

**THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

Before Commissioners: Andrew J. French, Chairperson
Dwight D. Keen
Annie Kuether

In the Matter of the Application of Atmos)
Energy Corporation for Waiver of the) Docket No. 24-ATMG-531-MIS
Requirements of K.A.R. 82-11-4(31) for Farm)
Tap Customers.)

ORDER APPROVING WAIVER

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (“Commission”) for consideration and determination. Having reviewed its files and records, the Commission finds and concludes:

I. BACKGROUND

1. On November 20, 2023, Commission Staff issued a Notice of Probable Noncompliance (“PNC”) to Atmos Energy Corporation (“Atmos Energy”) based upon its 2023 annual audit to determine whether Atmos Energy’s natural gas pipeline operations comply with the Kansas pipeline safety regulations. The PNC indicates Atmos Energy does not have a process that deviates from the monthly odorization sampling requirement for the individual service lines (“ISLs” or “farm taps”) that are directly connected to regulated transmission pipelines as required by K.A.R. 82-11-4(a)(31).

2. On January 29, 2024, Atmos Energy filed an application for a waiver of the monthly odorant sampling requirements under K.A.R. 82-11-4(a)(31) for jurisdictional domestic farm taps operated and maintained by Atmos Energy in Kansas.

II. AUTHORITY

3. K.S.A. 66-104, 66-1,200, and 66-1,201 vests the Commission with authority to regulate public utilities, including utilities involved in the transmission and distribution of natural gas, and K.S.A. 66-1,150 authorizes the Commission to adopt such rules and regulations as may be necessary to be in conformance with the natural gas pipeline safety act of 1968, 49 U.S.C. § 60101, et seq., as amended.

4. K.A.R. 82-11-4(a)(31) provides in pertinent part:

49 CFR 192.625(f) shall be deleted and replaced by the following: ‘Each operator shall ensure the proper concentration of odorant and shall maintain records of these samplings for at least two years in accordance with this section. Proper concentration of odorant shall be ensured by conducting periodic sampling of combustible gases as follows:

- (1) Conduct monthly odorometer sampling of combustible gases at selected points in the system; and
- (2) Conduct sniff tests during each service call where access to a source of gas in the ambient air is readily available.

5. K.A.R. 82-11-4(a)(31) is not incorporated by reference from 49 CFR §§ 191–192.

As such, the waiver of its provisions is controlled by K.A.R. 82-11-9(a), which provides:

82-11-9. Waiver provisions. (a) Upon application by any person engaged in the transportation of gas or the operation of pipeline facilities, compliance with any regulation of this article that is not incorporated by reference from 49 CFR 191-192 may be waived, in whole or in part, by the commission if the commission determines that the waiver is consistent with pipeline safety. The provision of notice of the proposed waiver and an opportunity for hearing on the application for waiver may be required by the commission. In addition, the waiver shall be granted only under these circumstances:

- (1) By order of the commission; and
- (2) after notice and opportunity for hearing, if ordered by the commission.

The waiver shall be subject to any terms, conditions, and limitations deemed appropriate by the commission.

III. FINDINGS AND CONCLUSIONS

6. The Commission has jurisdiction over natural gas public utilities pursuant to K.S.A. 66-1,200, K.S.A. 66-1,201, and K.S.A. 66-104.

7. The Applicant is a certified public utility and has the authority to transact the business of a natural gas public utility within the State of Kansas.¹

8. The Commission has the authority to conditionally grant the waiver requested by the Applicant, including the requirement for notice and opportunity for hearing, which the Commission finds that it is in the public interest to do so in this matter, as provided in K.A.R. 82-11-9(a).

9. K.A.R. 82-11-4(a)(31) requires natural gas utilities operators to perform odor sampling on distribution lines, including ISLs, monthly and does not consider the burden monthly sampling of ISLs places on operators. The requirement is more stringent than the federal rule that provides for “periodic sampling.”²

10. In requesting a waiver from the monthly sampling requirement, Atmos Energy proposes annual odorant sampling not to exceed 15 months on the applicable 73 ISLs (farm taps) that are directly connected to regulated transmission pipelines.³

11. The Applicant’s request for a waiver, subject to Staff’s conditions enumerated (1–10) in the recommendations section of the Staff’s Report and Recommendation, dated October 18, 2024, hereto attached and incorporated by reference, is consistent with pipeline safety.

12. The Commission finds that it has the authority under applicable statutes and regulations described above to grant the waiver.

¹Application at 1.

²49 CFR §192.625(f).

³Application at 1.

13. The Commission finds that granting the requested waiver conditioned upon Staff's recommendations is in the public interest, is consistent with pipeline safety and should be granted. Based on Staff's R&R and representations made by applicant, the Commission concludes the requested waiver is reasonable.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. Atmos Energy Corporation's application for waver is granted subject to the conditions referenced in paragraph 11 of this order.

B. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).⁴

C. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further order or orders as it may deem necessary and proper.

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 02/04/2025



Abigail D. Emery
Acting Secretary to the Commission

BWB

⁴K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

**REPORT AND RECOMMENDATIONS
UTILITIES DIVISION**

TO: Andrew J. French, Chairperson
Dwight D. Keen, Commissioner
Annie Kuether, Commissioner

FROM: Paul Owings, Chief Engineer
Jeff McClanahan, Director Utilities Division

DATE: October 18, 2024

SUBJECT: Docket No. 24-ATMG-531-MIS – Staff’s Recommendation to Modify Odorant Sampling Requirements for Individual Service Lines In the Matter of the Application for Waiver of the Requirements of K.A.R. 82-11-4(31) for Farm Tap Customers

EXECUTIVE SUMMARY:

Atmos Energy Corporation (Atmos Energy) submitted an Application for Waiver (Application) initiating Docket No. 24-ATMG-531-MIS on January 29, 2024. The Application requested a waiver of the odorant sampling requirements under K.A.R. 82-11-4(31) for jurisdictional domestic Individual Service Lines (ISLs), also known as farm taps, operated and maintained by Atmos Energy in Kansas. Kansas Corporation Commission Staff (Staff) recommends the Kansas Corporation Commission (Commission) conditionally waive the requirements of K.A.R. 82-11-4(31) for odorant sampling requirements on jurisdictional domestic ISLs for Atmos Energy.

This report presents an analysis and recommendation for a waiver of the monthly odor sampling requirements for ISLs. After review of the waiver request, a conditional waiver for K.A.R. 82-11-4(31) as described herein is recommended for the following reasons. The proposed conditional waiver is consistent with federal pipeline safety regulations.¹ The Commission has previously provided a similar waiver from Kansas pipeline safety regulations for odorant sampling requirements for ISLs.² The unique nature of ISLs allow gas operators to inspect them less frequently while maintaining pipeline safety. Furthermore, adherence to existing regulations cannot be completed efficiently.

¹ 49 CFR Part 192.625(f)

² Docket No. 00-PNGT-086-MIS

BACKGROUND:

Minimum federal safety standards for transportation of natural and other gas by pipeline are prescribed in 49 C.F.R. Part 192. The State of Kansas adopted 49 C.F.R. Part 192 by reference in K.A.R. 82-11-4 with modifications. Atmos Energy’s application for a waiver relates to the odorization of natural gas which is found in K.A.R. 82-11-4(31).

Under current state regulations, natural gas utilities are required to perform odor sampling on distribution lines including ISLs on a monthly basis to ensure the presence of a sufficient odorant in the gas for leak detection purposes.³ This requirement is intended to mitigate the risk of undetected gas leaks, which could pose significant safety hazards.

The federal regulations, governed by the Pipeline and Hazardous Materials Safety Administration (PHMSA) under the U.S. Department of Transportation, require “periodic” odor sampling to ensure gas detectability.⁴ However, the term “periodic” is not explicitly defined, allowing for interpretation based on operational context, risk assessments, and best practices. In 1989, the State of Kansas provided specificity to the federal rule within state regulations by requiring monthly sampling of each system for odor. However, the Kansas change did not consider the burden monthly sampling would place on operators with ISLs.

Atmos Energy has submitted an application for a waiver of odorant sampling requirements under K.A.R. 82-11-4(31) limited to ISLs. Atmos Energy is requesting permission to sample odorant for ISLs annually in lieu of monthly.

Black Hills Energy’s predecessor, Peoples Natural Gas Company (Peoples), was granted a similar waiver from odorant sampling requirements allowing triennial sampling in lieu of monthly sampling.⁵ The waiver was granted due to the following reasons:

- ISLs are unique, only serving one customer who generally uses a small volume of gas.
- Peoples provided historical data to Staff that demonstrated the ability to consistently and reliably assure the presence of odor in gas.
- Pipeline safety allows for less frequent odorant sampling as implied in the lack of specificity in federal regulation.
- Granting the requested waiver will not compromise pipeline safety and may provide for more efficient use of the applicant’s resources.

ANALYSIS:

The Commission may waive portions of state pipeline safety regulations, excluding portions referenced directly from federal regulation, if the Commission determines the waiver is consistent

³ K.A.R. 82-11-4(31)

⁴ C.F.R. 192.625(f)

⁵ Docket No. 00-PNTG-086-MIS

with pipeline safety.⁶ The proposed waiver complies with federal pipeline safety requirements, and therefore the Commission has authority to approve the waiver if it is determined to be consistent with pipeline safety. The evidence presented below substantiates the claim that the requested waiver is consistent with pipeline safety and is necessary.

The State's prescriptive monthly odorant sampling requirements offer several advantages over the federal requirements. The monthly schedule creates a clear and straightforward compliance framework for utilities, minimizing ambiguity and ensuring uniform safety practice across the state. Regular monitoring ensures that any deviations in odorant levels are promptly identified and corrected, thereby promoting pipeline safety. Furthermore, regular sampling can be efficiently performed for multi-meter service areas such as a municipality.

Applying the State's monthly odorant sampling requirements to ISLs is inefficient for several reasons. ISLs are spread over a large geographic area and are remote which requires a significant amount of travel to perform the sampling. Each ISL serves one customer, and therefore the number of samples per customer is proportionately higher for ISLs in comparison to multi-meter systems. Odorant sampling locations are limited on ISLs due to the configuration of the ISLs. To acquire a suitable sample, operators must obtain property owner permission to sample odorant at or near the dwelling wall. For these reasons, monthly sampling of ISLs is inefficient in comparison to multi-meter systems.

In addition to the inefficient nature, ISLs have lower relative risk when compared with multi-meter systems. This is primarily due to the reliability of odorization equipment, the ability to store excess odorant, a lower probability of gas leaks in a given service area, and decreased consequence associated with low odorant. Each of these topics is further discussed below.

Gas transmission mains supply ISLs with unodorized gas. Each ISL has odorization equipment. ISLs typically utilize a single unit wick-type odorizer. The unit is often installed above ground immediately prior to the gas meter. The unit consists of a section of steel pipe called a container that holds the odorant liquid, a reducer fitting, a nipple to connect to a downward facing tee in the gas line, and a wick. Odorant is drawn up the wick from the container and into the gas flow. Refer to the figure below showing a wick-type odorizer.

⁶ K.A.R. 82-11-9

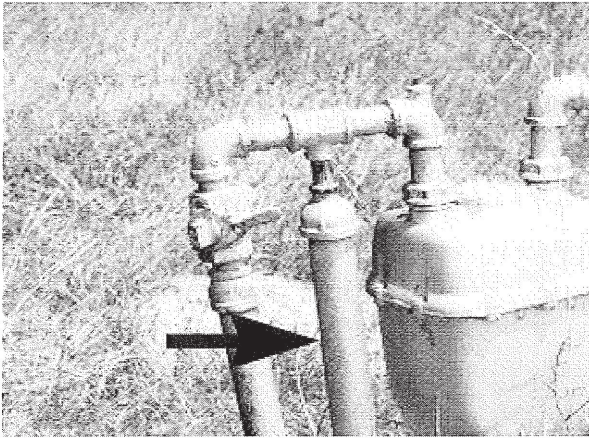


Figure 1: Wick-type odorizer near a gas meter.

Wick-type odorizers do not have wear components or electrical components which are more susceptible to failure. Potential failure mechanisms associated with wick-type odorizer include fouling of the wick, an empty container, and inadequate or lack of wick penetration into the gas stream. Wick-type odorizers generally have a low probability of failure and can be properly maintained with annual inspections.

Wick-type odorizers are available with sufficient capacity to last greater than one year for ISLs. A typical residence utilizes 70 thousand cubic feet (MCF) of natural gas a year. Odorant is often applied at 0.4 pounds per million cubic feet (LBS/MMCF). The required quantity of odorant for a typical residence is approximately 0.028 pounds per year. Mercaptan is a commonly used natural gas odorant. The specific gravity of Mercaptan is 0.826. Based on the assumed usage and dosage presented above, the volume of odorant used annually is approximately 0.54 fluid ounces. A 1.25" diameter wick-type odorizer holds 0.83 fluid ounces per inch of container height. In a five year period approximately 3.25 inches of odorant would be used at the calculated rate above. These calculations are provided to demonstrate that sufficient capacity can be provided for ISL odorizers. These calculations should not be relied on by gas operators. Gas operator must properly size their odorizers for each individual scenario.

Due to the reasoning described above, Staff recommends the Commission grant a waiver relating to odorant sampling for ISLs. Annual sampling creates a clear and straightforward compliance framework for utilities to follow but allows additional flexibility for efficient operation. The proposed framework establishes a minimum sampling requirement, but ultimately operators are required to maintain adequate levels of odorant in distribution lines at all times and should choose an appropriate interval to sample odorant to ensure continuous odorization with a minimum backstop of one year.

Compliance monitoring of this waiver will be achieved during existing Standard Records Inspections. Staff inspectors currently review odorant sampling records. Staff inspectors will continue reviewing records during scheduled inspections. If gas operators have inadequate odorant

within distribution lines or do not sample at minimum intervals, they will be subject to enforcement by the Commission.

RECOMMENDATIONS:

Staff recommends the Commission conditionally waive the requirements of K.A.R. 82-11-4(31) for odorant sampling requirements on jurisdictional domestic ISLs for Atmos Energy. Staff recommends the Commission require the following as a condition of the waiver:

Applicability and Definitions:

1. The waiver is only applicable to the duration between odorometer samplings and is only applicable to ISLs.
2. ISLs shall be defined as gas distribution lines connected to a transmission line, gathering line, or other production pipe that serves one residential customer or one irrigation system per odorizer.

Sampling Frequency and Requirements:

3. Odorant concentration sampling shall be conducted at a minimum annually, not to exceed 15-months between samples.
4. All ISLs shall have sampling taps in a suitable location to complete odorant concentration sampling requirements.
5. Odorizers shall be filled at a minimum biennially, not to exceed 30-months between filling the odorizer. The operator shall be responsible for sizing the odorizer based on the filling cycle.

Monitoring, Record Keeping, and Procedures

6. Operators shall record all odorant samples taken regardless of the interval between samples.
7. Operators shall record the level of the odorizer when filling the odorizer.
8. Operators shall document any failures and corrective actions taken to prevent similar failures on any ISLs.

Modifications and Notifications

9. If pipeline safety regulations are modified contradicting requirements herein, the stricter of the requirements shall apply.
10. The Operator shall notify KCC Staff if any of the requirements dictated herein are not met.

CERTIFICATE OF SERVICE

24-ATMG-531-MIS

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 02/04/2025.

JOSEPH R. ASTRAB, CONSUMER COUNSEL
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
joseph.astrab@ks.gov

SHELLY M BASS, SENIOR ATTORNEY
ATMOS ENERGY CORPORATION
5430 LBJ FREEWAY
1800 THREE LINCOLN CENTRE
DALLAS, TX 75240
shelly.bass@atmosenergy.com

BRETT W. BERRY, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
brett.berry@ks.gov

JAMES G. FLAHERTY, ATTORNEY
ANDERSON & BYRD, L.L.P.
216 S HICKORY
PO BOX 17
OTTAWA, KS 66067-0017
jflaherty@andersonbyrd.com

TODD E. LOVE, ATTORNEY
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
todd.love@ks.gov

DAVID W. NICKEL, CONSUMER COUNSEL
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
david.nickel@ks.gov

SHONDA RABB
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
shonda.rabb@ks.gov

DELLA SMITH
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
della.smith@ks.gov

/S/ KCC Docket Room

KCC Docket Room