex and when used for cooking appliances.¹⁷ *See also* I&E Exhibit 5.

38. Denied. I&E is without knowledge or information sufficient to form a belief as to what Westover’s research entailed and the averment is therefore denied. It is also

¹⁵ The House Report is appended to I&E’s Answer in Opposition to Westover’s original Petition for Declaratory Order as I&E Attachment B.

¹⁶ PHMSA Letter of Interpretation to Florida Public Service Commission, PI-71-036 (March 16, 1971). The Letter of Interpretation is appended to I&E’s Answer in Opposition to Westover’s original Petition for Declaratory Order as I&E Attachment C.

¹⁷ PHMSA Letter of Interpretation to Bose McKinney & Evans LLP, PI-11-0014 (March 27, 2012) and (August 27, 2012). This Letter of Interpretation is appended to I&E’s Answer in Opposition to Westover’s original Petition for Declaratory Order as I&E Attachment D.

denied that there is any ambiguity regarding whether master meter systems affect interstate or foreign commerce. If master meter systems did not affect interstate or foreign commerce, then they would not be included in the Federal pipeline safety regulations and the above-cited PHMSA letters of interpretation would have found each and every master meter system not to be subject to pipeline safety regulation.

39. Denied. The averment states a conclusion of law to which no response is required. To the extent a response is deemed to be required, it is denied. By way of further answer, I&E incorporates its responses to Paragraphs 37 and 38, *supra*.¹⁸

40. Denied. The averment states a conclusion of law to which no response is required. To the extent a response is deemed to be required, it is denied. By way of further answer, I&E incorporates its responses to Paragraphs 37 and 38, *supra*.

41. Denied. I&E is without knowledge or information sufficient to form a belief as to the averments in this Paragraph and the same are therefore denied and proof thereof is demanded in the Complaint proceeding.

42. Denied. The averment states a conclusion of law to which no response is required. To the extent a response is deemed to be required, it is denied. By way of further answer, PHMSA has determined that interior piping may be subject to federal regulation if the operator, and not the customer, owns and distributes gas in the piping. *See* I&E's response to Paragraph 34, *supra*. Additionally, every element of gas moving in a distribution line, which encompasses master meter systems, substantially affects interstate or foreign

¹⁸ I&E assumes that Westover intended to describe the transportation of gas as the gathering (instead of "fathering"), transmission, or distribution of gas by pipeline in or affecting interstate or foreign commerce.

commerce. The amount of gas consumed is not examined and Westover fails to provide any legal authority to support this notion.

43. Denied. The averment states a conclusion of law to which no response is required. To the extent a response is deemed to be required, it is denied. By way of further answer, I&E incorporates its responses to Paragraphs 37 and 38, *supra*.

44. Denied. The averment states a conclusion of law to which no response is required. To the extent a response is deemed to be required, it is denied. By way of further answer, I&E incorporates its responses to Paragraphs 37 and 38, *supra*.

45. Denied. I&E is without knowledge or information sufficient to form a belief as to the averments in this Paragraph and the same are therefore denied and proof thereof is demanded in the Complaint proceeding.

46. Denied. The averment states a conclusion of law to which no response is required. To the extent a response is deemed to be required, it is denied. By way of further answer, I&E incorporates its responses to Paragraphs 33, 37, 38, and 42, *supra*.

Additionally, the definition of “master meter system” at 49 CFR § 191.3 contemplates that gas is distributed within a definable area such as an apartment complex.

47. Denied. The averment states a conclusion of law to which no response is required. To the extent a response is deemed to be required, it is denied. By way of further answer, I&E incorporates its responses to Paragraphs 37 and 38, *supra*.

48. Denied. The averment states a conclusion of law to which no response is required. To the extent a response is deemed to be required, it is denied. By way of further answer, I&E incorporates its responses to Paragraphs 37 and 38, *supra*.

49. Denied. I&E is without knowledge or information sufficient to form a belief as to the averments in this Paragraph and the same are therefore denied and proof thereof is demanded in the Complaint proceeding.

50. Denied. The averment states a conclusion of law to which no response is required. To the extent a response is deemed to be required, it is denied. By way of further answer, I&E incorporates its responses to Paragraphs 33, 37, 38, and 42, *supra*. Additionally, the definition of “master meter system” at 49 CFR § 191.3 contemplates that gas is distributed within a definable area such as an apartment complex.

51. Denied. The averment states a conclusion of law to which no response is required. To the extent a response is deemed to be required, it is denied. By way of further answer, I&E incorporates its responses to Paragraphs 37 and 38, *supra*.

52. Denied. The averment states a conclusion of law to which no response is required. To the extent a response is deemed to be required, it is denied. By way of further answer, I&E incorporates its responses to Paragraphs 37 and 38, *supra*.

53. Denied. I&E is without knowledge or information sufficient to form a belief as to the averments in this Paragraph and the same are therefore denied and proof thereof is demanded in the Complaint proceeding.

54. Denied. The averment states a conclusion of law to which no response is required. To the extent a response is deemed to be required, it is denied. By way of further answer, I&E incorporates its responses to Paragraphs 33, 37, 38, and 42, *supra*. Additionally, the definition of “master meter system” at 49 CFR § 191.3 contemplates that gas is distributed within a definable area such as an apartment complex.

55. Denied. The averment states a conclusion of law to which no response is required. To the extent a response is deemed to be required, it is denied. By way of further answer, I&E incorporates its responses to Paragraphs 37 and 38, *supra*.

56. Denied. The averment states a conclusion of law to which no response is required. To the extent a response is deemed to be required, it is denied. By way of further answer, I&E incorporates its responses to Paragraphs 37 and 38, *supra*.

57. Denied. I&E is without knowledge or information sufficient to form a belief as to the averments in this Paragraph and the same are therefore denied and proof thereof is demanded in the Complaint proceeding.

58. Denied. The averment states a conclusion of law to which no response is required. To the extent a response is deemed to be required, it is denied. By way of further answer, I&E incorporates its responses to Paragraphs 33, 37, 38, and 42, *supra*.

Additionally, the definition of “master meter system” at 49 CFR § 191.3 contemplates that gas is distributed within a definable area such as an apartment complex.

59. Denied. The averment states a conclusion of law to which no response is required. To the extent a response is deemed to be required, it is denied. By way of further answer, I&E incorporates its responses to Paragraphs 37 and 38, *supra*.

60. Denied. The averment states a conclusion of law to which no response is required. To the extent a response is deemed to be required, it is denied. By way of further answer, I&E incorporates its responses to Paragraphs 37 and 38, *supra*.

61. Denied. The averment states a conclusion of law to which no response is required. To the extent a response is deemed to be required, it is denied.

62. Denied. The averment states a conclusion of law to which no response is required. To the extent a response is deemed to be required, it is denied. By way of further answer, Congress determined that the transportation of gas substantially affects interstate or foreign commerce and regulates it through the Federal pipeline safety laws and regulations. See I&E's response to Paragraph 37, *supra*. The Pennsylvania General Assembly adopted the same Federal pipeline safety laws and regulations.¹⁹

63. Admitted upon information and belief. By way of further answer, I&E attempted to elicit compliance from Westover concerning Act 127 and the Federal pipeline safety regulations prior to initiating an enforcement action at C-2022-3030251. However, it became apparent to I&E that such enforcement action was necessary as Westover continues to fail to adhere to Act 127 and the Federal pipeline safety regulations, and continues to challenge their applicability to apartment complexes despite the plain language of 49 CFR § 191.3.

64. Denied. I&E is without knowledge or information sufficient to form a belief as to the averments in this Paragraph and the same are therefore denied and proof thereof is demanded in the Complaint proceeding. By way of further answer, Act 127 registration requires the reporting of pipeline mileage per county. I&E is unable to determine from Westover's Act 127 registration the specific apartment complexes that pertain to the reported pipeline mileage, which was reported on a per county basis.

¹⁹ 58 P.S. § 801.302.

65. Denied. I&E specifically denies that the apartment complexes referenced in Paragraph 65 do not constitute master meter systems, and I&E incorporates its responses to Paragraphs 23-60, *supra*.

66. Denied. I&E is without knowledge or information sufficient to form a belief as to the averments in this Paragraph and the same are therefore denied and proof thereof is demanded in the Complaint proceeding.

67. Denied. The averments in (a) through (c) state a conclusion of law to which no response is required. To the extent a response is deemed to be required, they are denied. By way of further answer, I&E incorporates its responses to Paragraphs 33, 37, 38, and 42, *supra*. Additionally, the definition of “master meter system” at 49 CFR § 191.3 contemplates that gas is distributed within a definable area such as an apartment complex.

68. Denied. I&E specifically denies that Westover does not operate master meter systems at its apartment complexes. I&E incorporates its responses to Paragraphs 23-67, *supra*.

WHEREFORE, based upon the reasons stated above, the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission respectfully requests that the Commission expeditiously deny the Amended Petition for Declaratory Order of the Westover Property Management Company, L.P. d/b/a Westover Companies, deem Westover to be a pipeline operator subject to the Gas and Hazardous Liquids Pipelines Act, 58 P.S. §§ 801.101, *et seq.*, and direct Westover to immediately comply with all applicable laws and regulations related to pipeline safety. In the alternative, should the Commission determine that there are outstanding issues of fact, the Bureau of Investigation and Enforcement respectfully requests that those facts be referred to the pending Complaint proceeding at

Docket No. C-2022-3030251 and that the Commission entertain the legal question of the applicability of Act 127 to landlords operating master meter systems in Pennsylvania.

Respectfully submitted,



Stephanie M. Wimer
Senior Prosecutor
PA Attorney ID No. 207522

Kayla L. Rost
Prosecutor
PA Attorney ID No. 322768

Michael L. Swindler
Deputy Chief Prosecutor
PA Attorney ID No. 43319

Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
(717) 772-8839
stwimer@pa.gov

Dated: June 6, 2022

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Westover Property Management :
Company, L.P. d/b/a Westover Companies :
for a Declaratory Order Regarding the : Docket No. P-2021-3030002
Applicability of the Gas and Hazardous :
Liquids Pipeline Act :

VERIFICATION

I, Scott Orr, Fixed Utility Valuation Engineer – 2, in the Bureau of Investigation and Enforcement’s Safety Division, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Date: June 6, 2022



Scott Orr
Fixed Utility Valuation Engineer – 2
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

I&E
Exhibit 1



May 23, 2022

VIA E-MAIL

David P. Zambito

Direct Phone 717-703-5892
Direct Fax 215-989-4216
dzambito@cozen.com

Stephanie M. Wimer
Senior Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
400 North Street
Harrisburg, PA 17120

Re: Investigation of Westover Property Management Company, L.P. d/b/a Westover Companies Relating to Possible Violations of Chapter 13 of the Public Utility Code; Bp8CaseID# 3025977

Incident at Hillcrest Apartments

Dear Ms. Wimer:

On May 9, 2022, Westover Property Management Company, L.P., d/b/a Westover Companies ("Westover") became aware of a natural gas leak at the Hillcrest Apartments. The leak was located on the rear side of Building C, facing Building G. The resident reported the leak to PECO Energy Company. The leak caused an outage of natural gas service.

The leak was caused by deteriorated galvanized piping. A contractor repaired the leak by cutting back to the plastic gas piping and removing all the deteriorated piping. The Contractor also installed a repair coupling and 10' of new plastic pipe with a new valve. The repaired line was tested to 100 pounds of pressure. Gas was then restored and the complex was purged. A leak survey was subsequently performed, and the system passed.

Please contact me if you have any questions or concerns.

Respectfully,

Cozen O'Connor

A handwritten signature in blue ink, appearing to read "David P. Zambito", written over a light blue circular stamp.

David P. Zambito
Counsel for *Westover Property Management Company, L.P. d/b/a Westover Companies*

DPZ:kmg

Stephanie M. Wimer
May 23, 2022
Page 2

cc: Alexander Stefanelli
Peter Quercetti

I&E

Exhibit 2

CONFIDENTIAL

I&E

Exhibit 3

CONFIDENTIAL

I&E
Exhibit 4

PI-01-0113

June 25, 2001

Mr. G. Joel Tierney
Utilities Engineer
Montana Public Service Commission
1701 Prospect Avenue
Helena, MT 59620-2601

Dear Mr. Tierney:

This is in response to your letter of May 31, 2001, requesting an interpretation of the definition of Master Meter System as it applies to the Anaconda Housing Authority (AHA).

AHA claims that its pipeline system, which serves multifamily public housing, does not meet the definition of Master Meter System at 49 CFR § 191.3 because:

1. AHA does not resell the natural gas. Rather, it pays the utilities itself and does not pass the cost on to the tenants.
2. AHA meets the definition for the test of "Total Tenant Rent" in 24 CFR § 913.107 because it does not pass on the cost of utilities to its tenants.
3. AHA receives a subsidy for utilities from the Federal government and does not bill or receive payment from the tenants for utilities.

We disagree. The gas distribution lines downstream from the master meter are a Master Meter System that is subject to the federal gas pipeline safety regulations in 49 CFR Parts 191 and 192.

The AHA system meets the requirements for classification as a Master Meter System as defined in the pipeline safety regulations at 49 CFR § 191.3:

"a pipeline system for distributing gas within, but not limited to, a definable area, such as a mobile home park, housing project, or apartment complex, where the *operator* purchases metered gas from an outside source for resale through a gas distribution pipeline system. The gas distribution pipeline system supplies the ultimate consumer who either purchases the gas directly through a meter or by other means, such as by rents."

For purposes of determining whether the AHA gas distribution pipeline facilities are subject to regulation under 49 CFR Parts 191 and 192, we need only determine that the facilities are pipeline facilities and that the gas is being delivered to tenants who either pay a gas bill directly or do so indirectly through rents.

There is no contention that the AHA facilities are not a pipeline facility. In this case, only the interior piping within the buildings, beyond the first penetration of each building wall is non-jurisdictional. And, the tenants are clearly paying a rent for the privilege of occupying a housing unit and receiving utilities, including gas. The fact that they are not billed for the gas and that there are subsidies for utility costs from the government under Department of Housing and Urban Development (HUD) programs are not relevant to the determination that AHA's gas distribution system is subject to the pipeline safety regulations.

Therefore, the AHA gas distribution system is a Master Meter System and is subject to the pipeline safety regulations at 49 CFR Parts 191 and 192.

If you need further assistance, please call me at (202) 366-4565.

Sincerely yours,

Richard D. Hurliaux, P.E.
Manager, Regulations
Office of Pipeline Safety

Montana Public Service Commission
1701 Prospect Avenue
PO Box 202601
Helena, MT 59620-2601

May 31, 2001

Ms. Stacey Gerard
Associate Administrator
Research and Special Programs Administration
US Dept. of Transportation, Office of Pipeline Safety
Room 7128
400 Seventh St. SW
Washington, DC 20590

Dear Stacey:

Enclosed for your interpretation is a letter from the Anaconda Housing Authority in which Montana has identified as a Master Meter Operator under Title 49, CFR, Parts 191 and 192.

We feel that housing authorities fit the definition of a master meter; however, we may be interpreting the definition wrong.

If you have any questions, please contact me at 406-444-6181.

Sincerely,

Montana Public service Commission

G. Joel Tierney

Utilities Engineer

Utility Division

Knight, Dahood, McLean & Everett

Post Office Box 727

113 East Third Street

Anaconda, Montana 59711

February 14, 23001

Dennis Crawford

Program Manager

Utility Division

Montana Public Service Commission
1701 Prospect Avenue
P. O. Box 202601
Helena, Montana 59620-2601

Re: Anaconda Housing Authority

Dear Mr. Crawford:

Our law firm represents the Anaconda Housing Authority. Recently we have been consulted in connection with the Montana Public Service Commission's request that the Anaconda Housing Authority comply with the Federal Natural Gas Pipeline Safety Act. Apparently the Montana Public Service Commission believes that the Anaconda Housing Authority meets the definition of Master Meter System requiring compliance.

The Master Meter System is defined at 49 CFR Part 191:

Means pipeline systems for distributing gas within, but not limited to, definable area, such as a mobile home park, housing project, or apartment complex, where the operator purchases metered gas from an outside source for *resale* through a gas distribution pipeline system. The gas distribution pipeline system *supplies the ultimate consumer who either purchases the gas directly through a meter or by other means such as by rent.*

The Anaconda Housing Authority does not meet the definition of a Master Meter System for the following reasons:

1. The Anaconda Housing Authority does not resell the natural gas. The Housing Authority pays 100% of all tenants'

utilities including their gas, electric and water. The cost is never passed on to or paid by the tenant.

2. The Anaconda Housing Authority meets the definition for the test of "Total Tenant Rent" set forth in 24 CFR 913.107 because the Authority does not pass on the cost of utilities to its tenants.
3. The Anaconda Housing Authority is subsidized 100% for utility usage. That subsidy comes from the Federal Government. The tenant never receives a bill or makes payment for the utilities.

Because the Anaconda Housing Authority does not meet the definition of operating a Master Meter System set forth in 49 CFR Part 191, the Anaconda Housing Authority is exempt from compliance with the Federal Natural Gas Pipeline Safety Act.

I trust that this answers your questions. If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

BERNARD J. "BEN" EVERETT

I&E
Exhibit 5

PI-73-0112

June 18, 1973

Mr. Wayne L. Carlson
Department of Business Regulation
Public Service Commission of Utah
336 East Fourth South Street
Salt Lake City, Utah 84111

Dear Mr. Carlson:

This is in further response to your letter of April 9, 1973, asking, in the case of a small distributor of gas from a master meter, whether the lines from the meter to the actual separate residence units are subject to the regulations of Part 192. Your letter then described three "master meter" situations for which you asked clarification.

On December 18, 1970, the Office of Pipeline Safety (OPS) issued to the Chairman of each State agency having jurisdiction over gas pipeline safety a letter concerning master meter systems. A copy of that letter is enclosed. In part, that letter specifically discussed municipal housing complexes and mobile home parks that are supplied gas through a master meter and, in turn distribute gas by their own mains and services to the tenants. It was there explained that the mains and service lines downstream of the master meter are considered to be a distribution system subject to the Natural Gas Pipeline Safety Act, and that the housing authority or the mobile home park landlord is an operator within the meaning of Part 192.

The discussion of master meter systems in our letter of December 19, 1970, as summarized above, remains valid. Following the criteria there stated the other master meter systems that have subsequently been determined to be subject to the regulations are those having characteristics essentially similar to the systems serving municipal housing complexes and mobile home parks. Those characteristics are first, the existence of underground or exterior piping serving multiple buildings and, second, the transfer (sale) of gas (metered or unmetered) from the master meter system operator to the ultimate gas consumers (tenants) for use in the consumers' appliances.

Your letter refers to our "forthcoming new definition of a service line" which was subsequently published as Amendment 192-13 in the Federal Register on April 10, 1973 (38 F.R. 9063). The discussion of "service line" in our letter of December 10, 1970, is, therefore, not applicable to the revised definition. Amendment 192-13, in effect, extends the definition of service line to include any operator-owned piping downstream of the customer meter or, if there is no meter, to the connection to a customer's piping. The amendment, however, does not affect the status of master meter systems subject to the Natural Gas Pipeline Safety Act nor of landlords that are operators under the regulations. The only change resulting from the amendment is that within a master meter system, service lines as newly defined are covered by the regulations.

The three master meter situations you describe and our analysis of each are as follows:

1. The gas line enters the walls of one single residence unit, proceeds through the unit to serve various appliances, then leaves that unit and travels back out through the wall and through the ground and services another or a series of other single residence units in a like manner.

Analysis. The line serving a series of single residence units within a master meter system is a distribution line. In this case it has underground and exterior portions between buildings. Assuming that the gas is transferred to tenants of the individual units for use in the tenants' appliances, the system has the necessary characteristics and is, therefore, a master meter system subject to the regulations. While, normally, interior piping is not considered subject to the regulations, in this case where it is one continuous distribution line without separate risers or services for individual units and is under the sole control of the operator, one standard applies and the interior segments of that line are subject to the regulations to the same extent as the exterior and underground portions.

2. The gas line enters a multiple residence unit and travels throughout the residence unit tapping off services to the various residence units within the same building.

Analysis. this system involves interior piping only. Since there are no underground or exterior pipelines serving multiple buildings, it is not a master meter system that is subject to the regulations.

Consistent with the new definition of service line, the OPS applies the regulations down to a customer meter or to the connection to a customer's piping, whichever is farther downstream. The "master" meter serving a single building whether or not there are submeters for individual tenants, is considered the customer meter.

Because it is impractical in many situations to determine who owns the piping in a building, all the gas lines within a single building downstream of the "master" meter are considered by the OPS to be customer's piping. For example, in a condominium all tenants (gas customers) may own all the piping jointly whereas other cases may involve single ownership of a building and included pipelines, moreover, the type of ownership of may change rapidly and go from single

ownership to condominium or vice versa or even to some other form.

In those cases where the "master" meter serving the building is outside the building, the customer's piping is considered to begin no farther downstream than the point on the inside face of the wall through which the pipeline enters the building. Customer's piping within a building is not subject to the Federal regulations but, of course, must comply with any applicable safety standards to the extent required under a local building code.

3. The gas line leaves master meter, travels through the ground, serves a plant unit, then on to offices and various other plant units, warehouses, etc.

Analysis. One of the characteristics of a master meter system that makes it subject to the regulations is a transfer of gas from the operator (landlord) to other persons who are the ultimate consumers of the gas. In the situation described, however, the person (company) taking delivery of gas through the "master" meter is using the gas for its own purposes, i.e., offices, plant, warehouses, etc. There is no indication that the gas is resold by the company for use by another consumer or that the gas is being distributed by the company to any other person.

Here all available information indicates that the gas is being used by company employees for company purposes on company property. We are, therefore, unable to identify this as a master meter system subject to the regulations.

I trust these clarifications will prove helpful. Please do not hesitate to call on us if we can be of further assistance.

Sincerely,

Joseph C. Caldwell

Director

Office of Pipeline Safety

I&E
Exhibit 6

PI-16-0012

December 6, 2016

Mr. Jonathan C. Wolfgram
Chief Engineer
Minnesota Department of Public Safety
445 Minnesota Street, Suite 147
Saint Paul, MN 55101-4145

Dear Mr. Wolfgram:

In a September 2, 2016 letter to the Pipeline and Hazardous Materials Safety Administration (PHMSA), you requested an interpretation of 49 CFR Part 192. You specifically requested an interpretation of § 192.1 for the regulatory requirements of a master meter system. You asked whether Mall of America in Bloomington, Minnesota would be required to comply with Part 192.

You provided the following information about the Mall of America ("the Mall") gas system:

1. The Mall is a large shopping mall that is currently operating its own natural gas system. The Mall buys natural gas from CenterPoint Energy, the local distribution company, and resells it to mall tenants using gas meter readings.
2. CenterPoint Energy serves the Mall system with two external gas meters. CenterPoint Energy delivers gas at 5 psig. Additionally, the Mall has three anchor department stores and two attached hotels that have their own service lines and meters from CenterPoint Energy and are not connected to the Mall system.

3. The piping from the two CenterPoint Energy gas meters serving the Mall proceed underground toward the Mall service level (tunnel). Currently, CenterPoint Energy is under contract to operate the Mall-owned sections of predominately underground piping downstream of the CenterPoint Energy meters.
4. For each of these two connections, once inside the building, there is a transition point between the CenterPoint Energy-operated piping and the Mall-operated piping, which includes an emergency remote shutoff valve.
5. These two systems are then interconnected via a pipeline loop in the ceiling area of the service level, which is the lowest level. The Mall piping typically consists of black iron piping with a mill-applied varnish coating. It is typically joined by welding. There are about 12 vertical risers at various locations from the loop that serve customers on the various levels above. The gas piping then branches out from each vertical riser on each floor of the Mall that has gas customers. There are about 50 customer meters currently connected to the Mall gas system. The Mall reads these meters and invoices the customer tenants for their gas usage.
6. The Mall does not currently operate any buried piping.

You asked if the Mall's natural gas system (facility) is subject to 49 CFR Part 192 as a master meter, or if it is exempt from regulation because it consists entirely of non-buried pipeline facilities.

A master meter system is defined in § 191.3 as:

[A] pipeline system for distributing gas within, but not limited to, a definable area, such as a mobile home park, housing project, or apartment complex, where the *operator* purchases metered gas from an outside source for resale through a gas distribution pipeline system. The gas distribution pipeline system supplies the ultimate consumer who either purchases the gas directly through a meter or by other means, such as by rents.

Also, operator is defined in § 191.3 as:

[A] person who engages in the transportation of gas.

The definition for a master meter system does not prohibit regulation for non-buried gas pipelines. PHMSA does not regulate gas piping inside a building unless the interior piping is used by the gas pipeline operator to distribute gas. The service risers downstream of the CenterPoint Energy meter are inside the building and are used to deliver metered gas to customers. One of the characteristics of a master meter system that makes it subject to the regulations is a transfer of gas from the operator, in this case the Mall, to other persons (the Mall tenants) who are the ultimate consumers of the gas. The Mall is selling gas to others and, therefore, the Mall is engaged in the distribution of gas. In this case, the Mall is subject to the Federal gas pipeline safety regulations as a master meter system operator. The Mall is responsible for compliance with 49 CFR Parts 191 and 192 for the pipeline downstream of CenterPoint's meter as owner of the pipeline and master meter operator. If we can be of further assistance, please contact Tewabe Asebe at 202-366-5523.

Sincerely,

Cameron H. Satterthwaite

Acting Director,

Office of Standards and Rulemaking

MINNESOTA DEPARTMENT OF PUBLIC SAFETY

September 2, 2016

Mr. John Gale

Director, Office of Standards & Rulemaking

Office of Pipeline Safety (PHP-30) PHMSA

1200 New Jersey Ave. S.E.

Washington, D.C. 20590-0001

September 19, 2016

Dear Mr. Gale:

I am contacting you in regards to an interpretation of the scope of Title 49, Code of Federal Regulations § 192.1. This section states that Part 192 "prescribes minimum safety requirements for pipeline facilities and the transportation of gas including pipeline facilities ... "

Specifically, the Minnesota Office of Pipeline Safety is inquiring as to whether the Mall of America (MOA) would be classified as a master meter and subject to Part 192, or be exempt due to its configuration. The following outlines the MOA gas system in question:

1. The MOA is a large shopping mall that is currently operating its own natural gas system. The MOA buys natural gas from CenterPoint Energy (CPE), the local distribution company, and resells it to mall tenants using gas meter readings.
2. CPE serves the MOA system with two external gas meters. CPE delivers gas at 5 psig. Additionally, the MOA has three anchor department stores and two attached hotels that have their own service lines and meters from CPE and are not connected to the MOA system.
3. The piping from the two CPE gas meters serving the mall proceed underground toward the mall service level (tunnel). Currently CPE is under contract to operate the mall-owned sections of predominately underground piping downstream of the CPE meters.

4. For each of these two connections, once inside the building, there is a transition point between the CPE-operated piping and the MOA-operated piping, which includes an emergency remote shutoff valve.
5. These two systems are then interconnected via a pipeline loop in the ceiling area of the service level, which is the lowest level (tunnel). Mall piping typically consists of black iron piping with a mill-applied varnish coating. It is typically joined by welding. There are about 12 vertical risers at various locations from the loop that serve customers on the various levels above. The gas piping then branches from each vertical riser on each floor of the mall that has gas customers. There are about 50 customer meters currently connected to the MOA gas system. The MOA reads these meters and invoices the customer tenants for their gas usage.
6. The MOA does not currently operate any buried piping.

My question for you is this: Is the MOA natural gas system (facility) subject to 49 CFR 192 as a master meter, or is it exempt from regulation because it consists entirely of non-buried pipeline facilities?

I appreciate any clarification that you can provide in this matter.

Sincerely,

Jonathan C. Wolfgram, P.E.

Chief Engineer

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Westover Property Management :
Company, L.P. d/b/a Westover Companies for :
a Declaratory Order Regarding the : Docket No. P-2021-3030002
Applicability of the Gas and Hazardous :
Liquids Pipeline Act :

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

Service by Electronic Mail:

PROPRIETARY and NON-PROPRIETARY VERSIONS

David P. Zambito, Esq.
Jonathan P. Nase, Esq.
Cozen O'Connor
17 North Second Street, Suite 1410
Harrisburg, PA 17101
dzambito@cozen.com
jnase@cozen.com
*Counsel for Westover Property
Management Company, L.P.
d/b/a Westover Companies*

NON-PROPRIETARY VERSION

Steven C. Gray, Esq.
Senior Supervising Assistant Small Business
Advocate
Office of Small Business Advocate
555 Walnut Street
Forum Place, 1st Floor
Harrisburg, PA 17101
sgray@pa.gov

Patrick Cicero, Esq.
Acting Consumer Advocate
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101
pcicero@paoca.org



Stephanie M. Wimer
Senior Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 207522
(717) 772-8839
stwimer@pa.gov

Dated: June 6, 2022