



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

October 24, 2022

Via Electronic Filing

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

Re: Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement v.
Westover Property Management Company, L.P.
d/b/a Westover Companies
Docket Nos. C-2022-3030251; P-2021-3030002
I&E Motion to Compel Entry for Inspection

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Motion of the Bureau of Investigation and Enforcement ("I&E") to Compel Entry for Inspection with regard to the above-referenced proceeding. *I&E respectfully requests an expedited ruling on its Motion so that the parties may participate in inspections scheduled for November 15 to 18, 2022.*

Copies have been served on the parties of record in accordance with the Certificate of Service.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Stephanie M. Wimer'.

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

SMW/ac
Enclosures

cc: Per Certificate of Service
Michael L. Swindler, I&E Deputy Chief Prosecutor (*via email*)
Kayla L. Rost, I&E Prosecutor (*via email*)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	
v.	:	Docket Nos. C-2022-3030251,
	:	P-2021-3030002
Westover Property Management Company, L.P.	:	
d/b/a Westover Companies	:	
Respondent	:	

NOTICE TO PLEAD

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”) has filed a Motion to Compel Entry for Inspection. You are hereby notified to file a written Answer within five (5) days of service of the Motion, pursuant to 52 Pa. Code §§ 5.342(g)(1) and 5.349(d). The Answer must be efiled with a copy electronically served on the undersigned I&E prosecutor.

Pursuant to Waiver of Regulations Regarding Service Requirements, Docket No. M-2021-3028321 (Order entered September 15, 2022), parties are encouraged to open and use an e filing account through the Commission’s website at www.puc.com or, to ensure timely arrival, submit the filing by overnight delivery to: Secretary, Pennsylvania Public Utility Commission, 400 North Street, Harrisburg, Pennsylvania 17120. Emailed or faxed submissions are not acceptable. If a filing contains confidential or proprietary material, the filing should be submitted by overnight delivery to ensure arrival. Large filings containing confidential or proprietary material may also be submitted through the Commission’s Share Point File system. These filings should be followed by a hard copy with a flash drive or CD for the Commission’s file. Filers should contact the Secretary’s Bureau in advance to set up a Share Point File before submitting the filing.



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

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

Dated: October 24, 2022

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement Complainant	:	
	:	
	:	
v.	:	Docket Nos. C-2022-3030251, P-2021-3030002
	:	
Westover Property Management Company, L.P. d/b/a Westover Companies Respondent	:	
	:	

**MOTION OF THE BUREAU OF INVESTIGATION AND ENFORCEMENT
TO COMPEL ENTRY FOR INSPECTION**

Pursuant to 52 Pa. Code § 5.342(g), the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), by and through its prosecuting attorneys, files this Motion to Compel Entry for Inspection (“Motion”) to allow I&E access to inspect the natural gas pipeline facilities at properties owned and maintained by Westover Property Management Company, L.P. d/b/a Westover Companies (“Westover”) at the locations identified in I&E’s October 3, 2022 Requests for Entry for Inspection. I&E respectfully requests that the presiding Administrative Law Judge (“ALJ”) grant this Motion as I&E, which is the party bearing the burden of proof, should not be precluded from discovering relevant information to support the claims set forth in I&E’s Complaint and exploring the defenses raised by Westover in its pleadings. In support thereof, I&E avers as follows:

I. INTRODUCTION¹

A. Westover's Petition for Declaratory Order

1. On December 13, 2021, Westover filed a Petition for Declaratory Order pursuant to 66 Pa. C.S. § 331(f) and 52 Pa. Code § 5.42 (“Petition”) to resolve a case and controversy regarding whether Westover is subject to the Gas and Hazardous Liquids Pipelines Act, 58 P.S. §§ 801.101 *et seq.* (“Act 127”). The Petition was docketed at P-2021-3030002.

2. On January 3, 2022, I&E filed an Answer in Opposition to Westover's Petition.

3. On May 16, 2022, Westover filed an Amended Petition for Declaratory Order (“Amended Petition”) that provided factual details concerning Westover's natural gas pipeline facilities. At its various apartment complex locations, Westover described, *inter alia*, that it consumes gas in its central boiler,² provides heat and hot water to tenants,³ provides gas for tenants to use when cooking,⁴ has submeters that measure gas used by tenants,⁵ and has service lines that transport gas from meters to apartment buildings.⁶ Each of these descriptions was used by Westover in its Amended Petition to support Westover's claim that it is not a pipeline operator subject to the Commission's jurisdiction.

4. On June 6, 2022, I&E filed an Answer in Opposition to Westover's Amended Petition for Declaratory Order.

¹ The following section contains a brief procedural history of this consolidated matter as it relates to the instant discovery dispute. I&E hereby incorporates by reference the entire procedural history as outlined in Corrected Prehearing Order #1 dated October 6, 2022.

² Amended Petition at 8, 10, 14.

³ Amended Petition at 8, 10, 14, 15.

⁴ Amended Petition at 10, 14, 15, 16.

⁵ Amended Petition at 13, 14.

⁶ Amended Petition at 14, 15, 16.

5. By Order entered on August 25, 2022, the Commission consolidated Westover's Petition with the Complaint proceeding docketed at C-2022-3030251, and assigned the matter to the Office of Administrative Law Judge for resolution of the disputed material facts and legal issues, and the issuance of a recommended decision.

B. The Complaint Proceeding

6. On January 3, 2022, I&E filed a Formal Complaint ("Complaint") against Westover alleging violations of Act 127 and Part 192 of the Federal pipeline safety regulations, 49 CFR §§ 192.1-192.1015. The Complaint was docketed at C-2022-3030251.

7. In its Complaint, I&E alleges that, after a preliminary review conducted by the I&E Safety Division's Pipeline Section, Westover owns and/or maintains approximately thirty-four (34) apartment complexes in Pennsylvania.⁷

8. I&E further alleges that, at approximately seventeen (17) of these apartment complex locations, Westover operates a master meter system where it purchases metered gas from a natural gas distribution company ("NGDC") for resale to its tenants through a gas distribution pipeline system that is owned and maintained by Westover.⁸

9. Also in its Complaint, I&E detailed I&E's extensive efforts to inspect Westover's master meter systems and obtain Westover's compliance with Act 127 prior to engaging in litigation.⁹ I&E alleges that its pre-complaint investigation was hampered by Westover's refusal to acknowledge the Commission's jurisdiction as it relates to its master meter systems.

⁷ I&E Complaint at ¶ 24.

⁸ I&E Complaint at ¶ 24-25.

⁹ I&E Complaint at ¶¶ 27, 32-29.

10. In its Complaint, I&E cites to the definition of “Master Meter System,” which is set forth in the Federal pipeline safety regulations 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.

49 CFR § 191.3 (emphasis added).¹⁰

11. I&E further avers in its Complaint that Westover’s operation of such master meter systems renders it to be a “pipeline operator” as that term is defined under Act 127 in that it “owns or operates equipment or facilities in this Commonwealth for the transportation of gas . . . by pipeline or pipeline facility regulated under Federal pipeline safety laws.” 58 P.S. § 801.102.¹¹

12. Consequently, I&E asserts that Westover is subject to the Commission’s jurisdiction for pipeline safety purposes.¹²

13. In terms of violations, I&E alleges, in pertinent part, that Westover failed to demonstrate compliance with the following Sections of Part 192 of the Federal pipeline safety regulations in its operation of master meter systems: 49 CFR § 192.603(a)-(b) (related to General provisions); 49 CFR § 192.605(a)-(e) (related to Procedural manual for operations, maintenance, and emergencies); 49 CFR § 192.615(a)-(c) (related to Emergency plans); 49 CFR § 192.625(f)(1)-(2) (related to Odorization of gas); 49 CFR § 192.805(a)-(i)

¹⁰ I&E Complaint at ¶ 14.

¹¹ I&E Complaint at ¶ 8.

¹² I&E Complaint at ¶ 18.

(related to Qualification program); 49 CFR § 192.809(a)-(e) (related to General, pertaining to requirements for a qualification program); and 49 CFR § 192.807(a)-(b) (related to Recordkeeping, pertaining to operator qualification).¹³

14. I&E also alleges that Westover prohibited the I&E Safety Division from completing inspections of Westover's records, procedures, and facilities and, therefore, the I&E Safety Division has been unable to verify that Westover complies with many other sections of Part 192 of the Federal pipeline safety regulations, including 49 CFR § 192.53 (related to General – Materials), 49 CFR § 192.55 (related to Steel pipe), 49 CFR § 192.59 (related to Plastic pipe), 49 CFR § 192.145 (related to Valves), 49 CFR § 192.363 (related to Service lines: Valve requirements); 49 CFR § 192.365 (related to Service lines: Location of Valves), 49 CFR § 192.371 (related to Service lines: Steel); 49 CFR § 192.375 (related to Service lines: Plastic); 49 CFR § 192.385 (related to Manual service line shut-off valve installation); 49 CFR Subpart I (related to Requirements for Corrosion Control); 49 CFR § 192.503 (related to General requirements for testing pipelines), 49 CFR § 192.509 (related to Test requirements for pipelines to operate below 100 pounds per square inch (“p.s.i.”) (689 kilopascal (“kPa”)) gage), 49 CFR § 192.511 (related to Test requirements for service lines), 49 CFR § 192.513 (related to Test requirements for plastic pipelines), 49 CFR § 192.517 (related to Records for tests), 49 CFR § 192.703 (related to General – Maintenance), 49 CFR § 192.721 (related to Distribution systems: Patrolling), 49 CFR § 192.723 (related to Distribution systems: Leakage surveys), 49 CFR § 192.727 (related to Abandonment or deactivation of facilities) and 49 CFR § 192.747 (related to Valve maintenance: Distribution systems).¹⁴

¹³ I&E Complaint at ¶ 45(c)-(h).

¹⁴ I&E Complaint at ¶ 45(i).

15. On January 25, 2022, Westover filed an Answer and New Matter where Westover **admits** purchasing gas from NGDCs, transporting the gas, and selling it to tenants residing in its apartment complexes.¹⁵

16. Westover claims, however, that its master meter systems are not subject to the Federal pipeline safety regulations because they do not affect interstate or foreign commerce¹⁶ – a meritless legal argument that undoubtedly fails upon examination of the legislative history of the longstanding Pipeline Safety Act, 49 U.S.C. §§ 60101-60143, the Pennsylvania General Assembly’s adoption of Federal pipeline safety laws and regulations through Act 127, 58 P.S. § 801.302, the plain reading of the definition of “Master Meter System” at 49 CFR § 191.3, and applicable case law.

17. Westover has also averred that it is the ultimate consumer of the gas and therefore is not a jurisdictional pipeline operator, pursuant to 58 P.S. § 801.102.¹⁷

18. The parties have conducted discovery in this proceeding, which has resulted in several discovery disputes. The most recent discovery dispute pertains to I&E’s Requests for Entry for Inspection (“Requests”), which I&E served on Westover on October 3, 2022, pursuant to 52 Pa. Code § 5.349(a)(2). A copy of I&E’s Requests is appended hereto as Attachment 1.

19. The purpose of I&E’s Requests is for I&E to be granted permission to enter Westover properties to inspect Westover’s pipeline facilities in an effort to support I&E’s claims that they are jurisdictional master meter systems as well as to explore Westover’s

¹⁵ Westover Answer and New Matter at ¶ 7.

¹⁶ *Id.*

¹⁷ Amended Petition at 9.

defenses, described *supra.*, that they are not jurisdictional.

20. On October 13, 2022, Westover served its Answers and Conditions to I&E's Requests for Entry for Inspection. A copy of Westover's Answers and Conditions is appended hereto as Attachment 2.

21. Westover conditioned I&E's entry for inspection upon the following: (a) that I&E personnel will be accompanied at all times by Westover representatives, including counsel for Westover; (b) that Westover be provided with a copy of any photograph taken by I&E; and (c) that access would be limited in the following manner: (i) access would be limited to the exterior of the building if the meter is on the outside of the building; (ii) access would be limited to the boiler room and the exterior of the building if the meter is in the boiler room; and (iii) I&E would be precluded from entering any occupied apartments.

22. In an effort to informally resolve issues concerning Westover's conditions, on October 17, 2022, I&E communicated to Westover that it accepts the majority of Westover's conditions, including the condition precluding access to occupied apartments. I&E advised, however, that it objects to the condition limiting access to enter and inspect Westover's pipeline facilities in interior areas that are not occupied apartments. I&E explained that it requests access to all locations where Westover natural gas pipeline facilities are present at the apartment complexes identified in I&E's Requests for Entry for Inspection, including boiler rooms, basements, storage areas, crawl spaces, or any other interior location, aside from occupied apartments.

23. On October 18, 2022, Westover declined to provide I&E with greater access to the interior of the buildings, asserting that access to areas beyond those described in

Westover's conditions is beyond the scope of permissible discovery and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Westover refused to modify any of its conditions.

24. I&E is left with no recourse but to file the instant Motion to Compel Entry for Inspection.

25. In order to remain committed to the mutually acceptable inspection dates of November 15, 16, 17, and 18, I&E respectfully requests an expedited ruling.

II. I&E IS ENTITLED TO ACCESS INTERIOR LOCATIONS CONTAINING WESTOVER'S PIPELINE FACILITIES, WITH THE EXCEPTION OF OCCUPIED APARTMENTS

26. Pursuant to Section 5.321(c), "a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of another party, including the existence, description, nature, content, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of a discoverable matter." 52 Pa. Code § 5.321(c).

27. Generally speaking, the Commission applies a standard of relevance in discovery matters that is less restrictive than that required by parties to present information into the evidentiary record. "It is not ground for objection that the information sought will be inadmissible at hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence." 52 Pa. Code § 5.321(c).

28. Relevant evidence is "that which, tends to establish some fact material to the case, or which tends to make a fact at issue more or less probable." *Commonwealth v. Scott*, 389 A.2d 79, 82 (Pa. 1978). In order to determine relevance, it must first be determined if

the inference sought to be raised by the evidence bears upon the issue in the case, and second, whether the evidence renders the desired inference more probable than it would be without the evidence. *Commonwealth v. Stewart*, 336 A.2d 282, 284 (Pa. 1975).

29. The party objecting to discovery has the burden to establish that the requested information is not relevant or discoverable. *Koken v. One Beacon Insurance Co.*, 911 A.2d 1021 (Pa. Cmwlth. 2006). Any doubts regarding relevancy should be resolved in favor of discovery.

30. The Commission has held that, “[t]he touchstone as to a discoverable matter under the Commission’s Regulations is that it be relevant to the subject matter involved in the pending action, or reasonably calculated to lead to the discovery of admissible evidence, and not privileged.” *Rahn et al. v. Pennsylvania-American Water Co.*, Docket No. C-20054919 (June 6, 2006 Order Granting Motion To Compel); *see also, J3 Energy Group, Inc. v. West Penn Power Company and UGI Development Company, Indispensable Party*, 2014 Pa. PUC LEXIS 406 (Pa. PUC 2014), Docket No. C-2011-2219920 Order Denying Motion to Compel at *7 (August 21, 2014) (finding that “The material sought to be discovered need not be admissible. Rather, it must be reasonably expected to lead to the discovery of admissible evidence.”)

31. The Commission has stated that the relevancy test should be liberally applied when considering discovery requests. *Pa. Pub. Util. Comm’n v. Equitable Gas Co.*, 61 Pa. PUC 468, 477 (May 16, 1986).

32. Pursuant to Act 127, the Commission has the authority to supervise and regulate pipeline operators within this Commonwealth consistent with Federal pipeline safety laws. 58 P.S. § 801.501(a). Specifically, the Commission not only has the right, but the

obligation “[t]o investigate a service, act, practice, policy or omission by a pipeline operator to determine compliance with this act” and “[t]o investigate a pipeline transportation facility to determine if it is hazardous to life or property.” 58 P.S. § 801.501(a)(1)-(2). The Commission delegated the authority to investigate and enforce compliance with pipeline safety to I&E. 66 Pa.C.S. § 308.2(a)(11); *Implementation of Act 129 of 2008; Organization of Bureaus and Offices*, Docket No. M-2008-2071852 (August 11, 2011).

33. Master meter systems, as defined in 49 CFR § 191.3, are subject to Federal pipeline safety regulations, which Act 127 adopts. 58 P.S. § 801.302.

34. The Pipeline and Hazardous Materials Safety Administration (“PHMSA”) has found that gas piping inside a building that is used to distribute natural gas in a master meter system is subject to Federal pipeline safety regulation. *See* PHMSA Letter of Interpretation to Minnesota Department of Public Safety, PI-16-0012 (December 6, 2016), which is appended hereto as Attachment 3. In PI-16-0012, PHMSA found that the Mall of America (“Mall”) operates a master meter system since there is a transfer of gas from the Mall, which is the pipeline operator, to tenants, who are the ultimate consumers of gas and purchase the gas from the Mall. The Mall’s service risers, which are downstream from the utility’s meter, are located inside of the building and are used in the delivery of gas to tenants. Accordingly, PHMSA determined that such interior piping is jurisdictional since it is used by the pipeline operator to distribute gas.

35. In order to explore Westover's defenses that its pipeline facilities are not jurisdictional, I&E requested full and complete access to inspect those facilities. Such access includes interior access, aside from entering occupied apartments. Consistent with PI-16-002, I&E should be permitted to inspect interior piping to determine whether such piping is used in the distribution of gas to Westover's tenants.

36. Property specific justifications to inspect interior piping follow:

- i) Woodland Plaza- Westover avers that the NGDC "delivers gas to a meter on the apartment building, Westover consumes most of the gas in its central boiler to provide heat, and hot water to residents, but residents use the gas for cooking."¹⁸ Westover, however, is limiting I&E's access to inspect the exterior of the buildings.¹⁹ Westover piping that is beyond the outlet of the NGDC meter, including interior piping, would be jurisdictional if Westover uses it to distribute gas to tenants, who purchase the gas from Westover. Additionally, Westover avers that it is the ultimate consumer of the gas because it consumes gas in its central boiler. Accordingly, I&E should be permitted to inspect all interior piping, including the central boiler, with the exception of piping located in occupied apartments.
- ii) Mill Creek Village II Apartments- Westover avers in its Answers and Conditions of Westover to I&E's Requests for Entry for Inspection, No. 2., that the gas meter is inside the boiler room of each apartment

¹⁸ Amended Petition at 10, Appendix 4.

¹⁹ Answers and Conditions of Westover to I&E's Requests for Entry for Inspection, No. 1.

building. Westover limited I&E's access to inspect only the exterior of the buildings and each boiler room. However, Westover piping that is beyond the outlet of the NGDC meter, including interior piping that may not be located in each boiler room, would be jurisdictional if Westover uses it to distribute gas to tenants, who purchase the gas from Westover. Accordingly, I&E should be permitted to inspect all interior piping, not just piping located in each boiler room, with the exception of piping located in occupied apartments.

- iii) Country Manor Apartments- Westover avers that the NGDC “delivers gas to a meter on the apartment building, Westover consumes most of the gas in its central boiler to provide heat, and hot water to residents, but residents use the gas for cooking.”²⁰ Westover also avers in its Answers and Conditions of Westover to I&E's Requests for Entry for Inspection, No. 3., that the gas meter is inside the boiler room of each apartment building. It is unclear to I&E whether “the gas meter” refers to an NGDC meter or a Westover submeter. Westover nevertheless limited I&E's access to inspect only the exterior of the buildings and each boiler room. However, Westover piping that is beyond the outlet of the NGDC meter, including interior piping that may not be located in each boiler room, would be jurisdictional if Westover uses it to distribute gas to tenants, who purchase the gas from Westover.

²⁰ Amended Petition at 10, Appendix 5.

Accordingly, I&E should be permitted to inspect all interior piping, not just piping located in each boiler room, with the exception of piping located in occupied apartments.

- iv) Black Hawk Apartments- Westover avers that “the NGDC delivers gas to a meter on the apartment building, Westover consumes all the gas in its central boiler, and provides heat and hot water to residents.”²¹

Westover, however, is limiting I&E’s access to inspect the exterior of the buildings.²² Westover piping that is beyond the outlet of the NGDC meter, including interior piping, would be jurisdictional if Westover uses it to distribute gas to tenants, who purchase the gas from Westover. Additionally, Westover avers that it is the ultimate consumer of the gas because it consumes gas in its central boiler. Accordingly, I&E should be permitted to inspect all interior piping, including the central boiler, with the exception of piping located in occupied apartments.

- v) Concord Court Apartments- Westover avers that “the NGDC delivers gas to a meter on the apartment building, Westover consumes all the gas in its central boiler, and provides heat and hot water to residents.”²³

Westover, however, is limiting I&E’s access to inspect the exterior of the buildings.²⁴ Westover piping that is beyond the outlet of the NGDC

²¹ Amended Petition at 8, Appendix 5.

²² Answers and Conditions of Westover to I&E’s Requests for Entry for Inspection, No. 4.

²³ Amended Petition at 8, Appendix 4.

²⁴ Answers and Conditions of Westover to I&E’s Requests for Entry for Inspection, No. 5.

meter, including interior piping, would be jurisdictional if Westover uses it to distribute gas to tenants, who purchase the gas from Westover. Additionally, Westover avers that it is the ultimate consumer of the gas because it consumes gas in its central boiler. Accordingly, I&E should be permitted to inspect all interior piping, including the central boiler, except for piping located in occupied apartments.

vi) Lansdale Village Apartments- Westover avers that “the NGDC delivers gas to a meter on the apartment building, Westover consumes all the gas in its central boiler, and provides heat and hot water to residents.”²⁵ Westover, however, is limiting I&E’s access to inspect the exterior of the buildings.²⁶ Westover piping that is beyond the outlet of the NGDC meter, including interior piping, would be jurisdictional if Westover uses it to distribute gas to tenants, who purchase the gas from Westover. Additionally, Westover avers that it is the ultimate consumer of the gas because it consumes gas in its central boiler. Accordingly, I&E should be permitted to inspect all interior piping, including the central boiler, with the exception of piping located in occupied apartments.

vii) Paoli Place Apartments – Paoli South- Westover avers that “the NGDC delivers gas to a meter on the apartment building, Westover consumes

²⁵ Amended Petition at 8, Appendix 4.

²⁶ Answers and Conditions of Westover to I&E’s Requests for Entry for Inspection, No. 6.

most of the gas in its central boiler to provide heat, and hot water to residents, but residents use the gas for cooking.”²⁷ Westover also avers in its Answers and Conditions of Westover to I&E’s Requests for Entry for Inspection, No. 7, that the gas meter is inside the boiler room of each apartment building. It is unclear to I&E whether “the gas meter” refers to an NGDC meter or a Westover submeter. Westover nevertheless limited I&E’s access to inspect only the exterior of the buildings and each boiler room. However, Westover piping that is beyond the outlet of the NGDC meter, including interior piping that may not be located in each boiler room, would be jurisdictional if Westover uses it to distribute gas to tenants, who purchase the gas from Westover. Accordingly, I&E should be permitted to inspect all interior piping, not just piping located in each boiler room, with the exception of piping located in occupied apartments.

- viii) Park Court Apartments- Westover avers that the NGDC has two meters in the apartment complex and that a service line connects each meter to a building in the complex. Westover further avers that residents use the gas for heating and cooking.²⁸ Westover, however, is limiting I&E’s access to inspect the exterior of the buildings.²⁹ Westover piping that is beyond the outlet of the NGDC meter, including interior piping, would

²⁷ Amended Petition at 10, Appendix 3.

²⁸ Amended Petition at 16, Appendix 12.

²⁹ Answers and Conditions of Westover to I&E’s Requests for Entry for Inspection, No. 8.

be jurisdictional if Westover uses it to distribute gas to tenants, who purchase the gas from Westover. Accordingly, I&E should be permitted to inspect all interior piping except for piping located in occupied apartments.

37. As articulated above, the inspection of interior locations (aside from occupied apartments) containing Westover's pipeline facilities is relevant and reasonably calculated to lead to admissible evidence.

38. It is not appropriate for I&E to be forced to take Westover's "word" about the specifics of its pipeline facilities, which at times, is unclear and/or contradictory.

39. Therefore, Westover failed to meet its burden in showing that interior inspection of the locations that contain its pipeline facilities is not relevant and discoverable.

WHEREFORE, for all the foregoing reasons, the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission respectfully requests that the presiding Administrative Law Judge grant the instant Motion to Compel Entry for Inspection, dismiss Westover's conditions for inspection, and grant I&E access to interior locations that contain Westover's pipeline facilities during the inspection days scheduled for November 15 through November 18, 2022.

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

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stwimer@pa.gov

Date: October 24, 2022

I&E

Attachment 1



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

October 3, 2022

Via Electronic Mail

David P. Zambito, Esq.
Jonathan P. Nase, Esq.
Cozen O'Connor
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dzambito@cozen.com
jnase@cozen.com

Re: Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement v.
Westover Property Management Company, L.P.
d/b/a Westover Companies
Docket No. C-2022-3030251
Requests for Entry for Inspection

Dear Counsel:

Enclosed is the Bureau of Investigation and Enforcement's ("I&E") **Requests for Entry for Inspection** in the above-referenced matter.

Copies have been served on the parties of record in accordance with the Certificate of Service. If you have any questions, please contact the undersigned.

Sincerely,

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

cc: Per Certificate of Service
Secretary Rosemary Chiavetta (*Cover Letter and Certificate of Service only via e-file*)
Hon. Christopher P. Pell (*Cover Letter and Certificate of Service only*)
Michael L. Swindler, Deputy Chief Prosecutor (*via email - mswindler@pa.gov*)
Kayla L. Rost, Prosecutor (*via email - karost@pa.gov*)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	
v.	:	Docket No. C-2022-3030251
	:	
Westover Property Management Company,	:	
L.P. d/b/a Westover Companies	:	
Respondent	:	

**REQUESTS FOR ENTRY FOR INSPECTION
OF THE
BUREAU OF INVESTIGATION AND ENFORCEMENT**

Pursuant to 52 Pa. Code § 5.349(a)(2), the Pennsylvania Public Utility Commission’s (“Commission”) Bureau of Investigation and Enforcement (“I&E”), through its prosecuting attorneys, hereby serves these Requests for Entry for Inspection to Westover Property Management Company, L.P. d/b/a Westover Companies (“Westover” or “Respondent”) to enter and inspect the natural gas pipeline facilities at the Westover properties in Pennsylvania identified herein. I&E is available to conduct the inspections on any date between November 15 through November 18, 2022, or during another mutually convenient time.

INSTRUCTIONS

1. These Requests for Entry for Inspection are to be answered by Respondent within twenty (20) days of the date of service in accordance with Section 5.349(d) of the Commission’s regulations, 52 Pa. Code § 5.349(d). The response shall be verified or notarized, as permitted by 52 Pa. Code § 1.36, and state that inspection and related

activities will be permitted as requested. Otherwise, Respondent shall object within ten (10) days of the date of service in the manner described in 52 Pa. Code § 5.342.

2. If Respondent objects to these Requests for Entry for Inspection, describe the basis for each objection.
3. Restate the Request for Entry for Inspection immediately preceding each response and begin each response on a new page.
4. Identify the name, title, and business address of each person(s) providing each response.
5. Provide the date on which Respondent will grant access to I&E.
6. The singular of any word used herein shall be deemed to include the plural of such word, and the plural shall include the singular.
7. In answering these Requests for Entry for Inspection, assume that all words used have their ordinary meanings in normal English usage, except as provided below or where context requires other interpretation.

DEFINITIONS

1. “Master meter system” means 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.
2. “Pipeline facilities” means all parts of physical facilities through which gas moves, including, but not limited to, pipe, valves, other appurtenance attached to pipe,

compressor units, metering stations, regulator stations, delivery stations, holders, fabricated assemblies, and any other components for use in pipeline. Pipeline facilities can be located inside or outside.

3. “Westover” or “Respondent” shall refer to Westover Property Management Company, L.P. d/b/a Westover Companies and all other names under which Westover does business or trades in Pennsylvania, any subsidiaries, affiliates, former or current agents, former or current employees, former or current representatives, former or current attorneys, and all other persons acting on their behalf either previously or presently.

REQUESTS FOR ENTRY FOR INSPECTION

1. Permit representatives of I&E full and complete access to Woodland Plaza Apartments, 1701 State Hill Road, Wyomissing, PA 19610 for the purpose of inspecting the pipeline facilities operated by Respondent at that location to evaluate Respondent’s claim that the pipeline facilities are not a master meter system.
2. Permit representatives of I&E full and complete access to Mill Creek Village Apartments II, 225 East Lincoln Highway, Penn del, PA 19407 for the purpose of inspecting the pipeline facilities operated by Respondent at that location to evaluate Respondent’s claim that the pipeline facilities are not a master meter system.
3. Permit representatives of I&E full and complete access to Country Manor Apartments, 2151 E. Lincoln Highway, Levittown, PA 19056 for the purpose of inspecting the pipeline facilities operated by Respondent at that location to evaluate Respondent’s claim that the pipeline facilities are not a master meter system.
4. Permit representatives of I&E full and complete access to Black Hawk Apartments, 1 Black Hawk Circle, Downingtown, PA 19335 for the purpose of inspecting the pipeline facilities operated by Respondent at that location to evaluate Respondent’s claim that the pipeline facilities are not a master meter system.
5. Permit representatives of I&E full and complete access to Concord Court Apartments, 3701 Concord Road, Aston, PA 19014 for the purpose of inspecting the pipeline

facilities operated by Respondent at that location to evaluate Respondent's claim that the pipeline facilities are not a master meter system.

6. Permit representatives of I&E full and complete access to Lansdale Village Apartments, 219 York Avenue, Lansdale, PA 19446 for the purpose of inspecting the pipeline facilities operated by Respondent at that location to evaluate Respondent's claim that the pipeline facilities are not a master meter system.
7. Permit representatives of I&E full and complete access to Paoli Place Apartments – Paoli South, 27 East Central Avenue, Paoli, PA 19301 for the purpose of inspecting the pipeline facilities operated by Respondent at that location to evaluate Respondent's claim that the pipeline facilities are not a master meter system.
8. Permit representatives of I&E full and complete access to Park Court Apartments, 28 South Water Street, Womelsdorf, PA 19567 for the purpose of inspecting the pipeline facilities operated by Respondent at that location to evaluate Respondent's claim that the pipeline facilities are not a master meter system.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, :
Bureau of Investigation and Enforcement :
Complainant :
v. : Docket No. C-2022-3030251
Westover Property Management Company, :
L.P. d/b/a Westover Companies :
Respondent :

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing **Requests for Entry for Inspection of the Bureau of Investigation and Enforcement** directed to Westover Property Management Company, L.P. d/b/a Westover Companies, 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 Only

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*



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

Dated: October 3, 2022



Commonwealth of Pennsylvania
Pennsylvania Public Utility Commission
 Harrisburg, PA 17105-3265
EFILING - FILING DETAIL

Date Created	Filing Number
10/3/2022	2437565

Your filing has been electronically received. Upon review of the filing for conformity with the Commission's filing requirements, a notice will be issued acknowledging acceptance or rejection (with reason) of the filing. The matter will receive the attention of the Commission and you will be advised if any further action is required on your part.

The date filed on will be the current day if the filing occurs on a business day before or at 4:30 p.m. (EST). It will be the next business day if the filing occurs after 4:30 p.m. (EST) or on weekends or holidays.

Docket Number: C-2022-3030251

Case Description:

Transmission Date: 10/3/2022 3:53 PM

Filed On: 10/3/2022 3:53 PM

eFiling Confirmation Number: 2437565

File Name	Document Type	Upload Date
C-2022-3030251 (Westover Companies) I&E Requests for Entry for Inspection CL&COS.pdf	Certificate of Service	10/3/2022 3:53:02 PM

For filings exceeding 250 pages, the PUC is requiring that filers submit one paper copy to the Secretary's Bureau within three business days of submitting the electronic filing online. Please mail the paper copy along with copy of this confirmation page to Secretary, Pennsylvania Public Utility Commission, 400 North Street, Harrisburg PA 17120 a copy of the filing confirmation page or reference the filing confirmation number on the first page of the paper copy.

No paper submission is necessary for filings under 250 pages.

You can view a record of this filing and previous filings you have submitted to the PUC by using the links in the Filings menu at the top of the page. Filings that have been submitted within the last 30 days can be viewed by using the Recent Filings link. Older filings can be viewed by using the search options available in the Filing History link.

I&E

Attachment 2



October 13, 2022

VIA E-MAIL

David P. Zambito

Direct Phone 717-703-5892

Direct Fax 215-989-4216

dzambito@cozen.com

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

RE: Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement v. Westover Property Management Company, L.P. d/b/a Westover Companies; Docket Nos. C-2022-3030251 and P-2020-3018499

Answers and Conditions of Westover Property Management Company, L.P., d/b/a Westover Companies, to the Requests for Entry for Inspection of the Bureau of Investigation and Enforcement

Dear Senior Prosecutor Wimer:

Enclosed please find the Answers and Conditions of Westover Property Management Company, L.P. d/b/a Westover Companies ("Westover"), to the Requests for Entry for Inspection served on Westover on October 3, 2022. We are serving this discovery response early, in case the Bureau of Investigation and Enforcement takes the position that the conditions stated herein constitute objections to the Requests for Entry for Inspection.

Copies have been served as shown on the attached Certificate of Service.

Please contact me if you have any question or concern. Thank you for your attention to this matter.

Sincerely,

COZEN O'CONNOR

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

BY: DAVID P. ZAMBITO
Counsel for *Westover Property Management, L.P.*
d/b/a Westover Companies

DPZ:kmg

Enclosures

cc: Per Certificate of Service
Rosemary Chiavetta (*Cover Letter and Certificate of Service Only*)
Peter Quercetti, Vice President of Operations Management, Westover Companies
Alexander Stefanelli, CFO, Westover Companies

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	Docket Nos. C-2022-3030251
v.	:	P-2021-3030002
	:	
Westover Property Management Company, L.P.	:	
d/b/a Westover Companies	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this 13th day of October, 2022 served the foregoing **Answers and Conditions of Westover Property Management Company, L.P. d/b/a Westover Companies to the Requests for Entry for Inspection of the Bureau of Investigation and Enforcement**, upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

VIA E-MAIL AND FIRST CLASS MAIL

Stephanie M. Wimer, Esq.
Kayla L. Rost, Esq.
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street, 2nd Floor West
Harrisburg, PA 17120
stwimer@pa.gov
karost@pa.gov



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

VERIFICATION

I, Pete Quercatti, hereby state that the facts set forth above 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: 10/10/2022

Pete Quercatti

Bureau of Investigation and Enforcement v. Westover Property Management Company, L.P.
d/b/a Westover Companies, Docket No. C-2022-3030251
I&E's Requests for Entry for Inspection

1. Permit representatives of I&E full and complete access to Woodland Plaza Apartments, 1701 State Hill Road, Wyomissing, PA 19610 for the purpose of inspecting the pipeline facilities operated by Respondent at that location to evaluate Respondent's claim that the pipeline facilities are not a master meter system.

Answer: Inspection shall be permitted on November 15, 2022, subject to the following conditions:

A. I&E personnel will be accompanied at all times by representatives of Westover (including counsel).

B. If photographs are taken, Westover will be provided with a copy of each photograph.

C. Since the gas meter is located outside each boiler room, access will be limited to the exterior of the buildings. Under no circumstances will access be granted to any occupied apartments.

Westover's agreement to site inspections does not represent an acknowledgement that Westover operates master meter systems or pipeline facilities that are subject to Commission jurisdiction pursuant to Act 127 or as defined in I&E's Requests for Entry for Inspection.

Answer provided by: Peter Quercetti, Vice President of Operations, Westover Property Management Company, L.P.

Date: October 13, 2022

Bureau of Investigation and Enforcement v. Westover Property Management
Company, L.P. d/b/a Westover Companies, Docket No. C-2022-3030251
I&E's Requests for Entry for Inspection

2. Permit representatives of I&E full and complete access to Mill Creek Village Apartments II, 225 East Lincoln Highway, Pennel, PA 19407 for the purpose of inspecting the pipeline facilities operated by Respondent at that location to evaluate Respondent's claim that the pipeline facilities are not a master meter system.

Answer: Inspection shall be permitted on November 16, 2022, subject to the following conditions:

A. I&E personnel will be accompanied at all times by representatives of Westover (including counsel).

B. If photographs are taken, Westover will be provided with a copy of each photograph.

C. Since the gas meter is located inside each boiler room, access will be granted to the interior of the boiler room as well as the exterior of the buildings. Under no circumstances will access be granted to any occupied apartments.

Westover's agreement to site inspections does not represent an acknowledgement that Westover operates master meter systems or pipeline facilities that are subject to Commission jurisdiction pursuant to Act 127 or as defined in I&E's Requests for Entry for Inspection.

Answer provided by: Peter Quercetti, Vice President of Operations, Westover Property Management Company, L.P.

Date: October 13, 2022

Bureau of Investigation and Enforcement v. Westover Property Management Company, L.P.
d/b/a Westover Companies, Docket No. C-2022-3030251
I&E's Requests for Entry for Inspection

3. Permit representatives of I&E full and complete access to Country Manor Apartments, 2151 E. Lincoln Highway, Levittown, PA 19056 for the purpose of inspecting the pipeline facilities operated by Respondent at that location to evaluate Respondent's claim that the pipeline facilities are not a master meter system.

Answer: Inspection shall be permitted on November 16, 2022, subject to the following conditions:

A. I&E personnel will be accompanied at all times by representatives of Westover (including counsel).

B. If photographs are taken, Westover will be provided with a copy of each photograph.

C. Since the gas meter is located inside each boiler room, access will be granted to the interior of the boiler room as well as the exterior of the buildings. Under no circumstances will access be granted to any occupied apartments.

Westover's agreement to site inspections does not represent an acknowledgement that Westover operates master meter systems or pipeline facilities that are subject to Commission jurisdiction pursuant to Act 127 or as defined in I&E's Requests for Entry for Inspection.

Answer provided by: Peter Quercetti, Vice President of Operations, Westover Property Management Company, L.P.

Date: October 13, 2022

Bureau of Investigation and Enforcement v. Westover Property Management Company, L.P.
d/b/a Westover Companies, Docket No. C-2022-3030251
I&E's Requests for Entry for Inspection

4. Permit representatives of I&E full and complete access to Black Hawk Apartments, 1 Black Hawk Circle, Downingtown, PA 19335 for the purpose of inspecting the pipeline facilities operated by Respondent at that location to evaluate Respondent's claim that the pipeline facilities are not a master meter system.

Answer: Inspection shall be permitted on November 17, 2022, subject to the following conditions:

A. I&E personnel will be accompanied at all times by representatives of Westover (including counsel).

B. If photographs are taken, Westover will be provided with a copy of each photograph.

C. Since the gas meter is located outside each boiler room, access will be limited to the exterior of the buildings. Under no circumstances will access be granted to any occupied apartments.

Westover's agreement to site inspections does not represent an acknowledgement that Westover operates master meter systems or pipeline facilities that are subject to Commission jurisdiction pursuant to Act 127 or as defined in I&E's Requests for Entry for Inspection.

Answer provided by: Peter Quercetti, Vice President of Operations, Westover Property Management Company, L.P.

Date: October 13, 2022

Bureau of Investigation and Enforcement v. Westover Property Management Company, L.P.
d/b/a Westover Companies, Docket No. C-2022-3030251
I&E's Requests for Entry for Inspection

5. Permit representatives of I&E full and complete access to Concord Court Apartments, 3701 Concord Road, Aston, PA 19014 for the purpose of inspecting the pipeline facilities operated by Respondent at that location to evaluate Respondent's claim that the pipeline facilities are not a master meter system.

Answer: Inspection shall be permitted on November 17, 2022, subject to the following conditions:

A. I&E personnel will be accompanied at all times by representatives of Westover (including counsel).

B. If photographs are taken, Westover will be provided with a copy of each photograph.

C. Since the gas meter is located outside each building, access will be limited to the exterior of the buildings. Under no circumstances will access be granted to any occupied apartments.

Westover's agreement to site inspections does not represent an acknowledgement that Westover operates master meter systems or pipeline facilities that are subject to Commission jurisdiction pursuant to Act 127 or as defined in I&E's Requests for Entry for Inspection.

Answer provided by: Peter Quercetti, Vice President of Operations, Westover Property Management Company, L.P.

Date: October 13, 2022

Bureau of Investigation and Enforcement v. Westover Property Management Company, L.P.
d/b/a Westover Companies, Docket No. C-2022-3030251
I&E's Requests for Entry for Inspection

6. Permit representatives of I&E full and complete access to Lansdale Village Apartments, 219 York Avenue, Lansdale, PA 19446 for the purpose of inspecting the pipeline facilities operated by Respondent at that location to evaluate Respondent's claim that the pipeline facilities are not a master meter system.

Answer: Inspection shall be permitted on November 18, 2022, subject to the following conditions:

A. I&E personnel will be accompanied at all times by representatives of Westover (including counsel).

B. If photographs are taken, Westover will be provided with a copy of each photograph.

C. Since the gas meter is located outside Buildings G & H, access will be limited to the exterior of the buildings. Under no circumstances will access be granted to any occupied apartments.

Westover's agreement to site inspections does not represent an acknowledgement that Westover operates master meter systems or pipeline facilities that are subject to Commission jurisdiction pursuant to Act 127 or as defined in I&E's Requests for Entry for Inspection.

Answer provided by: Peter Quercetti, Vice President of Operations, Westover Property Management Company, L.P.

Date: October 13, 2022

Bureau of Investigation and Enforcement v. Westover Property Management Company, L.P.
d/b/a Westover Companies, Docket No. C-2022-3030251
I&E's Requests for Entry for Inspection

7. Permit representatives of I&E full and complete access to Paoli Place Apartments – Paoli South, 27 East Central Avenue, Paoli, PA 19301 for the purpose of inspecting the pipeline facilities operated by Respondent at that location to evaluate Respondent's claim that the pipeline facilities are not a master meter system.

Answer: Inspection shall be permitted on November 17, 2022, subject to the following conditions:

A. I&E personnel will be accompanied at all times by representatives of Westover (including counsel).

B. If photographs are taken, Westover will be provided with a copy of each photograph.

C. Since the gas meter is located inside each boiler room, access will be limited to the interior of the boiler room as well as the exterior of the buildings. Under no circumstances will access be granted to any occupied apartments.

Westover's agreement to site inspections does not represent an acknowledgement that Westover operates master meter systems or pipeline facilities that are subject to Commission jurisdiction pursuant to Act 127 or as defined in I&E's Requests for Entry for Inspection.

Answer provided by: Peter Quercetti, Vice President of Operations, Westover Property Management Company, L.P.

Date: October 13, 2022

Bureau of Investigation and Enforcement v. Westover Property Management Company, L.P. d/b/a
Westover Companies, Docket No. C-2022-3030251
I&E's Requests for Entry for Inspection

8. Permit representatives of I&E full and complete access to Park Court Apartments, 28 South Water Street, Womelsdorf, PA 19567 for the purpose of inspecting the pipeline facilities operated by Respondent at that location to evaluate Respondent's claim that the pipeline facilities are not a master meter system.

Answer: Inspection shall be permitted on November 15, 2022, subject to the following conditions:

- A. I&E personnel will be accompanied at all times by representatives of Westover (including counsel).
- B. If photographs are taken, Westover will be provided with a copy of each photograph.
- C. Since the gas meter is located outside each building, access will be limited to the exterior of the buildings. Under no circumstances will access be granted to any occupied apartments.

Westover's agreement to site inspections does not represent an acknowledgement that Westover operates master meter systems or pipeline facilities that are subject to Commission jurisdiction pursuant to Act 127 or as defined in I&E's Requests for Entry for Inspection.

Answer provided by: Peter Quercetti, Vice President of Operations, Westover Property Management Company, L.P.

Date: October 13, 2022

I&E

Attachment 3

Interpretation 191.3 (Master Meter) 14

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

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**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	
v.	:	Docket No. C-2022-3030251,
	:	P-2021-3030002
	:	
Westover Property Management Company, L.P.	:	
d/b/a Westover Companies	:	
Respondent	:	

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: October 24, 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

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**


Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	
v.	:	Docket No. C-2022-3030251,
	:	P-2021-3030002
Westover Property Management Company, L.P.	:	
d/b/a Westover Companies	:	
Respondent	:	

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:

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*



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

Dated: October 24, 2022