



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

January 2, 2025

Via Electronic Filing

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

Re: Matheson Tri-Gas, Inc.'s Petition for Special Permit Waiver for Odorization
Exemption under 49 CFR § 192.625 for Hydrogen Gas Pipeline
Docket No. P-2024-3052025
I&E's Answer Nunc Pro Tunc to Matheson Tri-Gas, Inc.'s Petition

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Bureau of Investigation and Enforcement's Answer Nunc Pro Tunc to Matheson Tri-Gas, Inc.'s Petition in the above-referenced proceeding. 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 'Colby B. Widdowson', is written over a light blue horizontal line.

Colby B. Widdowson
Prosecutor
Bureau of Investigation & Enforcement
PA Attorney ID No. 326185
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CW/jfm
Enclosures

cc: Michael L. Swindler, Deputy Chief Prosecutor (via email - mswindler@pa.gov)
Robert Horensky, Manager, Safety Division (via email - rhorensky@pa.gov)
David Screven, Chief Counsel, Law Bureau (via email - dscreven@pa.gov)
Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Matheson Tri-Gas, Inc.’s Petition for :
Special Permit Waiver for Odorization : Docket No. P-2024-3052025
Exemption under 49 CFR § 192.625 for :
Hydrogen Gas Pipeline :

**ANSWER NUNC PRO TUNC OF BUREAU OF INVESTIGATION AND
ENFORCEMENT TO MATHESON TRI-GAS INC.’S PETITION FOR SPECIAL
PERMIT WAIVER FOR ODORIZATION EXEMPTION UNDER 49 CFR §
192.625 FOR HYDROGEN GAS PIPELINE**

NOW COMES the Pennsylvania Public Utility Commission’s (“Commission”) Bureau of Investigation and Enforcement (“I&E”), by its prosecuting attorney, and files this Answer *Nunc Pro Tunc* to Matheson Tri-Gas, Inc.’s Petition for Special Permit Waiver for Odorization Exemption under 49 CFR § 192.625 for Hydrogen Gas Pipeline (“Petition”) pursuant to 52 Pa. Code § 5.61, and in support thereof, avers as follows:

I. INTRODUCTION

On November 7, 2024, Matheson Tri-Gas, Inc. (“Matheson” or “Petitioner”) filed the instant Petition seeking a Special Permit for waiver of odorization requirements found at 49 CFR § 192.625. A petition shall be served on all persons directly affected and service shall be evidenced by a certificate of service; however, the instant Petition was not served upon I&E and was not accompanied by a Certificate of Service as required at 49 CFR § 5.41(b). I&E became aware of the Petition on or about December 12, 2024 when Petitioner’s consultant, Oak Tree Group, informed a Fixed Utility Valuation Engineer in I&E’s Pipeline Safety Division (“Pipeline Safety”) of the filing of the Petition. The undersigned conducted a search of Infomap on December 12, 2024 and obtained a copy of the instant Petition.

Answers to petitions are due within twenty (20) days *after service of a petition*. See 52 Pa. Code § 5.61(a). (Emphasis added). Had Petitioner served I&E with the Petition, I&E's Answer would have been due on November 29, 2024. To date, I&E has not received service of Matheson's Petition.

The Commission may accept I&E's Answer *Nunc Pro Tunc* on its merits for good cause shown. In order to show "good cause," the party seeking *nunc pro tunc* filing must show: 1) that extraordinary circumstances, involving fraud or breakdown in the administrative process or nonnegligent circumstances related to the party, its counsel or a third party, caused the untimeliness; 2) that it filed the document within a short time period after the deadline or date that it learned of the untimeliness; and 3) that the respondent will not suffer prejudice due to the delay. See *e.g. Bureau Veritas N. Am., Inc. v. DOT*, 127 A.3d 871, 879 (Pa. Cmwlth. 2015); *Bass v. Cmwlth.*, 401 A.2d 1133 (Pa. 1979).

In the present matter, as already stated, I&E did not receive service of the Petition and only became aware of the Petition via secondhand communications from Petitioner's consultant and affirmative steps taken by the undersigned. I&E filed this Answer within twenty days of becoming aware of the Petition, despite not having been served with the Petition as a party directly affected. The Commission has not yet ruled on Matheson's Petition and as such, Petitioner will not suffer any prejudice due to the delay in the filing of this Answer.

Petitioner is a producer and distributor of hydrogen gas. Petitioner produces hydrogen gas (H₂) via a steam methane reforming system at its Saint Marys, PA location.

From the production facility, Petitioner distributes the hydrogen gas to five industrial customers, for compensation, via approximately 1.83 miles of pipeline. Hydrogen is a flammable gas.

Petitioner is a “pipeline operator” as that term is defined under Act 127, 58 P.S. § 801.102, in that they own or operate “equipment or facilities in [the Commonwealth of Pennsylvania] for the transportation of gas or hazardous liquids by pipeline or pipeline facility regulated under Federal pipeline safety laws.” Act 127, 58 P.S. § 801.102, defines “gas” as “natural gas, liquefied natural gas . . . and other gas as defined under the Federal pipeline safety laws.” The Federal Pipeline Safety Regulations, 49 CFR §§ 191.3 and 192.3, define “gas” as “natural gas, flammable gas, or gas which is toxic or corrosive.”

The Pennsylvania Public Utility Commission is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate pipeline operators pursuant to Section 501(a) of Act 127, 58 P.S. § 801.501(a). Section 501(a) of Act 127, 58 P.S. § 801.501(a), authorizes and obligates the Commission to supervise and regulate pipeline operators within this Commonwealth consistent with Federal pipeline safety laws.

I&E is has standing to participate in any Commission proceeding resulting from the Petition and is an affected party, in that pursuant to the Commission’s regulations at 52 Pa. Code § 59.33(b), the Commission’s Pipeline Safety, which is part of I&E, has the authority to enforce federal gas pipeline safety regulations set forth in 49 U.S.C.A. §§ 60101, et seq. and implemented in 49 CFR Parts 191-193, 195 and 199, 49 CFR §§ 191-193, 195 and 199.. Pipeline Safety serves as a registered agent for the Pipeline and Hazardous Materials Safety Administration (“PHMSA”), a federal agency housed in the

U.S. Department of Transportation and, as such, is contracted to enforce Federal pipeline safety standards on jurisdictional intrastate pipelines. Pipeline Safety employs engineer-inspectors who possess engineering degrees and are trained and qualified by PHMSA to perform pipeline safety inspections and verify compliance with the Federal pipeline safety standards. Accordingly, Pipeline Safety maintains exclusive jurisdiction over pipeline safety on the intrastate pipeline facilities of pipeline operators in Pennsylvania.

II. ANSWER

I&E files this Answer in response to Matheson's Petition to voice I&E's concerns regarding the lack of increased safety measures if the odorization requirement is waived. I&E opposes the granting of the Petition until such time that Matheson identifies and implements significant safety enhancements. As it stands, Matheson has only proposed to increase their leak surveys to twice yearly.

In order for the waiver to be granted, I&E believes that to adequately ensure the public's safety the following safety measures must be implemented:

1. Lowering the operating pressure;
2. Patrolling the right of way above pipeline and services;
3. Leak surveys every 45 days;
4. Installing and maintaining pipeline markers;
5. Cathodic Protection measures (CIS annually);
6. Damage prevention enhancement;
7. Emergency valve identification;
8. Public awareness of unodorized gas for employees and neighbors; and
9. Emergency response training.

I&E respectfully requests that the Commission deny Matheson's Petition until such time that Matheson amends the Petition to include the aforementioned safety enhancements.

Respectfully submitted,



Colby B. Widdowson
Prosecutor
PA Attorney ID No. 326185

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Date: January 2, 2025

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Hydrogen Gas Pipeline :

CERTIFICATE OF SERVICE

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

Served via Electronic and First-Class Mail

Matheson Tri-Gas Inc.
Attn: Rodney Snyder, Plant Manager
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Dated: January 2, 2025