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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

DOUG LITTLE – Chairman  
BOB STUMP  
BOB BURNS  
TOM FORESE  
ANDY TOBIN

RECEIVED  
AZ CORPORATION COMMISSION  
DOCKET CONTROL  
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Arizona Corporation Commission  
DOCKET CONTROL  
APR 1 2016

IN THE MATTER OF THE PROPOSED  
AMENDMENTS TO THE PIPELINE SAFETY  
RULES A.A.C. R14-5-202, R14-5-203, R14-5-204,  
R14-5-205, AND R14-5-207.

DOCKET NO. RG-00000A-15-0098

PROCEDURAL ORDER

BY THE COMMISSION:

On April 23, 2015, the Commission issued Decision No. 75023, directing the Commission’s Safety Division (“Staff”) to prepare and file a Notice of Rulemaking Docket Opening (“NRDO”) and a Notice of Proposed Rulemaking (“NPRM”) to adopt revisions to A.A.C. R14-5-202, R14-5-203, R14-5-204, R14-5-205, and R14-5-207, primarily updating incorporations by reference of federal regulations (“CFRs”), but also inserting a new R14-5-202(T)<sup>1</sup> “for clarity and to specify the CFR provisions . . . that it modifies.”

On May 15, 2015, the NRDO and NPRM were published in the *Arizona Administrative Register*. The preliminary summary of the economic, small business, and consumer impact, in the Preamble to the NPRM, included the following statements related to R14-5-202(T): “Operators of Liquefied Natural Gas facilities will experience some increased testing costs when welding is performed. However, because welding is a nonrecurring activity, the additional cost is anticipated to be minimal.”

On June 18, 2015, an oral proceeding was held for the NPRM, with no members of the public attending to provide comment. Additionally, no members of the public filed written comments regarding the NPRM.

On August 26, 2015, the Commission issued Decision No. 75250, adopting the text of the rules

<sup>1</sup> The proposed R14-5-202(T) read as follows: “An operator of an LNG facility shall ensure that nondestructive testing is completed for each weld performed on newly installed, replaced, or repaired pipeline or an appurtenance. This modifies 49 CFR 193.2303.”

1 as set forth in the NPRM, with revisions to the parenthetical dates for citations to CFRs and a federal  
2 form incorporated by reference therein; adopting an Economic, Small Business, and Consumer Impact  
3 Statement (“EIS”);<sup>2</sup> and directing Staff to prepare a Notice of Final Rulemaking (“NFRM”) package  
4 and submit it to the Office of the Attorney General (“OAG”).

5 Subsequent to the filing of the NFRM packet with the OAG on September 16, 2015, Staff  
6 learned that the OAG considered the modifications to the date parentheticals adopted in Decision No.  
7 75250 to constitute a substantial change under A.R.S. § 41-1025. The OAG indicated that the  
8 Commission could complete an emergency rulemaking, under A.R.S. § 41-1026, to make the rule  
9 changes adopted in Decision No. 75250 effective pending completion of additional regular rulemaking.

10 On October 22, 2015, the Commission issued Decision No. 75289, directing Staff to prepare  
11 and file with the OAG a Notice of Emergency Rulemaking (“NERM”) adopting the rule revisions  
12 approved in Decision No. 75250.

13 On November 25, 2015, the Commission issued Decision No. 75339, directing Staff to prepare  
14 and file a Notice of Supplemental Proposed Rulemaking (“NSPRM”) including the text attached to the  
15 Decision and directing the Hearing Division to hold an oral proceeding on the NSPRM on January 19,  
16 2016.

17 On December 11, 2015, the NSPRM was published in the *Arizona Administrative Register*.

18 On January 1, 2016, the NERM was published in the *Arizona Administrative Register*, with an  
19 effective date of December 15, 2015, the date that the NERM was filed with the Office of the Secretary  
20 of State by the OAG.

21 On January 19, 2016, Spectrum LNG (“Spectrum”), the owner of Desert Gas, LP (“Desert  
22 Gas”) and a liquefied natural gas plant in Ehrenberg, Arizona, filed comments regarding the NSPRM.  
23 Spectrum took issue with R14-5-202(T), as proposed in the NSPRM, and provided a list of concerns  
24 related to that provision as well as the rulemaking process. A representative for Spectrum also appeared  
25 at the oral proceeding held that day, as the only member of the public commenting; stated that  
26 comments had been filed; expressed a desire for Spectrum to have additional opportunity to provide

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28 <sup>2</sup> The Decision directed Staff to include in the EIS language concerning the increased testing costs for LNG facilities  
when welding is performed.

1 input; and requested that any questions regarding the written comments be directed to Raymond  
2 Latchem, Spectrum's President.

3 On January 26, 2016, Staff filed its Responses to Spectrum's Comments.

4 On January 28, 2016, a Procedural Order was issued requiring Staff to file, by February 22,  
5 2016, a narrative response to each of a list of 11 questions, along with any available supporting data  
6 and documentation. The Procedural Order also invited Desert Gas and any other interested person to  
7 file responses to Staff's filing by March 17, 2016, along with any available supporting data and  
8 documentation.

9 On February 22, 2016, Staff filed a Request for Extension, stating that Staff had been unable to  
10 complete its responses due to the breadth of the questions and the unplanned unavailability of Staff  
11 members necessary to produce responses. Staff requested that its deadline be extended to March 2,  
12 2016, and that all other appropriate modifications be made.

13 On February 22, 2016, a Procedural Order was issued extending the deadline for Staff's  
14 responses to March 2, 2016, and extending the deadline for Desert Gas and any other interested  
15 person's responses to March 28, 2016.

16 On March 2, 2016, Staff filed Staff Responses.

17 On March 28, 2016, Spectrum filed Spectrum LNG Responses.

18 In its Responses, Spectrum asserted that the U.S. Department of Transportation Pipeline and  
19 Hazardous Materials Safety Agency ("PHMSA") is currently examining its regulations pertaining to  
20 LNG operators and will be holding a two-day LNG Workshop on May 18 and 19, 2016, to solicit input  
21 and obtain background information to formulate changes to the rules for LNG Facilities, found at 49  
22 CFR Part 193. According to an email copied into Spectrum's Responses, the National Association of  
23 Pipeline Safety Regulators ("NASPR") is a co-organizer of the Workshop, which is to involve federal  
24 and state regulators, emergency responders, NFPA 59A technical committee members, industry  
25 members, and interested members of the public. Spectrum urged the Commission not to adopt the  
26 proposed R14-5-202(T) and instead to participate in the PHMSA process.

27 In addition to the information regarding the PHMSA Workshop, *inter alia*, Spectrum asserted  
28 that the measures Spectrum has implemented pursuant to the settlement agreement in Docket No. G-

1 20923A-15-0030 are cost-effective and will produce greater assurances of safety than the proposed  
2 R14-5-202(T) would, that none of Spectrum's piping in Arizona is subjected to both high pressure and  
3 low temperatures, that Spectrum's piping containing LNG is at low pressure and low temperature and  
4 made of materials that are not weakened by low temperatures, that Staff's cost estimate for non-  
5 destructive testing does not include costs associated with loss of production, that the proposed R14-5-  
6 202(T) would impact testing of 95 percent of Spectrum's welds on any new facilities, that x-ray results  
7 cannot predict physical failure and are subject to varying interpretations, that peak shavers are regulated  
8 under 49 CFR 193, that the proposed R14-5-202(T) does not take into account relevant factors such as  
9 operating conditions or line location, that cold pipe is irrelevant because the proposed R14-5-202(T)  
10 applies only to warm pipe welds, and that x-ray testing is not always required for 100 percent of  
11 transmission pipeline welds.

12 In light of the new information and assertions made by Spectrum in its Responses, it is  
13 reasonable to require Staff to file a Reply to those Responses.

14 IT IS THEREFORE ORDERED that **Staff shall, by April 15, 2016, file a Reply to**  
15 **Spectrum's Responses.**

16 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend, or  
17 waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at  
18 hearing.

19 DATED this 1st day of April, 2016.

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21   
22 SARAH N. HARPRING  
23 ADMINISTRATIVE LAW JUDGE

24 Copies of the foregoing mailed/delivered  
25 this 1st day of April, 2016, to:

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