

ORIGINAL



0000003635

RECEIVED



47

2004 JUL 14 P 1:42

July 14, 2004

Docket Control  
Arizona Corporation Commission  
1200 W. Washington Street  
Phoenix, AZ 85007

AZ CORP COMMISSION  
DOCUMENT CONTROL

**Re: Proposed Amendments to the Office of Pipeline Safety Rules  
Docket No. RG-00000A-04-0169  
Arizona Utility Group Comments**

Dear Mr. Fronterhouse:

The Arizona Utility Group (AUG) has received "Staff's Initial Response to AUG's Comments Regarding The Proposed Rulemaking and Comments from the Office of the Secretary." In Staff's response, AUG's July 7, 2004 meeting with Staff was referenced. This filing is in response to that July 7<sup>th</sup> meeting.

The attached comments outline the discussions of July 7<sup>th</sup> and restates AUG's concerns with respect to those areas where agreement was not reached at the meeting. Furthermore, AUG appreciates Terry Fronterhouse's desire to convene a workshop in the Fall of 2004 to undertake a comprehensive review of the State pipeline regulations prior to making recommendation for future amendments.

AUG appreciates the opportunity to continue our commitment towards safe and reliable service to our customers and the ability to work together on developing and revising the pipeline safety rules being proposed by the Commission. If you have any questions or would like to discuss this information further, please contact me at 480-644-4536.

Sincerely,

Kevin Kent  
AUG Chairman 2004

Arizona Corporation Commission

**DOCKETED**

JUL 14 2004

DOCKETED BY

*CR*



Arizona Utility Group 5705 South Kyrene Road, Tempe, AZ 85283-1729

TEL: (480) 730-3723 • FAX: (480) 730-3730

[robert.clarillos@swgas.com](mailto:robert.clarillos@swgas.com) or [kevin.kent@cityofmesa.org](mailto:kevin.kent@cityofmesa.org)

AUG Summary of July 7, 2004 meeting with Terry Fronterhouse concerning  
Arizona Corporation Commission's Proposed Amendments  
Docket No. RG-00000A-04-0169

The Arizona Utility Group (AUG) appreciated the opportunity to discuss in an informal workshop/meeting on July 7, 2004 with Terry Fronterhouse and John Ivey (ACC/OPS Staff) its concerns related to the proposed regulation amendments to the Arizona Administrative Code (A.A.C.). Outlined in the recommended decision in Docket No. RG-00000A-04-0169. AUG especially appreciates Mr. Fronterhouse's desire to convene a workshop in the Fall 2004 to take a comprehensive look at these regulations prior to making recommendations for future amendments to the Arizona Corporation Commission (ACC). AUG feels it is important to update regulations and the references they utilize to ensure that pipeline operators will not be unnecessarily burdened with outdated material, design and construction requirements. AUG is fully cognizant of the need for the ACC to periodically update its regulations to comply with its certification agreement(s) with the United States Department of Transportation, Research and Special Projects Administration, Office of Pipeline Safety (RSPA/OPS).

The results of our July 7<sup>th</sup> workshop summarized below generally follow the format of the AUG's earlier comments filed on or about June 21, 2004.

***Addresses***

ACC/OPS Staff agreed that the addresses will be updated. Internet addresses would be considered in the Fall 2004 workshop process.

***R14-5-202, Adoption and Incorporation by Reference***

Not all material that is adopted and incorporated by reference will likely be updated during the current rulemaking, but would be considered in the Fall 2004 workshop process.

***References to Commission and Office of Pipeline Safety***

ACC/OPS Staff agreed that references to "Commission Office of Pipeline Safety" should be changed to "Office of Pipeline Safety."

***R14-5-202, Subsection O***

The current regulations address proper shading of "an underground pipeline system using plastic pipe." In the changes proposed by the State "using plastic pipe" was to be stricken from the current regulation. ACC/OPS Staff agreed to not strike the words "using plastic pipe," but to add language that specifically addresses shading and bedding for steel pipe.

The following language is proposed:

*"Steel pipe shall be installed with bedding and shading, free of any debris or materials injurious to the pipe coating, unless otherwise protected as allowed by federal regulation or approved by OPS."*

***R-14-5-202, Subsection P***

ACC/OPS Staff agreed to remove the words “Gas and shall be marked” from the proposed amendment to the second sentence. The newly proposed sentence will read as follows:

*“In addition, all plastic pipe and fitting shall be marked CD, CE, CF or CG as required by ASTM D2513(1995 c Edition and no future editions), incorporated by reference, on file with the Office of the Secretary of State, and copies available from the Commission Office of Pipeline Safety, 2200 North Central Avenue, Suite 300, Phoenix, Arizona 85004 and the ASTM.....(address corrected)....., for areas where the service temperature is above 100°F.”*

***R14-5-202, Subsection R***

ACC/OPS Staff did not agree to change this section to incorporate the most current version of the ANSI/GPTC Z380.1 Guide material, but did indicate that this could be considered in the workshop process of Fall 2004.

***R 14-5-202(S) (New Section)***

ACC/OPS Staff and AUG disagree on the necessity to implement this section. AUG refers to its earlier comments with regard to this proposal and still believes it should not be adopted as written. If the ACC believes regulations of this sort should be adopted, then it also needs to consider the substantial legal issues and cost concerns to all Arizona operators. **At a minimum AUG requests that action on this proposal be deferred until after affected operators can meet with the ACC/OPS Staff in the Fall 2004 workshop process.**

One of the primary concerns AUG has is that the determination (by the ACC/OPS Staff) of whether or not a failure is to be evaluated in a lab process has no objective or technical basis. The new rule’s proposed language includes the phrase “failed for any reason.” This phrase would require operators to report regular maintenance activities resulting in a substantial reporting burden to operators and regulatory agencies. At a minimum, the determination should be limited to reportable incidents. AUG believes that the State’s intent is best described in the “Economic Impact Statement” provided with the docket filing RG-00000A-04-0169. In section “5. Cost and Benefits to the Agency,” the state explained that; “The Office of Pipeline Safety must have the ability to best determine the cause of an incident.” AUG agrees with the Office of Pipeline Safety and believes that resources should be focused on incidents.

If the focus is not on reportable incidents then this proposed amendment has new notification requirements which are not included in the reporting criteria of A.A.C. R14-5-203. This creates confusion and uncertainty for operators as to when to report.

The process of selection of a laboratory or laboratories by the ACC/OPS Staff coupled with the requirement for the operator to pay for testing may violate other procurement laws for municipal or governmental entities.

**Negotiated Rule Making**

AUG acknowledges that rule making is an exacting process and welcomes the opportunity and the challenge of drafting clear and concise language so that Regulators and Operators are not struggling to interpret the intent of rules but are clearly guided in the compliance process. AUG appreciates and looks forward to the opportunity to work with the ACC/OPS Staff in this effort and in continuing our commitment towards safe and reliable service.

This concludes our summary.