

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. G-100, Sub 99

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Proposed Amendment to Commission) ORDER AMENDING COMMISSION
Rule R6-41 Regarding Threshold Amount) RULE R6-41
Implicating Reporting Requirement)

BY THE COMMISSION: On March 27, 2023, the Commission issued an Order Proposing Amendment to Commission Rule R6-41 and Allowing Comments (March 27 Order). Among other things, the March 27 Order proposed to change Commission Rule R6-41 (Rule R6-41) to more closely align with changes made to Title 49, Subtitle B, Chapter I, Part 141 of the Code of Federal Regulations (49 C.F.R. § 191 or Part 191), since Rule R6-41 was last amended. Specifically, the March 27 Order proposed increasing the threshold dollar amount defining certain reportable gas-related incidents, as stated in Rule R6-41(b)(1).

The March 27 Order explained that Part 191, entitled “Transportation of Natural and Other Gas by Pipeline; Annual, Incident, and Other Reporting,” requires the reporting by operators to the Pipeline and Hazardous Materials Safety Administration, Department of Transportation (PHMSA), of certain gas-related incidents, among other things including:

[a]n event that involves a release of gas from a pipeline, gas from an underground natural gas storage facility (UNGSTF), liquefied natural gas, liquefied petroleum gas, refrigerant gas, or gas from an LNG facility, and that results in . . . [e]stimated property damage of \$122,000 or more, including loss to the operator and others, or both, but excluding the cost of gas lost. For adjustments for inflation observed in calendar year 2021 onwards, changes to the reporting threshold will be posted on PHMSA’s website . . . [and] determined in accordance with the procedures in appendix A to part 191.

49 C.F.R. § 191.3 (Part 191.3); see *also* 49 C.F.R. § 191.5. This threshold dollar amount was adjusted to \$129,300 based on inflation on July 1, 2022, and will be adjusted every July 1 thereafter based upon inflation.

In contrast, the March 27 Order recognized that the “threshold amount defining a reportable incident under Rule R6-41 has not been increased since 1984.” The March 27 Order also found good cause to allow comments from interested parties and to make Piedmont Natural Gas Company, Inc. (Piedmont), Public Service Company of North Carolina, Inc., d/b/a Dominion Energy North Carolina (PSNC), Frontier Natural Gas Company (Frontier), Toccoa Natural Gas, and Cardinal Pipeline Company, LLC, parties to this docket without the need for them to file petitions to intervene.

On April 26, 2023, Piedmont, Frontier, and PSNC (Joint Parties or Companies) filed Joint Comments with the Commission. In their Joint Comments, the Joint Parties explain that PHMSA sought to increase its reporting threshold by way of a 2020 Notice of Proposed Rulemaking (NOPR), a method which was deliberate, thoughtful, and well-reasoned. The Joint Parties explain that PHMSA's NOPR sought to bring the "incident reporting criteria in-line with the 1984 threshold in inflation-adjusted terms" and that PHMSA recognized "adjusting the figure for inflation would decrease the number of events reportable as incidents by one-fourth and reduce those due to only the property-damage criterion by almost half." The Joint Parties state that PHMSA noted that it was "amending the Federal Pipeline Safety Regulations (PSR) at 49 CFR parts 191 and 192 to ease regulatory burdens . . . without adversely affecting safety." The Joint Parties also state that the Final Rule established procedures for annual inflation adjustments, effective July 1 each year, using a formula posted to PHMSA's website.

The Joint Parties request that the Commission amend its Rule R6-41 to precisely align with Part 191.3's current threshold amount of \$129,300 with annual adjustments subsequently made to account for inflation. The Joint Parties argue that both this threshold level and method of annual adjustment are appropriate for reporting natural gas pipeline incidents for all the reasons that PHMSA has identified, and that such a change in reportable threshold will not compromise safety and will ease regulatory burdens on the Companies' respective operations and maintenance of their respective distribution systems. The Companies argue that this approach appropriately responds to modern day price and cost impacts in a manner that maintains the threshold at a reasonable level while preserving the protective aspects of Rule R6-41. Also attached, as Exhibit A to the Joint Comments, is the Companies' proposed amended language to Rule R6-41.

After careful consideration of the foregoing, review of the intent and purposes behind Commission Rule R6-41, the changes made to Part 191, and reasons for those changes, the Commission is persuaded by the Joint Comments. The Commission concludes that good cause exists to amend Commission Rule R6-41 to eliminate the modification previously set forth in subsection (b)(1) to align with its federal counterpart, Part 191.3, as reflected in Appendix A to this Order. The amendment to Rule R6-41 is effective as of the issuance date of this Order.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 22nd day of May, 2023.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in black ink, appearing to read "Tamika D. Conyers", is written over a faint, circular official stamp.

Tamika D. Conyers, Deputy Clerk

Rule R6-41. GAS LEAKS AND ANNUAL REPORTS.

(a) A report of a gas leak shall be considered as an emergency requiring immediate attention.

(b) The reporting rules and requirements regarding transportation of natural gas and other gas by pipeline as adopted in 49 CFR Part 191 ~~in effect on June 4, 1984~~, and any subsequent amendments thereto, are adopted with the following modifications:

- (1) ~~Section 191.3(1)(ii) — Change “\$50,000” to “\$5,000”~~ Repealed
- (2) Section 191.9(c) — Delete
- (3) Section 191.11(b)(2) — Delete

(c) This rule shall be applicable to all natural gas operators subject to the jurisdiction of the Commission pursuant to G.S. 62-50.

(d) All natural gas operators shall submit two (2) copies of each report called for in Part 191 of Title 49, Code of Federal Regulations, to the Commission. The Chief of the Gas Pipeline Safety Division of the Commission is hereby authorized to transmit one (1) copy of each such required report to the U.S. Department of Transportation, Materials Transportation Bureau, Office of Operation and Enforcement.

(NCUC Docket No. G-100, Sub 11, 3/5/70; NCUC Docket No. G-100, Sub 43, 8/6/84; NCUC Docket No. G-100, Sub 99, 5/22/2023.)