BEFORE THE STATE CORPORATION COMMISSION

OF THE STATE OF KANSAS

In the Matter of the General Investigation Into the Operations of Kansas Gas Service, Inc., a Division of ONE Gas, Regarding the Natural Gas Incident that Occurred at 918 West 5th Street, Newton, Kansas.	)))))	Docket No. 17-KGSG-069-GIP

RESPONSE OF KANSAS GAS SERVICE TO STAFF'S REPORT AND RECOMMENDATION

Kansas Gas Service, Inc., a Division of ONE Gas, Inc. ("KGS" or "Company") responds to Staff's Report and Recommendation and associated Notices of Probable Non-Compliance (PNC's) and Notice of Amendments (NOA) as follows:

Introductory Statement

First and foremost, safety is the Company's paramount concern. KGS acknowledges that as the Operator of natural gas facilities, KGS has a duty to ensure that anyone performing work on KGS's natural gas facilities is qualified, trained, properly equipped and appropriately supervised. Anytime there is an incident, the Company looks very carefully at the potential root causes and implements corrective actions to avoid reoccurrence. The incident subject to this docket was the result of the failure of NPL Construction Company (formerly known as Northern Pipeline Construction Company) "NPL" employeesto follow written procedures and of their failure to act in accordance with their training. KGS's policies, procedures and contract provisions mandate that contractors must: implement safety protocols to protect their workers; to perform all work in accordance with state and federal regulations; and to train their employees to follow all applicable procedures. In this case, while the contractor's employees involved in the incident had been OQ

qualified, they failed to follow procedures, failed to wear appropriate PPE and performed work in an unsafe manner. These human errors led to a preventable injury incident.

KGS acknowledges that as the Operator, it is imperative to take action to prevent a recurrence of these unsafe practices. Notwithstanding the acknowledgment of operator duty, and for the sake of legal accuracy, KGS objects to portions of the Staff's report and recommendations as the report conflates the duties of the contractor toward its employees with the duties KGS owes towards its internal employees. It is incorrect to refer to contractor workers as "KGS employees," and as discussed in further detail below, it is not appropriate for KGS to provide direct training and equipment to contractors' workers, as suggested in the Staff recommendations. These responsibilities are contractual duties of the Contractor. Accordingly, while KGS acknowledges serious shortcomings in this incident, the recommendations as proposed, fail to consider the binding legal duties of the entities involved. To do otherwise would create legal confusion, duplication of costs that could negatively impact ratepayers, and interfere with binding legal contracts.

In addition, as detailed in this response, KGS requests that the Commission limit its consideration to evidence within the scope of the incident that gave rise to this docket.

1. **Delayed Notification (PNC Nos. 1 & 2)**

KGS acknowledges that it did not provide a timely notification. Our investigation determined that the reason for the non-compliance was two-fold. First, there was some internal confusion as to who was responsible to make the notification for contractor injury. The local operations team incorrectly believed the contractor was responsible, as they had confused the contractor's duty to notify OSHA with the Operator's duty to notify PHMSA and the KCC. Next,

at the time of the incident, despite numerous attempts to gain details about the condition of the injured worker, the contractor initially only stated that the injury was not serious and declined to provide additional information prior to speaking with its legal counsel. Admittedly, KGS personnel should have pressed for the information and initiated a post incident investigation pursuant to our procedures. Doing so would have resulted in the discovery of relevant facts that would have triggered reporting. Following this incident, this situation has been thoroughly reviewed with the contractor and KGS personnel. The Operator's duty to report has been clarified internally and the contractor has been placed on notice of the importance of the short reporting window and the vital need for prompt sharing of information. Additionally, the Contractor has since revised its notification system and revised its protocal for participation in incident investigations. It is KGS's position that both the Company and the Contractor have taken positive steps toward identifying the events leading to this error and have appropriately addressed this concern.

KGS acknowledges that based on the circumstances discussed above, neither the written or telephonic reporting requirements were timely met. The Company respectfully requests, however, that the Commission modify the penalty to reflect a single reporting violation because the delay in the telephonic and written reports arose from the same set of facts and not a separate incident. Additionally, the additional time to validate facts and collect details necessary for the notification did not further exacerbate the issue nor serve to further hinder the KCC Staff's investigation.

2. **The failure of KGS' contractor personnel to follow its written operations and maintenance procedures**

A. Personal Protective Equipment

KGS acknowledges that NPL's worker failed to wear fire resistant clothing and fresh air breathing apparatus in a gaseous environment in violation of the NPL's workers' training and procedures and in contravention of their contractual duties to KGS. KGS has met with NPL and has initiated corrective actions. KGS will audit NPL to ensure compliance with PPE requirements to avoid recurrence of this kind of incident. As support of this Correction, please see line number "4" of the document styled as "June 2, 2016 – Newton Incident NPL Corrective Action Plan PHASE I" and attached hereto as "Exhibit A".

B. Fire Watch

KGS denies that a fire watch was not on site at the time of the injury incident. Instead KGS points to Staff's own statements which support the fact that the second crewman on site at the time of the injury incident (and as referred as the "helper" and "coworker" in Staff's Report and Recommendation[1] and hereafter referred to as "Co-worker") was assigned to the fire extinguisher and was present at the time of the injury. As alleged in his written statement as provided to the Contractor on the day of the incident, (and also which Staff found to be credible and reliable), Co-worker alleges he was standing watch and used the fire extinguisher at the site when the incident occurred. Co-worker's statement as relied upon by Staff is evidence that there was in fact a fire watch on site. *See also*, a copy of the Statement of [redacted] attached hereto as "CONFIDENTIAL Exhibit B." Accordingly, the Company respectfully requests the Commission to find any allegations and associated requests for penalties related to this allegation to be

[1] *See*, Staff's Report and Recommendation, page 5, Post-Accident Analysis.

contradicted by Staff's own findings and thus unsupported by reliable evidence and therefore denied.

C. Cathodic Protection Rectifier

KGS denies a failure to follow procedures as it applies to Standard 1185, "Installation and Renewal of Mains." This standard only applies to rectified *mains*. The bare steel service line the contractor was replacing at the time of the injury, was not a rectified main, and did not fall under this standard. KGS further disagrees with the assumption that this incident was the result of an arc from the cathodic protection since this line was not rectified. The Company has reviewed this possibility and has not discovered any evidence to support this theory. Further, our inquiries have determined that it is neither an industry practice nor a regulatory requirement to turn off rectifiers on a rectified main prior to performing replacement of bare steel service lines. Thus, the Company respectfully requests the Commission to find any allegations and associated requests for penalties related to this issue to be unsupported by reliable evidence and therefore denied.

3. The alleged failure of KGS and its Contractors to require compliance with written procedures.

KGS agrees with Staff that its contractor has direct responsibility for the failure to follow KGS's and the Contractor's procedures.[2] Both contractor workers admit they failed to act in accordance with procedures and their training. However, this human error on the part of these workers should not be construed to be the result of a failure by KGS to enforce or "demand obedience" with Company procedures. KGS vehemently disagrees with Staff's assertions that the willful act of the two contract employees to break the Company policies and procedures, despite

[2] *See,* Staff's Report and Recommendation, page 7, paragraph 3.

their training, is an indication of "systemic failure of KGS supervision to know and enforce the procedures in its operations and maintenance manual."

KGS requires its contractors to properly train and supervise its workers to meet all federal and state safety standards and provide their workers with appropriate PPE to avoid incidents like this one. While it is not reasonable to expect a KGS inspector to be at each site during the entirety of the work, if a KGS inspector had been at the site at the time these workers made the poor choice to enter a gaseous environment without proper PPE, the work would have been immediately stopped. There has not been an incident like this where a KGS inspector was present. The employees involved in this incident admitted to Staff, KGS and NPL that they made a conscious decision to proceed without proper protection before their foreman came back to the site despite knowing the procedures, having been trained and receiving direction to contrary. Their actions deviated from expectations. This meets the very definition of human error. Accordingly, this incident is not indicative of the alleged systemic failure, but is rather the result of individual conduct, which did not conform to the Company's practices. However, KGS has taken appropriate action as referenced in the Corrective Action planned previously referenced and attached hereto.

4. **KGS's Objection to Staff's Use of Unrelated Records.**

KGS objects to Staff's inclusion of photographic records of alleged observations of KGS employees as depicted in Staff's Exhibit 4.[3] None of the work depicted at the time these photos were taken involved blowing gas situations, as is clearly evidenced by the fact that Staff was permitted to be within close proximaty of the work being performed and Staff's apparent ability to take the photos without fear of ignition. The first two photos actually show employees cleaning

[3] *See*, Staff's Report and Recommendation, paragraph 3, page ; and photos as contained on pages 1 and 2 of Exhibit 4, as attached to Staff's Report and Recommendation.

the pipe, in preparation for work to be performed and the last two photos show the crew assistants' fresh air breathing apparatus right behind them, indicating the gas leak had been controlled. If gas had been blowing, Staff would not have risked ignition with their camera or phone to take these photos. The photos appear to have been taken approximately two years ago, as one former employee pictured left the Company during that time and the other employee no longer works in this job function. Also, there is no evidence that Staff took issue with the work performed at that time or that Staff took any other action to stop work based on unsafe conditions or to initiate a timely inquiry. KGS requests the Commission decline to consider Exhibit 4 for the purposes of supporting the allegation of any pattern or practice.

In support of this allegation, Staff alleged the Company failed to enforce compliance with KGS Standard 1185. As noted in Response #2, above, KGS denies any violation of Standard 1185, as this work was not being performed on a rectified main, but rather on an unprotected bare steel service line. Again, KGS respefully requests the Commission to find any allegations and associated requests for penalties related to this proported evidence, be deemed unsupported by reliable evidence and therefore denied.

5. **Review of Rules and Regulations Related to Operator and/or Contractor Training Programs..**

KGS objects to the allegation that KGS violated 49 CFR 192.805 (Operator Qualification) or any portion of K.A.R. 82-11-4. The Operator Qualification ("OQ") rules are 'performance - based' rather than 'prescriptive'. These rules *do not* require testing of knowledge, skills and abilities with a prescribed method that includes direct observation of the performance of covered tasks while in full PPE as Staff suggests. Acceptable evaluations methods are listed in the rule and include: (a) written examination; (b) oral examination; (c) work performance history review;

(d) observation during on the job performance, during on the job training or during simulations; or (e) other forms of assessments. The KGS OQ program fully complies with this rule. Likewise, the training requirements of 192.805(h) do not require training "under blowing gas conditions" in full PPE as Staff suggests. Accordingly, the Company did not fail to incorporate any required elements into its OQ program as alleged by Staff. Additionally, PHMSA guidance on the OQ training requirement states "[t]raining may be delivered through methods such as classroom or computer-based instruction, simulation exercises, and on-the-job training." *See,* Section 2.8(b), of the PHMSA Guidance document identified as *Guide Material 192.805 Qualification Program* and attached hereto as "Exhibit C."

It is KGS's position that neither federal nor state law imposes a requirement (or guidance) upon operators to provide training on covered tasks through the observation of workers performing such tasks (in blowing gas conditions), while donning PPE. Furthermore, the imposition of such a requirement as recommended by Staff is tantamount to substantive rulemaking without notice and comment. It would impose new duties not currently required by statute or regulation; therefore, such a requirement of KGS under these circumstances would be inherently unfair. Moreover, the creation of new substantive duties would require affording due process to all other potentially effected utilities. Therefore, KGS respectfully requests the Commission to find that imposing such a requirement upon the Company as suggested would be procedurally incorrect and as a consequence any associated requests for penalties related to this proported evidence, be deemed unsupported by reliable evidence and therefore denied.

6. **Failure to maintain equipment necessary to safely perform a task in a hazardous atmosphere.**

KGS acknowledges that on the day of the incident, the Contractor had one truck with an inoperable fresh air supply. The Foreman and crew reports that they had been working with fresh air supply from another truck for the entire morning of the incident and had to wait for that truck to return in order to properly perform their work at the last location for the day. The crew foreman reports that he instructed the two other crewmen to wait for his return and to perform no work other than to lay out the tools near the hole and wait for the arrival of the truck with working fresh air supply. *See*, the written statement of [redacted] as attached hereto as "CONFIDENTIAL Exhibit B". As discussed above, the two remaining NPL workers failed to follow that instruction and instead they proceeded to undertake the work in a gaseous environment, without the foreman's supervision, without fire resistant clothing and without fresh air.

In its contract, NPL is required to provide all equipment and PPE to ensure their workers' safety. As indicated above, it is KGS's position that there is a distinction between KGS' duties and the contractual obligations of its contractor. To be clear, KGS agrees that it has a duty to ensure that its contractors maintain operable equipment. However, the Company believes it is inappropriate to require KGS to meet this obligation by supplying equipment to its contractors. NPL is already being compensated for providing adequate equipment in the performance of its contractual duties. Furthermore, KGS acknowledges that it is the Company's responsibility to take corrective actions with NPL to ensure that NPL is meeting its important safety requirements. During the Company's investigation into this concern, NPL has advised that it has ordered 13 additional trucks with fresh air supplyto address this concern. Also, as provided in the Corrective Action Plan (discussed above and attached hereto) KGS will 8y that NPL's equipment supply is

adequate to ensure that none of their workers (while performing duties on KGS facilities) are without access to proper PPE and fresh air necessary to safely perform their work in accordance with their contractual duties.

In addition, KGS believes that strict adherence to a stop work policy in the event of an equipment failure will effectively resolve this issue. To this end, both KGS personnel and the Company's Contractors have been reminded of this obligation.

Alleged Penalties (Staff's Exhibit 1):

PNC 5

KGS respectfully objects to Staff's assertions of a violation and the associated penalty as it relates to 49 C.F.R. 192.627. KGS cannot be reasonably penalized for the alleged failure to have a procedure for the removal and replacement of bolt on services tees on live gas mains, as during all times relevant to this matter, KGS has had a procedure in place for the removal and replacement of bolt on service tees. As per the request of Staff made in prior communications, KGS has agreed to clarify its procedure, but argues that a request to amend a procedure cannot be construed as a failure to have one.

KGS also objects to Staff's classification of the stopping and plugging activity as "hot tapping." As commonly used throughout the industry, "hot tapping" involves attaching a branch connection and valve on the outside of an operating pipeline, and then cutting out the pipeline wall within the branch and removing the wall section through the valve. The primary equipment for a typical hot tap application includes a drilling machine, a branch fitting, and a valve as shown in *figure 1*. The drilling machine generally consists of a mechanically driven telescoping boring bar that controls a cutting tool. The cutting tool is used to bore a pilot hole into the pipeline wall in

order to center a hole saw that cuts out the "coupon," or curved section of pipeline wall. Hot tapping was not being performed at the site or during the time of the incident, nor was hot tapping equipment being used at the time of this incident.

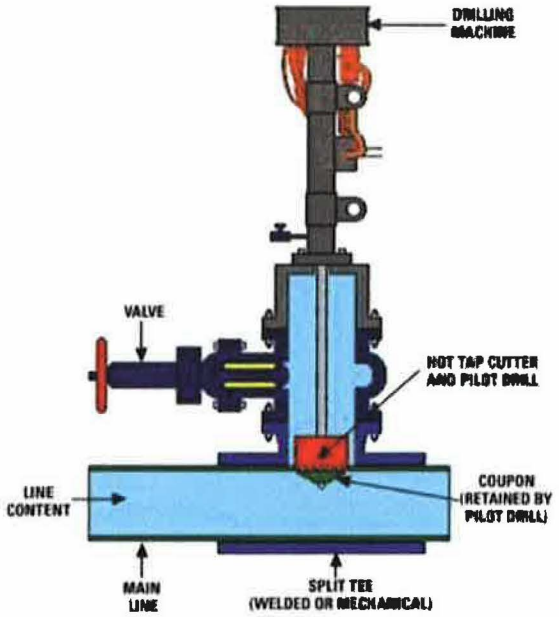

Figure 1 (Depiction of "hot tapping")

As a result, KGS respectfully requests the Commission to find these allegations and associated requests for penalties, are unsupported by reliable evidence and therefore denied.

7. KGS's Summary of its Response to Staff's Recommendations

A. Fire Extinguisher Training.

As noted above, KGS requests the Commission to find that it is inappropriate to require KGS to bear the burden and costs of providing equipment, supplies or training to its contractors which assumes this obligation and duty in the contracts and agreements with the Company. KGS confirms that it already provides its own employees with fire training. NPL is required to do the same under the terms of its contract with the Company. Additionally, as per the Corrective Action

Plan attached hereto, KGS has instituted steps that will ensure that the contractor no longer breaches its duties enummertated within the terms of the contract.

B. Staff's Recommendations Related to Fresh Air Breathing Equipment

KGS provides fresh air breathing apparatus in good working condition for all of its employees who perform work in a hazardous atmosphere and has procedures in place to ensure that employees know when this equipment is required to be worn. KGS's contractor, NPL, is also required to provide working equipment for all of its workers performing work in a hazardous atmosphere. The contract between KGS and NPL already requires NPL to provide this protection and associated procedures to its employees who perform work on KGS assets. As discussed above, Staff's recommendation that KGS require an additional "spare" fresh air truck at every operating area exceeds regulatory requirements. KGS is committed to reinforcing its continued standard with NPL that each crew must have fresh air supply in order to perform work in a gaseous environment, and in the event of a truck failure, no such work may be performed. Additonally, as stated earlier, the Corrective Action Plan addresses this concern and KGS has taken steps to ensure compliance. As result, KGS respectfully requests that the Commission find that this concern has been adequately addressed by the Company and its contractor and that by granting Staff's requests on this issue, the Commission would be placing an unnecessary and costly burden on the Company (its contractors) and its customers.

C. Staff's Recommendation for the Development of Hot Tapping Procedures.

In prior conversations with Staff, KGS has agreed to clarify its procedure for bolt-on service tees, but continues its objection to the categorization of this work as "hot tapping." Based on the information and evidence KGS has provided herein in response to PNC 5, KGS respectfully requests the Commission to deny the Staff's recommendations to characterize the work performed

on June 2, 2016, as "hot tapping" and as a result, deem Staff's recommendations related to the allegation of "hot tapping" unsupported by the evidence and therefore denied.

D. Staff's Recommendation for Training Program in Blowing Gas Conditions.

As discussed above and as it relates to Staff's request for developing a formal methodology for evaluating and training KGS employees and contractor workers, thorough observation of covered tasks in blowing gas conditions, wearing full PPE, KGS objects to this recommendation as it would impose a new substantive duty, not required under Part 192 or K.A.R. 82-11-4. Imposing such a requirement would require notice and comment because it constitutes substantive rulemaking. KGS respectfully echos its request for the Commission to find this request unreasonable under the circumstances.

WHERFORE, Kansas Gas Service, a Division of ONE Gas, Inc., respectfully requests the Commission to accept the Company's responses as presented herein and to amend the recommended civil penalties accordingly.

Respectfully Submitted,

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VERIFICATION

STATE OF KANSAS)
)
COUNTY OF Johnson)

I, Judy Jenkins, of lawful age, being first duly sworn upon oath, states as follows: I am a Managing Attorney for Kansas Gas Service, a Division of ONE Gas, Inc. I have read the above *Response to Staff's Report and Recommendation* and all the statements therein are true to the best of my knowledge, information and belief.

Judy Jenkins

Affiant

SUBSCRIBED AND SWORN to before me on 1/19/2018.

Notary public

My Appointment Expires:

04/05/18

STEPHANIE FLEMING
My Appointment Expires
June 5, 2018

CERTIFICATE OF SERVICE

I, Judy Jenkins, hereby certify that a copy of the above and foregoing *Response to Staff's Report and Recommendation* was forwarded this 19th day of January, 2018, addressed to:

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Judy Jenkins
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RESPONSE OF KGS TO STAFF'S REPORT AND RECOMMENDATION

"EXHIBIT A"

June 2, 2016 – NEWTON INCIDENT
NPL CORRECTIVE ACTION PLAN
PHASE I

No.	Task	NPL Action	Responsible Party	Date Due
	NPL to confirm in writing – the following:			
1.	NPL has in its possession the necessary copies of KGS and ONE Gas, Inc. policies and procedures, and has reviewed them with their employees working on KGS assets.	NPL has downloaded all available KGS and One Gas Manuals from the Dropbox server. NPL to hold an all hands meeting to review the manuals relative to where they are located, how to find procedures and policies within the manuals and who to call if a procedure or policy cannot be located.	Steve Dockendorf – VP NPL Safety and Quality	January 16, 2018
2.	Each NPL employee assigned to work on KGS assets have successfully completed meaningful Fire Extinguisher training.	Each NPL employee assigned to work on KGS assets have completed meaningful Fire Extinguisher training.	Steve Dockendorf – VP NPL Safety and Quality	January 16, 2018
3.	Each fire extinguisher on NPL trucks for use during work performed on KGS assets have been properly inspected and said inspection has been properly documented.	Each fire extinguisher on an NPL truck working on KGS assets will be inspected daily during the NPL Yellow Zone procedure, inspected monthly by the crew as well as annually by certified third party professional. Fire extinguisher inspections will be audited on each crew monthly.	Steve Dockendorf – VP NPL Safety and Quality	January 16, 2018
4.	NPL has established a mandatory PPE policy for its Welders and has trained welders on the MANDATORY requirement.	NPL has created a PPE policy by position to include: NPL Employee (General), NPL Employee (Gaseous Atmosphere), Welder.	Steve Dockendorf – VP NPL Safety and Quality	January 16, 2018
5.	All NPL personnel assigned to perform work on KGS assets (to include welders) have been issued proper PPE for the	Complete.	Steve Dockendorf – VP NPL Safety and Quality	January 16, 2018

	work to be performed and that such PPE is available and in proper condition.			
6.	NPL has established a communication plan for the immediate notification to NPL and KGS personnel of any injuries or other incidents occurring during the work on KGS assets. This confirmation includes a commitment from NPL to preserve the integrity of the incident site until otherwise released by KGS and/or appropriate regulator.	NPL has created an Incident Management Plan which includes immediate notification to NPL and KGS as well as preservation of the incident scene.	Steve Dockendorf – VP NPL Safety and Quality	January 16, 2018
7.	NPL has established a policy that requires its personnel to fully and timely participate the review of any injury, incident, accident or other matter as may be inquired by KGS involving any event occurring during the work on any KGS asset, and in any safety stand-down or shared lessons meeting.	NPL has created an Incident Management Plan which includes its personnel to fully and timely participate the review of any injury, incident, accident or other matter as may be inquired by KGS involving any event on any KGS asset, and in any safety-stand down or shared lessons meetings.	Steve Dockendorf – VP NPL Safety and Quality	January 16, 2018
8.	NPL shall provide a complete copy of all RCA's completed in response to any reportable incident and/or injury resulting from performed on KGS assets.	NPL has created an Incident Management Plan which includes providing a complete copy of all RCAs completed in response to any reportable incident and/or injury resulting from work performed on a KGS asset.	Steve Dockendorf – VP NPL Safety and Quality	January 16, 2018
9.	NPL must maintain calibration records for each of its Fresh Air units available for crews working on KGS owned assets.	NPL has created a maintenance record document for all Fresh Air units that will document manufacturer recommended calibration, maintenance and inspection intervals.	Steve Dockendorf – VP NPL Safety and Quality	January 16, 2018

	This confirmation includes the agreement that such records are auditable by KGS upon reasonable request.			
10.	NPL has provided retraining to its supervisors on its drug and alcohol policy to ensure that crews working during a reportable incident are sent for drug and alcohol testing within 2 hours of the incident.	NPL has retrained field supervisors on DOT Drug and Alcohol testing protocols for qualifying events as outlined in 49 CFR Part 199.	Steve Dockendorf – VP NPL Safety and Quality	January 16, 2018
11.	NPL has established a comprehensive Safety Plan for their employees as required under OSHA and confirms that a copy of this plan shall be provided to KGS upon reasonable request.	NPL maintains a comprehensive Health, Safety and Environmental manual that is available to KGS at any time upon request	Steve Dockendorf – VP NPL Safety and Quality	January 16, 2018

JUNE 2, 2016 – NEWTON INCIDENT
NPL CORRECTIVE ACTION PLAN
PHASE II

No.	Task	NPL Action	Responsible Party	Date Due
	NPL to confirm in writing – the following:			
1.	Provide confirmation that NPL workers assigned to work on KGS assets have been retrained on the requirement to use fresh air in gaseous conditions.	NPL has created a NPL Yellow Zone procedure for working in a gaseous atmosphere including the requirement to use fresh air respirators. Training has been developed and provided to all employees.	Steve Dockendorf – VP NPL Safety and Quality	March 16, 2018
2.	Provide a copy of NPL's procedure describing the PPE requirements to include an explanation of how the requirement will be uniformly enforced and monitored.	Attached PPE Policy and Safety/Quality Continuous Audit Management Process documents.	Steve Dockendorf – VP NPL Safety and Quality	March 16, 2018
3.	Provide a copy of NPL's comprehensive written safety plan covering work performed on KGS assets. Include records showing NPL's employees working on KGS assets have been trained on the safety plan.	NPL maintains a comprehensive Health, Safety and Environmental manual that is available to KGS at any time upon request. Training is conducted at orientation as well as continuous annual refresher training for existing employees.	Steve Dockendorf – VP NPL Safety and Quality	March 16, 2018
4.	Provide confirmation that NPL has implemented meaningful corrective actions in response to violations of Health & Safety procedures resulting in the 2016 and 2017 reportable injury incidents.	Attached NPL Continuous Safety Improvement Action Plan.	Steve Dockendorf – VP NPL Safety and Quality	March 16, 2018

5.	Confirm NPL has implemented an internal control to ensure that monthly inspections are occurring and new NPL employees are trained on use and inspection of fire bottles.	Attached NPL/KGS Fire Extinguisher Inspection Policy.	Steve Dockendorf – VP NPL Safety and Quality	March 16, 2018
6.	Confirm a process for auditing Job Hazard Analysis ("JHAs") has been implemented which includes criteria for assessment and that the documents are auditable upon reasonable request.	NPL/KGS JHA document is completed on the Ipad in the field on a FLUIX application. The completed forms are sent electronically and housed on a central server. JHAs are audited by Safety and Operations for completion and content. JHAs are also reviewed in the field in real time with Field Supervisors.	Steve Dockendorf – VP NPL Safety and Quality	March 16, 2018
7.	Provide certification by NPL's CEO that each of the Phase I and Phase II items have been addressed and responses have been provided as per the request.	Attached NPL Letter.	Mark Wambach– NPL President	March 16, 2018

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RESPONSE OF KGS TO STAFF'S REPORT AND RECOMMENDATION

"CONFIDENTIAL EXHIBIT B"

REDACTED

BEFORE THE STATE CORPORATION COMMISSION

OF THE STATE OF KANSAS

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RESPONSE OF KGS TO STAFF'S REPORT AND RECOMMENDATION

"Exhibit C"

Guide material 192.805 Qualification Program

View Code

See Cautionary Note at the beginning of Subpart N.

1 GENERAL

An operator may use vendor written programs to meet this regulation. However, the operator should be aware that by adopting a vendor program (including those produced by industry associations and consortiums), it is still responsible for ensuring that the elements of the program meet the requirements of the subpart as applied to its systems, and supplementing the vendor program where it does not. Since the Regulations are applicable to pipeline operators, it is not necessary for contractors to have written programs. In complying with §192.805 requirements, some operators may choose to request that each contractor develop its own written program. If an operator chooses to request written programs from contractors or accept third-party evaluations, the operator should ensure that the contractor's program requirements are consistent with its own. This may require that copies of the evaluation tools of the contractor or the third-party evaluator be reviewed.

2 ELEMENTS OF THE WRITTEN PROGRAM

2.1 Identification of covered tasks (§192.805(a)).

The operator is responsible for identifying which O&M tasks performed on its facilities are covered tasks based on the four–part test in §192.801(b). Covered tasks may vary among operators.

(a) Four-part test.

When applying the four-part test for a covered task and evaluating whether a task is covered, the operator may consider the following definitions.

(1) Performed on a pipeline facility means that the task is performed on part of a facility that is connected to the pipeline system. A task that is performed on a component that is removed from the system is not considered to be a task performed on a pipeline facility. To meet this criterion, the performance of the task should directly affect the pipeline facility.

(2) An operations or maintenance task means a task that is performed on an existing portion of a pipeline facility. Most covered O&M tasks performed in order to comply with these rules are found in Subparts L and M of Part 192. However, some tasks may be found in other subparts (e.g., Subparts E, I, J, and K). Additionally, not all tasks required to comply with Subparts L and M are considered O&M tasks (e.g., tasks involving emergency response, and some tasks related to installation of replacement pipe or components).

(i) An operating task is one that causes a system or a part of a system to function. Opening and closing a valve is an example of an operating task.

(ii) A maintenance task is one that is performed on an existing system, or part of an existing system, with the intent of preserving its viability. Repairing pipe by grinding or applying a sleeve is an example of a maintenance task, because it is done to an existing portion of the pipeline facility to preserve the portion's viability. Other examples of a maintenance task are any of those associated with replacing or rerouting an existing pipeline, since they too are done to preserve the original pipeline's viability. Tasks performed on a section of pipe that extends an existing section of pipe, however, are not maintenance tasks because the added pipe is not an existing part of the pipeline facility at the time the tasks are performed. Disconnecting pipe to be replaced or rerouted and the

connecting of new or replacement pipe to an existing pipeline system may be considered a maintenance task because it involves modification to an existing part of the pipeline facility.

(3) Performed as a requirement of Part 192 means that Part 192 specifies that the task must be performed. An operator may choose not to consider tasks that are addressed in its procedural manual that are not specifically required in the Regulations when identifying covered tasks. An operator may also choose not to consider implied tasks (e.g., those that are addressed solely as a result of a requirement for written procedures) and subtasks to those required by Part 192 when identifying covered tasks for its Operator Qualification Program.

(4) Affects the operations or integrity of the pipeline suggests that the improper performance of the task may adversely affect the safe operation or safety of the pipeline.

(i) In evaluating the effect on the operation, the one aspect the operator should consider is whether an incorrect performance of a task would cause the design limits of the pipeline to be exceeded. For example, an incorrectly set overpressure protection device could allow the pressure in the pipeline to exceed the limits permitted in the Regulations.

(ii) In assessing whether a task could affect the integrity of a pipeline, the operator should consider whether improper performance could make the pipeline unsuitable for operation at its MAOP. The effect need not be instantaneous to meet this criterion. For example, the effect of an incorrectly performed pipe-to-soil reading may not manifest itself until well after the reading is completed. Corrosion may occur unchecked to the extent where the integrity is eventually affected.

(b) Additional considerations.

The operator's written program should identify the method that the operator uses in determining whether a task is covered or not. Consideration should also be given to identifying how tasks are added or removed from the program.

(1) Physical contact is not necessary. The performance of the task does not require that the pipeline be contacted to be considered a "covered task" (i.e., the individual performing the task need not touch the pipeline in order for the task to be considered covered).

(i) An operator may identify certain tasks performed by gas control personnel as "covered tasks" if incorrect performance of these tasks could result in unsafe operation of pipeline, and these tasks meet the other three criteria.

(ii) Similarly, leak surveys may be another example where the pipeline is not physically contacted with instrumentation or tools.

(iii) According to OPS Advisory Bulletin ADB-06-01, the operator may need to consider pipeline excavation activity as a covered task. See OPS ADB-06-01 (71 FR 2613, Jan. 17, 2006; reference Guide Material Appendix G-192-1, Section 2).

(2) Location of task performance. Some covered tasks may be considered as being dependent on location for performance of the task. For example, if regulator maintenance is considered a covered task by the operator and it is performed in-place in the field, this would be a covered task. If the regulator is removed from service and taken to an off-site location to be rebuilt, none of the tasks performed at the off-site location would be covered. However, the removal and reinstallation of the regulator would be a covered task.

(3) Tasks may be identified from any subpart. The review of Part 192 for "covered tasks" should encompass all subparts. For example, welding and corrosion control are not found in the operations and maintenance subparts of Part 192, but both of these activities may be covered tasks if the four-part test outlined in §192.801 is met.

(4) Covered tasks performed by contractors. Since some contractors may perform covered tasks for more than one operator, contractors may identify covered tasks in a manner different from the operator. The operator should ensure that the covered tasks performed by the contractor encompass the elements of the operator's covered tasks that are being contracted.

2.2 Evaluation of qualifications (§192.805(b)).

See 3 of the guide the material under §192.803.

2.3 Non-qualified individuals (§192.805(c)).

(a) Covered task performance.

Non-qualified individuals may perform covered tasks under certain circumstances including the non-qualified individual's participation in on-the-job training or when working as part of a crew. A non-qualified individual may only perform a covered task under the following conditions.

(1) A qualified individual is assigned to direct and observe the non-qualified individual during the performance of the covered task.

(2) A qualified individual is able to take immediate corrective actions if necessary.

For a person to direct and observe a non-qualified individual, the person should, at all times during the performance of the covered task, be able to correct an improper performance of the task by any individuals being observed.

(b) Directed and observed performance - span of control.

When an operator decides to have a qualified individual direct and observe non-qualified individuals performing covered tasks, the operator should limit the number of individuals being observed by each qualified person. This is based on the ability of the observer to effectively respond to errors that may occur during the performance of the task by the non-qualified individuals. The number may vary based on factors such as the following.

(1) Complexity of the task.

(2) Consequence of improper performance of the task.

(3) Ability of the person performing the observation.

(4) Knowledge and abilities of the individuals being observed.

(c) When covered task performance may not be appropriate.

Not all covered tasks may lend themselves to performance by individuals that are not qualified, even if observed by a qualified individual.

(1) High risk of hazard. If the potential errors that may occur in the performance of the task could lead to a hazard because there would not be enough time for the observer to respond, then the operator should not consider permitting non-qualified individuals to perform that covered task. For example, any covered task that may involve cutting or welding on an in-service pipeline may not be appropriate for a non-qualified person to perform under direction and observation of a qualified individual. A mistake that could lead to a hazard would likely not be avoidable, even with the intervention of an observer who is qualified in the task.

(2) Other regulatory constraints. If the Regulations require specific qualification for a task (e.g., welding, joining of plastic pipe, or performing a hot tap), then an operator that has identified any of these as a covered task should not allow the task to be performed by a non-qualified individual.

2.4 Performance contributing to an incident (§192.805(d)).

(a) Determine if reevaluation of covered task qualification is needed.

If there is reason to believe that an individual's performance of a covered task contributed to an incident, a review of that individual's qualification to perform that covered task should be conducted. The review should determine whether an individual needs to be reevaluated for the covered task. Some errors in performance may not be a result of insufficient qualification but may be attributable to human factors, such as emotional distress or distraction. In these cases, the operator may decide that reevaluation is not needed.

(b) Determining if other actions are needed.

If the operator concludes that reevaluation is needed, the operator should also determine if there is a deficiency in the evaluation standards used for the most recent qualification. If so, the operator may need to reevaluate the qualification of other individuals who have been qualified in the covered task involved in the incident and make

appropriate adjustments to their evaluation process. The operator should also consider whether additional training may be appropriate prior to the reevaluation.

(c) If task performance by specific individual is not documented.

Since it is not required that performance of each covered task be documented, there may be situations where the operator cannot identify the individual that may have performed the covered task that contributed to an incident. In these cases, the operator should consider reviewing the qualifications of all individuals that may have performed the task, which could have contributed to the incident. This may involve a review of work scheduling documentation, time reports, operator records of individuals performing the particular task in the area over a period of time, and similar records.

2.5 Reasonable cause to verify qualification (§192.805(e)).

If there is reason to believe that an individual is no longer qualified to perform a covered task, a review of the individual's qualification should be conducted.

(a) Indicators.

Concerns regarding an individual's ability to perform a covered task may be prompted by a number of circumstances, which include the following.

(1) Change in an individual's physical abilities related to performance of the covered task.

(2) Documented statement from the individual or other persons relative to the individual's performance of the covered task.

(3) Prolonged absence from performing the covered task.

(4) Documented unsatisfactory performance of the covered task.

(5) Results of any monitoring that the operator may conduct on covered task performance.

(b) Course of action.

A method to determine whether an individual needs to be reevaluated may be described in the written OQ program. Upon determination of reasonable cause, the operator should determine the individual's ability to perform the covered task.

(1) Reevaluation. If, as a result of the review, the operator concludes that the individual is no longer qualified, that individual may be reevaluated in accordance with the OQ program if the individual is still expected to perform the task.

(2) Training and reevaluation. The operator should consider whether training would be appropriate prior to reevaluation.

(3) Stop using individual for the covered task. If the individual is no longer able to perform the covered task, the operator should stop using this individual to perform the covered task.

2.6 Communication of changes (§192.805(f)).

In addition to communicating changes that affect covered tasks to the individuals who perform those covered tasks (including contractors), the operator should also consider communicating such changes to other individuals that may be affected by the change (e.g., evaluators, supervisors, program administrators). The change may be significant enough to require modifications to the qualification process, additional evaluation requirements, or a need to reevaluate qualifications of any individual currently qualified for the affected tasks.

(a) Types of change.

These changes may include the following.

(1) Modifications to operator policies or procedures.

(2) Changes in state or federal regulations.

(3) Use of new equipment or technology.

(4) New information from equipment or product manufacturers.

(5) Changes needed as a result of monitoring performance or program effectiveness.

(b) Level of communication.

The need to communicate changes will vary depending upon the impact of the change on the covered task. For a change that is not substantive (e.g., does not materially affect the knowledge, skills, or abilities required for a covered task), an operator may decide that communication is not necessary.

(c) Timing of communication.

When the change needs to be implemented may also vary. The use of new equipment could be phased in if continued use of the existing equipment is adequate. This would permit the operator time to provide necessary communications and any required training or additional evaluations without disruption of O&M activities. However, communications related to changes in regulations that result in an existing non-covered operating or maintenance task becoming a covered task may be more urgent since effective dates of new or revised regulations may not provide such flexibility to achieve compliance to the operator qualification requirements. In cases where the operator is aware of an impending rule change (e.g., through monitoring of regulatory projects of the regulating agency), the operator may consider some level of communication prior to the issuance of the final rule (e.g., when a notice of proposed rulemaking is issued).

(d) Type of communication.

The type of communication may also vary based on the impact or complexity of the change. For example, changes that have limited impact or are minor procedural changes may require a simple communication regarding the change (e.g., written or oral communication or briefing). However, changes that are more substantive may require training or an orientation session, and in some cases, may involve additional evaluations. Methods for communication may include the following.

(1) Written or oral instruction.

(2) Individual or group meetings.

(3) Tailgate or pre-job briefings.

(4) Training sessions.

(5) Technical mailings.

(e) Documentation of communication.

Operators should document the communications made related to these changes, including the identification of the individuals notified.

2.7 Evaluation intervals (§192.805(g)).

(a) The intervals that an operator establishes for the periodic evaluation of qualification (subsequent qualification) may be based on a fixed time interval or on frequency of performance, or other appropriate units. In establishing the appropriate interval, the operator may consider one or more of the following.

(1) Frequency of task performance.

(2) Complexity of the task.

(3) Regulatory requirements.

(4) Level of risk.

(5) Accepted industry-related intervals (e.g., NACE, ASNT, and API).

(6) Other appropriate factors.

(b) An operator may choose to adopt intervals established by vendors that have expertise in qualification issues. The operator should ensure that the vendor's assumptions are applicable to the operator's situation.

2.8 Training (§192.805(h)).

(a) The operator should determine the knowledge and skills that are needed to perform covered tasks in a competent manner and focus its training, if needed, accordingly for the individuals who perform a covered task. The operator should consider including the following in its training program.

(1) Knowledge of elements of the procedural manual for operations, maintenance, and emergencies that apply to the covered task (see 2 of the guide material under §192.605).

(2) Knowledge of pertinent policies, procedures, job methods, materials, maps, and records that apply to the covered task.

(3) Knowledge of appropriate abnormal operating conditions.

(4) Skills to use the appropriate tools, instruments, and equipment.

(5) Skills to perform appropriate actions if abnormal operating conditions are encountered.

(b) Training may be delivered through methods such as classroom or computer-based instruction, simulation exercises, and on-the-job training. Training aids and publications available from gas industry associations and other sources should be considered in the development of training programs. Such programs may include a review of pertinent accident reports that illustrate and emphasize both good and bad practices.

(c) Considerations for identifying the need and eventual selection of training program components associated with the identified training need can be found in ASME B31Q, Section 7, "Training."

2.9 Notification of significant modification (§192.805(i)).

The operator should define significant modifications for the purpose of federal or state agency notification, and should consider including any modification that may be viewed as lessening the requirements of the operator's written program. Examples of such modifications could include the following.

(a) Increase of evaluation interval.

(b) Deletion of previously identified covered tasks in the program.

(c) Change in required evaluation methods.

(d) Increase span-of-control ratios.

(e) Changes due to mergers or acquisitions.

(f) Wholesale changes, such as using a third-party plan instead of an operator plan or the adoption of different tasks (e.g., ASME B31Q instead of operator-determined tasks).