

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION OF CATLETTSBURG)
REFINING, LLC FOR A DEVIATION) CASE NO. 2003-00011
FROM 49 CFR PART 192 AND)
807 KAR 5:022)

O R D E R

Catlettsburg Refining, LLC (CRLLC) has filed a letter with the Commission seeking a deviation from 49 CFR Part 192 and 807 KAR 5:022.

CRLLC owns and operates a refinery located in Catlettsburg, Kentucky. CRLLC is a subsidiary of Marathon Ashland Petroleum LLC, a joint venture between Marathon Oil Company and Ashland Inc. Interstate 64 divides the refinery into two parts: the refinery property and the H-Coal Site. CRLLC plans to construct two pipelines under the Interstate 64 right-of-way through an existing tunnel. It is for these pipelines, one a natural gas line and the other a hydrogen product pipeline, that CRLLC seeks the waiver and deviation.

CRLLC has requested this deviation to allow it to design and construct the pipeline facilities to refinery piping standards based upon the American Society of Mechanical Engineers (ASME) B31.3 Piping Code. CRLLC states that these standards are compatible and exceed the standards under the regulations for which it seeks a deviation.

Commission Staff toured the CRLLC facilities that will be affected.

Pursuant to the provisions of 49 U.S.C.A. § 60118, the state authority, acting under an agreement with the Secretary of Transportation, may waive compliance with a safety standard. Likewise, 807 KAR 5:022, Section 18, authorizes the Commission to grant a waiver of its safety regulations.

A formal hearing was held on January 28, 2003 to determine whether the waiver and deviation requested by CRLLC should be granted and to hear evidence concerning the requested waiver and deviation of 49 CFR Part 192 and 807 KAR 5:022. During the hearing, counsel for CRLLC asked that CRLLC be granted a waiver from complying with pipeline standards and be allowed to comply with refinery standards in the construction, inspection, and maintenance of the subject pipeline. It is CRLLC's contention that the requirements of 49 CFR Part 192 are met and are exceeded by the refinery standards under which CRLLC will construct its facilities.

CRLLC presented as its first witness, John W. Lane, in his capacity as professional engineer and capital budget coordinator for CRLLC.¹ As part of his testimony, Mr. Lane introduced into evidence a binder of documents marked as Applicant Collective Exhibit 1 (Exhibit 1).² Exhibit 1 contains drawings of the facilities and examples of procedures in use by CRLLC. These are the procedures CRLLC employs for inspecting and maintaining pressure-relieving devices in its refinery under the American Petroleum Institute (API) Standards Code Sections 570 and 576. Mr. Lane testified that these sections as presented in Exhibit 1 are representative of industry standards for the refining industry and that such standards would be most applicable for inspections of the two pipelines in

¹ Transcript of Evidence (T.E.) at 14, 25.

² T.E. at 19.

question.³ Also filed as part of Mr. Lane s testimony is ASME B31.3, which is the refinery or process piping industry standard.⁴

Mr. Lane then testified about the site layout and the construction of the two pipelines. Referring to the drawing identified as New Hydrogen Plant Offsite Overall Plot Plan (Hydrogen Plant Plan), Mr. Lane outlined the facilities to be constructed and stated that the site is divided by Interstate 64 into two sites: the H-Coal Site and the Refinery Site.⁵ He testified that a hydrogen plant will be constructed at the H-Coal Site to provide hydrogen to the refinery for gasoline and diesel fuel production.⁶ CRLLC obtains its natural gas from its commercial carrier s natural gas line at a point referred to as CT-2.⁷ At this point the natural gas is sold and delivered to CRLLC and then enters CRLLC s piping system and is distributed throughout the refinery.⁸ Mr. Lane stated that the natural gas line to be constructed would be an extension of the existing refinery system and that the new natural gas line will enter the west tunnel to the new hydrogen plant.⁹ After the natural gas enters the hydrogen plant, all of the natural gas will be consumed in the process of manufacturing hydrogen.¹⁰ The hydrogen product pipeline will then be used to transport

³ T.E. at 18.

⁴ T.E. at 18-19.

⁵ T.E. at 16-17.

⁶ T.E. at 17.

⁷ T.E. at 17 and Hydrogen Plant Plan.

⁸ T.E. at 29.

⁹ T.E. at 17, 29-30.

¹⁰ T.E. at 17, 30.

the hydrogen produced in the new plant at the H-Coal Site back through the tunnel into the refinery where it will be consumed in the refining process to make clean fuel.¹¹

Mr. Lane further testified that the natural gas will be transported only for the refinery itself; that CRLLC will not be gathering any gas; that no distribution will occur other than to the processing plant within the refinery; and that there will be no sale to any customer.¹²

Mr. Lane testified that the process is monitored 24 hours a day and that any irregularities will be addressed quickly.¹³ CRLLC has its own internal fire department trained for refinery work.¹⁴

Michael Nichols, Inspector Supervisor at CRLLC, testified that the inspection standards used by CRLLC involve a more rigorous inspection than that required by 49 CFR Part 192.¹⁵ He further testified that the inspection requirements and record-keeping requirements of the refinery standards are compatible with, and exceed those required by, the Kentucky regulations.¹⁶

CRLLC's rationale for requesting a waiver from 49 CFR Part 192 and 807 KAR 5:022 is that inspection and safety in this case is not compromised. The facilities in question are to be built, inspected, and maintained to API and ASME B31.3 standards. These standards ensure equivalent safety since the API and ASME B 31.3 are accepted

¹¹ T.E. at 17, 30.

¹² T.E. at 30.

¹³ T.E. at 31-32.

¹⁴ T.E. at 32.

¹⁵ T.E. at 37-38.

¹⁶ T.E. at 39.

industry standards. Likewise, CRLLC alleges that the pipeline herein is non-jurisdictional in accordance with 49 CFR Part 192 in that it is not transporting natural gas to customers, but is in fact process piping used only in its manufacturing process.

The Commission, having reviewed the record herein, makes the following findings:

1. 49 CFR Part 192(1) applies to the transmission of gas, which is defined in 49 CFR Part 192(3) to mean the gathering, transmission, or distribution of gas by pipeline in or affecting interstate or foreign commerce.

2. The definitions in 49 CFR Part 192(3) of gathering line and service line clearly indicate that the transportation of gas begins at the outlet of a production facility and runs to the point where ownership of the gas passes to the consumer, or to the point where gas has been sold and delivered to the consumer. The Kentucky regulations contain similar definitions.

3. Both the sale and delivery of natural gas to CRLLC occur before the gas enters the CRLLC facility. Therefore, CRLLC is the consumer for the sale and delivery of the natural gas.

4. The natural gas line to be constructed will be an extension of the existing refinery system. The natural gas will be transported within the Refinery Site to the H-Coal hydrogen production facility for the sole purpose of conversion into hydrogen gas.

5. The hydrogen gas manufactured in the H-Coal Site is then to be transported back to the Refinery Site where it is consumed in the refinery process. There is no sale or transmission of gas from a gathering line or storage facility to or for any customer. Therefore, there is no transportation affecting interstate or foreign commerce.

Based upon the foregoing findings, it appears that the facilities in question are not subject to 49 CFR Part 192 and 807 KAR 5:022. However, to the extent that the waiver requested by CRLLC is required, and based upon this Commission's conclusion that granting the waiver requested by CRLLC is not inconsistent with pipeline safety, the waiver should be granted.

The Commission, being otherwise sufficiently advised, HEREBY ORDERS that the waiver of 49 CFR Part 192 and the deviation from 807 KAR 5:022 requested by CRLLC are granted.

Done at Frankfort, Kentucky, this 3rd day of March, 2003.

By the Commission

ATTEST:


Executive Director