

CASE

NUMBER:

99-374

HISTORY INDEX FOR CASE: 1999-374
EASTERN STATES OIL AND GAS, INC.
Investigation - Service
INCIDENT/VIC FERGUSON COMPLAINT

IN THE MATTER OF EASTERN STATES OIL & GAS, INC.
ALLEGED VIOLATION OF COMMISSION REGULATION 807 KAR 5:022

SEQ NBR	ENTRY DATE	REMARKS
0001	09/17/1999	Order scheduling hearing on 11/3; resp. to allegations/req. for IC due 10/7.
M0001	10/07/1999	DAVID HARDYMON EASTERN STATES OIL &-RESPONSE & REQUEST FOR INFORMAL CONFERENCE WITH PSC STA
0002	10/15/1999	Order continuing 11/3 hearing & scheduling IC on 11/3.
M0002	10/27/1999	KAY RANDALL EASTERN STATES OIL-MOTION FOR ORDER RESCHEDULING INFORMAL CONFERENCE
M0003	10/27/1999	KATHERINE RANDALL EASTERN STATES OIL-NOTICE OF ENTRY OF APPEARANCE
0003	11/04/1999	Order rescheduling IC for 11/22/99 at 10:00 in Conference Room 2.
M0004	12/15/1999	JAMES PARK EASTERN STATES OIL & GAS-SUPPLEMENTAL RESPONSE
0004	01/14/2000	Settlement Agreement
0005	01/28/2000	Final Order with Settlement Agreement; payment of penalty due 2/7/2000.
M0005	02/04/2000	ROBERT ALLEY EASTERN STATES OIL & GA-RESPONSE TO ORDE OF JAN 28,00
0006	02/07/2000	Receipt of Payment

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

EASTERN STATES OIL & GAS, INC.)

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_____)

CASE NO. 99-374

)

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ALLEGED VIOLATION OF COMMISSION)

REGULATION 807 KAR 5:022)

RECEIPT OF PAYMENT

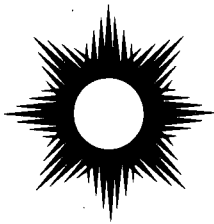
This is to acknowledge receipt of one check in the amount of \$1,000.00 payable to Kentucky State Treasurer, Office of General Counsel, Public Service Commission, from Eastern States Oil & Gas. This represents full payment of the penalty assessed against them in the above-styled action.

Stephanie J. Bell

Stephanie Bell
Secretary of the Commission

Dated 2-7-2000

hv



Eastern States Oil & Gas, Inc.
A Statoil Energy Company

RECEIVED

FEB 4 2000

GENERAL COUNSEL

February 3, 2000

Office of General Counsel
Public Service Commission of Kentucky
730 Schenkel Lane
Post Office Box 615
Frankfort, Kentucky 40602

RECEIVED
FEB 04 2000
PUBLIC SERVICE
COMMISSION

Dear General Counsel:

Enclosed is a cashier's check in the amount of \$1,000.00 made payable to the Kentucky State Treasurer. The payment, as set forth in the terms and conditions of the Settlement Agreement, and so ordered by the Commission on January 28, 2000 in Case No. 99-374, has been delivered in the required time frame as stated in the said order.

Sincerely,

Robert Alley
Manager - Business Development Kentucky
Eastern States Oil & Gas, Inc.



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION

730 SCHENKEL LANE
POST OFFICE BOX 615
FRANKFORT, KY. 40602
(502) 564-3940

CERTIFICATE OF SERVICE

RE: Case No. 1999-374
EASTERN STATES OIL AND GAS, INC.


I, Stephanie Bell, Secretary of the Public Service Commission, hereby certify that the enclosed attested copy of the Commission's Order in the above case was served upon the following by U.S. Mail on January 28, 2000.

Parties of Record:

Hugh B. Byers
Supervisor of Gas Development
Eastern States Oil and Gas, Inc.
P. O. Box 2347
Charleston, WV. 25238 2347

Honorable David Hardymon
Counsel for Eastern States Oil &
Gas
Vorys, Sater, Seymour & Pease LLP
52 East Gay Street
P.O. Box 1008
Columbus, OH. 43216 1008

Honorable Katherine Randall
Honorable James Park, Jr.
Counsel for Eastern States Oil & Gas
BROWN, TODD & HEYBURN PLLC
2700 Lexington Financial Center
250 West Main Street
Lexington, KY. 40507 1749


Secretary of the Commission

SB/hv
Enclosure



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION
730 SCHENKEL LANE
POST OFFICE BOX 615
FRANKFORT, KENTUCKY 40602
www.psc.state.ky.us
(502) 564-3940
Fax (502) 564-3460

Ronald B. McCloud, Secretary
Public Protection and
Regulation Cabinet

Helen Helton
Executive Director
Public Service Commission

Paul E. Patton
Governor

January 14, 2000

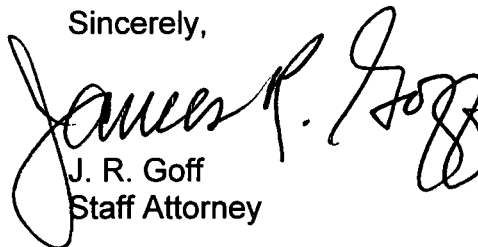
Ms. Helen C. Helton
Executive Director
Public Service Commission
P. O. Box 615
Frankfort, Kentucky 40602

Re: Eastern States Oil & Gas, Inc.
Case No. 99-374

Dear Ms. Helton:

Attached hereto is the Settlement Agreement for filing in the main case file of the above-referenced case.

Sincerely,


J. R. Goff
Staff Attorney

vh

cc: Parties of Record w/attachment



COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

In the Matter of:

JAN 11 2000

GENERAL COUNSEL

EASTERN STATES OIL & GAS, INC.)

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ALLEGED VIOLATION OF COMMISSION)
REGULATION 807 KAR 5:022)

CASE NO. 99-374

SETTLEMENT AGREEMENT

THIS AGREEMENT is made and entered into this 20th day of December, 1999, by and between the STAFF OF THE PUBLIC SERVICE COMMISSION OF KENTUCKY ("Commission Staff") and EASTERN STATES OIL & GAS, INC. ("Eastern").

WITNESSETH:

WHEREAS, Eastern is authorized to do business in Kentucky; owns and operates a natural gas gathering system in eastern Kentucky that supplies natural gas to customers, pursuant to KRS 278.485; and,

WHEREAS, on July 2, 1999, a fiberglass section of the Coal Creek natural gas pipeline belonging to Eastern ruptured near Martha, Kentucky; and on August 24, 1999, Commission Staff issued a Complaint Inspection Report regarding this incident; and,

WHEREAS, on September 17, 1999, the Public Service Commission entered an Order establishing this case and directing Eastern to show cause why it should not be subject to the penalties of KRS 278.992(1) relating to this incident; and,

WHEREAS, on October 7, 1999, Eastern, by counsel, filed its response to the Commission's Order of September 17, 1999; and,

WHEREAS, Eastern and Commission Staff held an informal conference on November 22, 1999 at which Eastern agreed to submit a Supplemental Response which was filed on December 16, 1999.

WHEREAS, Eastern and Commission Staff desire to settle the issues raised by this proceeding and have entered into this Settlement Agreement through compromise to settle this proceeding.

NOW, THEREFORE, Eastern and Commission Staff agree that:

1. Within 10 days after the entry of an Order approving this Settlement Agreement, Eastern shall pay to the Commonwealth of Kentucky the sum of \$1,000. This payment shall be in the form of a cashier's or certified check made payable to Treasurer, Commonwealth of Kentucky, and shall be mailed or delivered to the Office of General Counsel, Public Service Commission of Kentucky, 730 Schenkel Lane, P. O. Box 615, Frankfort, Kentucky 40602.
2. Eastern, in its Supplemental Response, has addressed issues discussed at the informal conference of November 22, 1999 and has supplied the Commission Staff with information concerning the fiberglass pipe.
3. Eastern agrees that it will patrol the entire Coal Creek pipeline with leak detection equipment at least once each calendar year.
4. Eastern, upon the discovery of fiberglass in its pipeline system, has included in its O&M plan procedural policies that establish the proper method, according to the manufacturer's instructions, of maintaining and repairing fiberglass pipe.

5. Nothing contained herein shall be construed as an admission of a violation of any federal or state statute or any provision of an administrative regulation nor shall the Public Service Commission's acceptance of this agreement be construed as a finding of a violation of any statute or administrative regulation. This Settlement Agreement shall not be used for any purpose in any subsequent legal or administrative proceeding (other than a proceeding by the Commission to enforce the terms of this Settlement Agreement), and Eastern shall not be precluded or estopped from raising any issue, claim or defense therein by reason of the execution of this Settlement Agreement.

6. This Agreement is subject to the acceptance of and approval by the Public Service Commission. If this settlement is accepted by an Order of the Public Service Commission, the parties agree not to request rehearing or to file an appeal of that Order in the Franklin Circuit Court.

7. If the Public Service Commission fails to accept and approve this Settlement Agreement in its entirety, this proceeding shall go forward and neither the terms of this Settlement Agreement nor any matters raised during settlement negotiations shall be binding on either signatory or be construed against either Eastern or Commission Staff.

8. Commission Staff shall recommend to the Public Service Commission that this Settlement Agreement be accepted and approved.

IN WITNESS WHEREOF, Eastern and Commission Staff have executed this Settlement Agreement the day and year first above-written by an through their duly authorized attorneys.

STAFF OF PUBLIC SERVICE
COMMISSION OF KENTUCKY

BY: James R. Hoff
Staff Attorney

EASTERN STATE OIL & GAS, INC.

BY: James Park Jr
Title: Attorney

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED
DEC 15 1999
PUBLIC SERVICE
COMMISSION

In the Matter of:

EASTERN STATES OIL & GAS)
)
_____))
)
ALLEGED VIOLATION OF)
ADMINISTRATIVE REGULATION)
807 KAR 5:022)

CASE NO. 99-374

**SUPPLEMENTAL RESPONSE OF
EASTERN STATES OIL & GAS, INC.**

For its supplemental response, Eastern States Oil & Gas, Inc. ("Eastern States") states as follows:

Original Response

1. Eastern States adopts and reiterates its original response filed on October 7, 1999.

Supplemental Response

2. Although the pipeline is not jurisdictional and is outside the scope of applicable federal or state regulations, Eastern States has, as a prudent operator, responded to the Commission's concerns in order to assure the Commission that the Coal Creek pipeline is safe and poses no threat to public safety. As a matter of company policy, Eastern States will patrol the entire Coal Creek pipeline with gas detection equipment at least once each calendar year. Eastern States conducted such a leak survey of the Coal Creek line within the past month. Only four Grade 3 leaks were found which are considered to be non-hazardous and which are expected to remain non-hazardous. The four leaks will be scheduled for repair within the next 12 months.

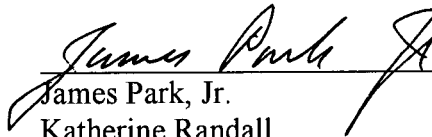
3. Utilizing a label on the fiberglass pipe found at the site of the incident, Eastern States obtained the manufacturer's specification sheet, a copy of which is attached hereto as Exhibit A. As the manufacturer's specification sheet discloses, the 3" fiberglass pipe is rated at a steady pressure of 1,250 lbs. per square inch gauge (psig) with an ultimate burst pressure of 5,000 psig.

4. As disclosed in Part II of its original response, Eastern States sent several pieces of the Coal Creek pipe found at the site of the incident to an independent laboratory for testing. A copy of the report dated October 29, 1999, from Matco Associates, Inc., is attached hereto as Exhibit B. The fiberglass pipe was submitted to a test to determine the water pressure required to burst the pipe. A pin hole leak developed in the fiberglass pipe at 3,500 psi. Tensile Property Testing was conducted on the 3" steel section of pipe and showed a yield strength (specified minimum yield strength) of 54,200 psi. The test results show that the operating pressure range of the pipeline was well within pipeline tolerances.

5. Eastern States did not acquire the Coal Creek pipeline until September 1998, only 9 or 10 months prior to the incident involved in this matter. The documents available to Eastern States did not disclose the existence of fiberglass pipe in the Coal Creek pipeline. Eastern States now has written internal procedural policies that establish the proper method of repairing fiberglass pipe based upon the manufacturer's instructions. The well tender in the area, as well as the area assistant superintendent, have received on-the-job training in the proper method of repairing this pipe, and they have, in fact, performed the procedure while installing steel pipe at a new road crossing.

Eastern States respectfully requests the Commission to accept this amended and supplemental response.

Respectfully submitted,



James Park, Jr.
Katherine Randall
BROWN, TODD & HEYBURN PLLC
2700 Lexington Financial Center
250 West Main Street
Lexington, KY 40507-1749
(606) 231-0000 - telephone
(606) 231-0011 - fax

COUNSEL FOR EASTERN STATES OIL & GAS, INC.

CERTIFICATE OF SERVICE

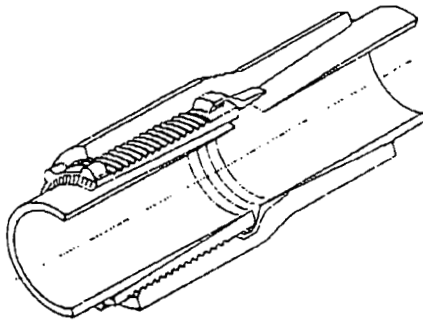
I hereby certify that the original and ten (10) copies of the foregoing Amended and Supplemental Response was hand-delivered to the Public Service Commission on this the 15th day of December, 1999.


Counsel for Eastern States Oil & Gas, Inc.

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Bondstrand Product Data



Bondstrand HP-Series Fiberglass Pipe and Fittings

for high pressure piping systems

Uses and applications

Injection lines
Disposal lines
High pressure crude oil, fresh and salt water
High pressure sweet and sour gases
Operating temperatures to 150°F (66°C)
Hazen-Williams coefficient of 150

Composition

Pipe

Filament-wound fiberglass reinforced epoxy with integral liner and exterior coating

Fittings

Filament-wound fiberglass reinforced epoxy with integral lipseal gasket

Adhesive

C20HT two-part epoxy

Gasket

Nitrile rubber (Buna-N) lipseal gasket in Pronto-Lock® III joint

Joining systems

Pronto-Lock III mechanical coupling
EUE 8 Round Long Form threaded coupling

Pipe length

Standard 40-ft random lengths

Fittings

Filament-wound fiberglass reinforced epoxy Pronto-Lock III fittings have an integral Buna-N liner.

Fittings are rated to the same pressure as the pipe.

90° elbows 45° elbows Tees

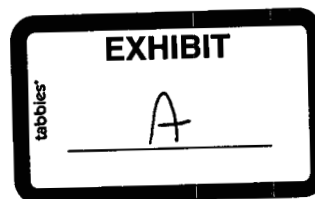
Crossovers

Pronto-Lock III female to EUE 8 Round male

Pronto-Lock III male to EUE 8 Round male

Pronto-Lock III male to Pronto-Lock III male

Post-it® Fax Note	7671	Date	# of pages ▶
To	GARY	From	Hector
Co./Dept.		Co.	
Phone #		Phone #	
Fax	(304) 343-9128	Fax #	



Typical dimensional data

Nominal Pipe Size (in)	Pressure Rating (psig)	Inside Diameter (in)	Wall Thickness		Approx Weight (lb/ft)
			Total (in)	Reinforced (in)	
2	1250	1.90	.190	.105	0.7
	2000		.203	.172	1.2
	2500		.248	.217	1.4
2½	1250	2.35	.158	.127	1.0
	2000		.236	.205	1.6
	2500		.289	.258	2.0
3	1250	2.87	.180	.149	1.4
	2000		.273	.242	2.2
	2500		.334	.303	2.7
4	1250	3.70	.213	.182	2.2
	2000		.325	.294	3.5
	2500		.400	.370	4.3

Typical pipe performance data

Nominal Pipe Size (in)	Steady Pressure Rating (psig)	Ultimate Burst Pressure (psig)	Maximum Operation Temperature (°F)
2	1250	5000	150
	2000	8000	150
	2500	10000	150
2½	1250	5000	150
	2000	8000	150
	2500	10000	150
→ 3	→ 1250	5000	150
	2000	8000	150
	2500	10000	150
4	1250	5000	160
	2000	8000	150
	2500	10000	150

Typical physical properties

Pipe Property	Units	Value	ASTM
Thermal conductivity	Btu · in/(h · ft ² · °F)	1.7	C177
Thermal expansion (linear)	10 ⁻⁶ in/in/°F	8.5	D696
Flow coefficient	Hazen-Williams	150	—
Absolute roughness	10 ⁻⁶ ft	50	—
Specific gravity	—	1.83	D792
Specific weight	lb/in ³	0.085	D792
Barcol hardness	—	80	—

Typical mechanical properties

Pipe Property	Units	Value	ASTM
Tensile strength			
Longitudinal	10 ³ psi	39.0	D2105
Circumferential*	10 ³ psi	70.0	D1599
Tensile modulus			
Longitudinal	10 ⁶ psi	3.0	D2105
Circumferential	10 ⁶ psi	4.3	—
Poisson's ratio**			
ν_{yx}	—	0.16	—
ν_{xy}	—	0.20	—

* Stresses calculated by thick wall theory.

** The first subscript denotes the direction of contraction and the second that of the applied stress.

x denotes longitudinal direction.

y denotes circumferential direction.

Conversions

$$1 \text{ psi} = 6895 \text{ Pa} = 0.07031 \text{ kg/cm}^2$$

$$1 \text{ bar} = 10^5 \text{ Pa} = 14.5 \text{ psi} = 1.02 \text{ kg/cm}^2$$

$$1 \text{ MPa} = 10^6 \text{ Pa} = 145 \text{ psi} = 10.2 \text{ kg/cm}^2$$

$$1 \text{ GPa} = 10^9 \text{ Pa} = 145,000 \text{ psi} = 10,200 \text{ kg/cm}^2$$

$$1 \text{ in} = 25.4 \text{ mm}$$

$$1 \text{ ft} = 0.3048 \text{ m}$$

$$1 \text{ lb} \cdot \text{in} = 0.113 \text{ N} \cdot \text{m}$$

$$1 \text{ Btu} \cdot \text{in}/(\text{h} \cdot \text{ft}^2 \cdot ^\circ\text{F}) = 0.1442 \text{ W}/(\text{m} \cdot \text{K})$$

$$^\circ\text{C} = \frac{5}{9}(\text{ }^\circ\text{F} - 32)$$

Important notice

This literature and the information and recommendations it contains are based on data reasonably believed to be reliable. However, such factors as variations in environment, application or installation, changes in operating procedures, or extrapolation of data may cause different results. Ameron makes no representation or warranty, express or implied, including warranties of merchantability or fitness for purpose, as to the accuracy, adequacy or completeness of the recommendations or information contained herein. Ameron assumes no liability whatsoever in connection with this literature or the information or recommendations it contains.

Written comments regarding this document are invited. Please write Engineering Manager, Ameron Fiberglass Pipe Division.

Ameron®

Fiberglass Pipe Division
Post Office Box 801148
Houston, Texas 77280
Phone (713) 690-7777
Telex 293096 AMERON FPD

Fiberglass Pipe Division
J.F. Kennedylaan 7
4191 MZ Geldermalsen
The Netherlands
Phone 03455-3341
Telex 40257 BONDS NL

Ameron (Pte) Ltd.
No. 7A, Tuas Avenue 3
Singapore 2263
Phone (65) 8621301
Telex 38960 AMERON RS

Affiliated Companies

Bondstrand, Ltd.
Post Office Box 589
Dammam 31421, Saudi Arabia
Telex 802958 CCPDAM SJ

Fuji Bondstrand Co. Ltd.
90-1 Maeda Fuji City
Shizuoka Pref. 416, Japan
Telex 3925478 FJBOND J

Manufacturing plants: Burkburnett, Texas; Spartanburg, South Carolina; Broa and South Gate, California; Geldermalsen, The Netherlands and Singapore. Bondstrand pipe is also manufactured in Japan and Saudi Arabia.



Engineering • Testing • Inspection • Consulting

Evaluation of Fiberglass and Steel Pipe

Mr. James E. Cochran

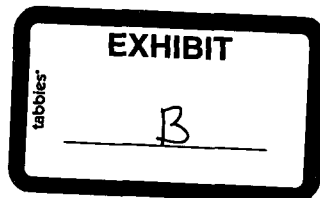
Eastern States Oil and Gas, Inc.
1710 Pennsylvania Avenue
Charleston, West Virginia 25328-2347

October 29, 1999
Matco Project No. 990471

Walter Gretz, P.E.
Vice President
Materials Engineering Div.

D. Riley
Technical Editor

M. Zamanzadeh, Ph.D.
NACE Certified Corrosion/
Coatings/Materials Selection
Specialist



Introduction

Our client, Eastern States Oil and Gas, Inc., submitted a section of fiberglass pipe for testing and analysis. The section of pipes was measured as having an outer diameter of 3 1/4 inches, an inner diameter of 2 7/8 inches, and 31 inches long. In addition, three (3) steel pipe samples were submitted, each of which possessed an outer diameter of 3 1/2 inches an inner diameter of 3 inches from the same pipeline. One of the three steel pipe samples, Sample A, which was rusted and included a collar, was measured at 26 inches long. Sample B, the rusted pipe, was measured at 19 inches long, while Sample C, which was rusted and heavily pitted on the outer diameter, was measured at 17 inches long. The A, B, and C designations were made by Matco Associates. Figure 1 exhibits a plan view of the submitted samples.

It was requested that Matco Associates conduct a burst test on the fiberglass pipe, as well as select one of the steel pipes for a specimen to establish the chemical analysis and mechanical properties of the pipe to be matched to an appropriate ASTM Specification. Sample A was selected from the three steel pipes for the evaluation.

The fiberglass pipe was submitted for a test to determine the water pressure required to burst the pipe. Inserts were machined to fit into both ends of the pipe, and the insert-pipe unit was belted together in the longitudinal direction. One end insert was tapped to inlet the water for the pressure test and the other end insert was tapped to receive a pressure gauge.

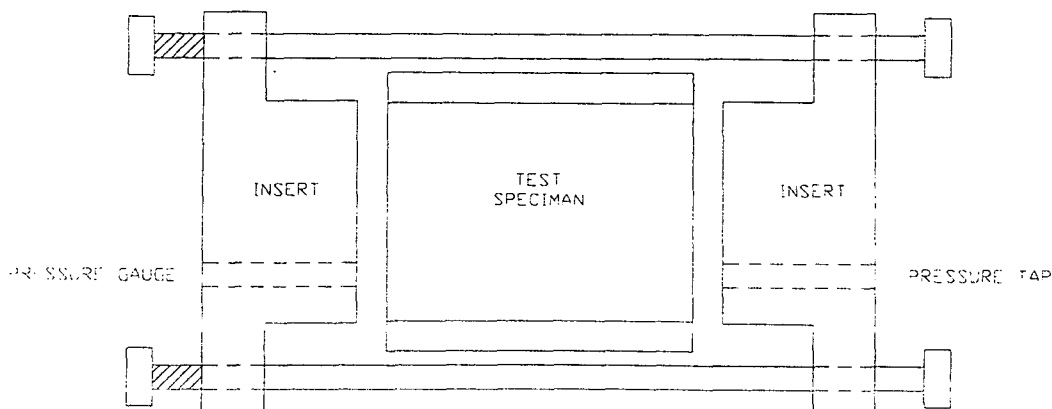
On the selected steel pipe sample designated "A", a 3 inch long specimen was cut from the end opposite the couples to be submitted for check chemical analysis. A 9 1/2 inch long specimen was also cut from Sample A for tensile testing. The pipe appeared to be a seamless pipe rather than ERW.

Investigation

Testing and analysis, which consisted of Burst Pressure Testing, Tensile Testing and Check Chemical Analysis, was conducted on the submitted specimens. The following represents the testing methods and the subsequent results.

Burst Pressure Testing:

The following set up was used to determine the burst pressure of the submitted pipe.



The fiberglass pipe showed a pinhole leak at 3,500 PSI. The hole was located approximately two (2) inches away from the end of the pipe.

Tensile Property Testing:

Tensile Property Testing was conducted per ASTM A370. The yield/tensile ratio indicates that the pipe was not heat treated. The mechanical properties meet the requirements for ASTM A714 "High Strength Low Alloy Welded and Seamless Steel Pipe" for both Class 2 Pipe, Grades I to IV and Class 4 Pipe, Grades V and VI. The Class 2 and Class 4 actually refer to the resistance of the pipe to corrosion.

The tabulation below shows the reported results on the mechanical properties of the steel pipe:

Tensile Strength (PSI)	Yield Strength (PSI)	Elongation (%)	Y/T Ratio
92,200	54,200	23.0	0.59

Chemical Analysis:

A check chemical analysis was performed on the steel pipe specimen. The results are as follows:

Check Chemical Analysis (wt%)

<u>C</u>	<u>Mn</u>	<u>Si</u>	<u>S</u>	<u>P</u>	<u>Ni</u>	<u>Cr</u>	<u>Mo</u>	<u>V</u>	<u>Cu</u>	<u>Al</u>
0.38	1.09	0.61	0.20	.010	.039	.044	.021	<.001	.038	.006

The results do not conform to the chemical requirements of ASTM A714, which must contain at least 0.20% Cu. However, the results do conform to the chemical requirements of ASTM A589.

Conclusion

The submitted fiberglass pipe was subjected to Burst Pressure Testing, and developed a pinhole leak at 3,500.PSI. The leak was from a hole that was located approximately two (2) inches away from the end of the pipe.

In general, the only ASTM specification that both the mechanical and chemical properties meet is ASTM A589 "Seamless and Welded Carbon Steel Water Pipe" Grade B, standard round specimen.

Important Notice:

The submitted samples will be disposed of after testing procedures are complete. If this is not acceptable, written notification must be submitted to Matco Associates that indicate shipping arrangements within one month after completion of testing.

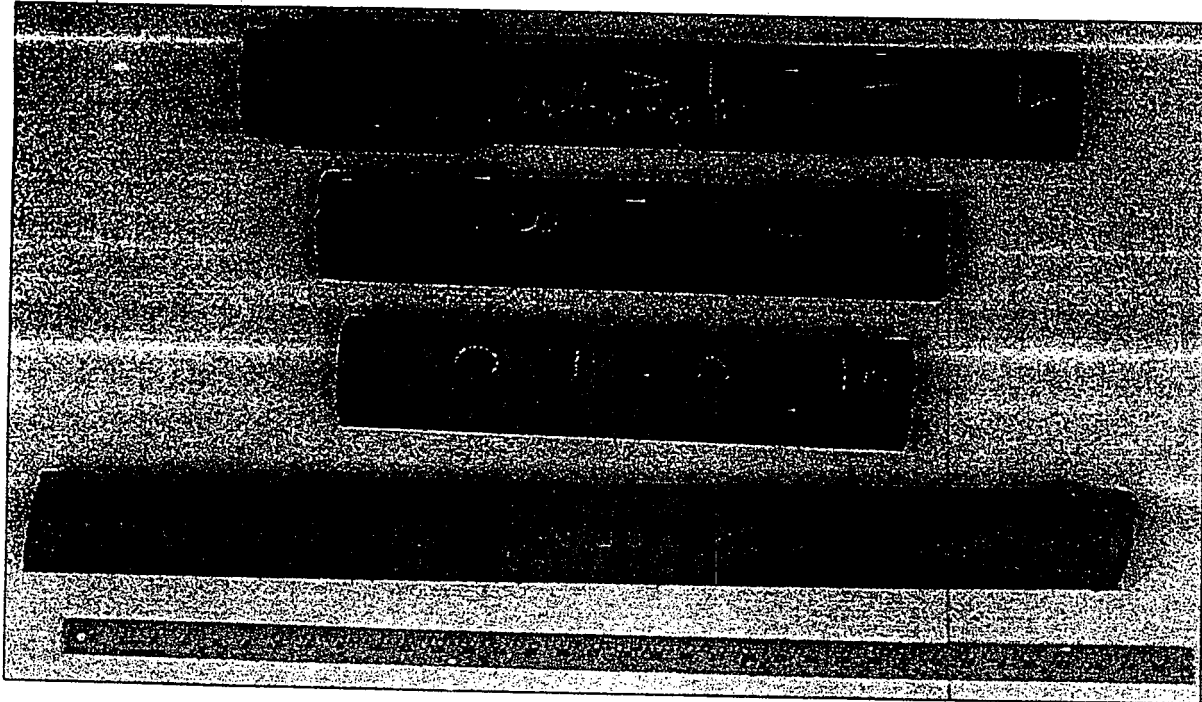


Figure 1: Plan view of submitted pipe samples.

Matco Project No. 990471



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION

730 SCHENKEL LANE
POST OFFICE BOX 615
FRANKFORT, KY. 40602
(502) 564-3940

November 4, 1999

Hugh B. Byers
Supervisor of Gas Development
Eastern States Oil and Gas, Inc.
P. O. Box 2347
Charleston, WV. 25238 2347

Honorable David Hardymon
Counsel for Eastern States Oil &
Gas
Vorys, Sater, Seymour & Pease LLP
52 East Gay Street
P.O. Box 1008
Columbus, OH. 43216 1008

Honorable Katherine Randall
Counsel for Eastern States Oil & Gas
BROWN, TODD & HEYBURN PLLC
2700 Lexington Financial Center
270 West Main Street
Lexington, KY. 40507 1749

RE: Case No. 99-374

We enclose one attested copy of the Commission's Order in
the above case.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie Bell".

Stephanie Bell
Secretary of the Commission

SB/hv
Enclosure

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

EASTERN STATES OIL & GAS, INC.)
)
 _____) CASE NO. 99-374
)
 ALLEGED VIOLATIONS OF)
 ADMINISTRATIVE REGULATION)
 807 KAR 5:022)

O R D E R

On October 27, 1999, Eastern States Oil & Gas, Inc. ("Eastern States") filed a motion to reschedule an informal conference set with the Commission Staff upon the grounds that Eastern States had retained local counsel to represent it in the show cause proceedings for violation of certain Commission regulations.

The Commission, being sufficiently advised, HEREBY ORDERS that:

1. The informal conference set for November 3, 1999 is cancelled and reset for November 22, 1999, at 10:00 a.m., Eastern Standard Time, in Conference Room 2 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky.
2. Eastern States shall bring all documents to support its position and shall be represented by counsel or a corporate officer authorized to enter into a settlement agreement.

Done at Frankfort, Kentucky, this 4th day of November, 1999.

By the Commission

ATTEST:


Executive Director

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

FILED

OCT 27 1999

PUBLIC SERVICE COMMISSION

In the Matter of:

EASTERN STATES OIL & GAS)
)
_____)
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ALLEGED VIOLATION OF)
ADMINISTRATIVE REGULATION)
807 KAR 5:022)

CASE NO. 99-374

NOTICE OF ENTRY OF APPEARANCE

Eastern States Oil & Gas, Inc. ("Eastern States") hereby gives notice of the entry of appearance of Katherine Randall and the firm of Brown, Todd & Heyburn PLLC as counsel for Eastern States in this proceeding.

Respectfully submitted,

Katherine Randall

Katherine Randall
BROWN, TODD & HEYBURN PLLC
2700 Lexington Financial Center
250 West Main Street
Lexington, KY 40507-1749
(606) 231-0000 - telephone
(606) 231-0011 - fax

COUNSEL FOR EASTERN STATES OIL & GAS, INC.

CERTIFICATE OF SERVICE

I hereby certify that the original and ten (10) copies of the foregoing Notice of Entry of Appearance were hand-delivered to the Public Service Commission on this the 27th day of October, 1999.

Katherine Randall

Counsel for Eastern States Oil & Gas, Inc.

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED
OCT 27 1999
PUBLIC SERVICE
COMMISSION

In the Matter of:

EASTERN STATES OIL & GAS)
)
_____)
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ALLEGED VIOLATION OF)
ADMINISTRATIVE REGULATION)
807 KAR 5:022)

CASE NO. 99-374

MOTION FOR ORDER RESCHEDULING INFORMAL CONFERENCE

On September 17, 1999, the Public Service Commission issued its Order directing Eastern States Oil & Gas, Inc. ("Eastern States") to show cause why it was not in violation of certain Commission regulations. Eastern States has filed a response to those allegations and has also requested an informal conference with the Commission Staff. On October 15, 1999, the Commission issued an Order scheduling an informal conference with the Commission Staff on November 3, 1999.

Eastern States moves the Commission for an order rescheduling the informal conference from November 3, 1999, to a date on or after November 17, 1999. In support of this motion, Eastern States states:

1. As alleged in Part II of its Response, several pieces of the Coal Creek pipe were sent by Eastern States to an independent laboratory for testing. Eastern States expects to receive the results of the tests back from the independent laboratory in the immediate future. Eastern States intends to amend its response to reflect the test results which should be particularly instructive to guide future actions.

2. The undersigned counsel for Eastern States will be unavailable during the week of November 3, 1999, and Eastern States' corporate representative will be unavailable the following week. Therefore, Eastern States requests that the informal conference be rescheduled for a date on or after November 17, 1999.

Respectfully submitted,



Katherine Randall
BROWN, TODD & HEYBURN PLLC
2700 Lexington Financial Center
250 West Main Street
Lexington, KY 40507-1749
(606) 231-0000 - telephone
(606) 231-0011 - fax

COUNSEL FOR EASTERN STATES OIL & GAS, INC.

CERTIFICATE OF SERVICE

I hereby certify that the original and ten (10) copies of the foregoing Motion for Extension of Time were hand-delivered to the Public Service Commission on this the 27th day of October, 1999.



Counsel for Eastern States Oil & Gas, Inc.



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION

730 SCHENKEL LANE
POST OFFICE BOX 615
FRANKFORT, KY. 40602
(502) 564-3940

October 15, 1999

Hugh B. Byers
Supervisor of Gas Development
Eastern States Oil and Gas, Inc.
P. O. Box 2347
Charleston, WV. 25238 2347

Honorable David Hardyman
Counsel for Eastern States Oil &
Gas
Vorys, Sater, Seymour & Pease LLP
52 East Gay Street
P.O. Box 1008
Columbus, OH. 43216 1008

RE: Case No. 99-374

We enclose one attested copy of the Commission's Order in
the above case.

Sincerely,

Stephanie Bell
Stephanie Bell
Secretary of the Commission

SB/hv
Enclosure

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

EASTERN STATES OIL & GAS, INC.)
_____) CASE NO. 99-374
)
ALLEGED VIOLATION OF ADMINISTRATIVE)
REGULATION 807 KAR 5:022)

O R D E R

On September 17, 1999, the Commission issued an Order directing Eastern States Oil & Gas, Inc. ("Eastern States") to show cause why it was not in violation of certain Commission regulations. Eastern States has filed a response to those allegations and has also requested an informal conference with Commission Staff.

The Commission, being sufficiently advised, HEREBY ORDERS that:

1. The formal hearing set for November 3, 1999 is continued, pending further Orders of the Commission.
2. An informal conference shall be held with Commission Staff on November 3, 1999 at 1:30 p.m., Eastern Standard Time, in Conference Room 2 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky.
3. Eastern States shall bring all documents to support its position and shall be represented by counsel or a corporate officer authorized to enter into a settlement agreement.

Done at Frankfort, Kentucky, this 15th day of October, 1999.

By the Commission

ATTEST:


Executive Director

310-31
10/10/99

Vorys, Sater, Seymour and Pease LLP

52 East Gay Street • Post Office Box 1008 • Columbus, Ohio 43216-1008 • Telephone (614) 464-6400 • Facsimile (614) 464-6350 • Cable VORYSATER

Arthur I. Vorys
1856-1933
Lowry F. Sater
1867-1935
Augustus T. Seymour
1873-1926
Edward L. Pease
1873-1924

In Washington
Eleventh Floor
1828 L Street, NW
Washington, D.C. 20036-5109

Telephone (202) 467-8800
Facsimile (202) 467-8900

In Cleveland
2100 One Cleveland Center
1375 East Ninth Street
Cleveland, Ohio 44114-1724

Telephone (216) 479-6100
Facsimile (216) 479-6060

In Cincinnati
Suite 2100 • Atrium Two
221 East Fourth Street
Post Office Box 0236
Cincinnati, Ohio 45201-0236

Telephone (513) 723-4000
Facsimile (513) 723-4036

David Hardyman

Writer's Direct Dial Number

October 6, 1999

VIA OVERNIGHT CARRIER

Helen Helton
Executive Director
Kentucky Public Service Commission
730 Schenke Lane
Frankfort, KY 40602

RECEIVED
OCT 07 1999
KENTUCKY PUBLIC SERVICE COMMISSION

Re: Docket 99-374

Dear Ms. Helton:

Enclosed for filing please find an original and ten copies of the Response of Eastern States Oil & Gas, Inc. in the above styled proceeding. Please file these documents. I have also enclosed an extra copy of the pleading and an addressed stamped envelop. I would appreciate if you would file stamp the extra copy and mail it back for our records.

Thank you for your cooperation in this matter.

Sincerely,



David Hardyman

/hnp

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

Eastern States Oil & Gas, Inc.

ALLEGED VIOLATION OF COMMISSION
REGULATION 807 KAR 5:022

)
)
) CASE NO. 99 - 374
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RECEIVED
OCT 07 1999
PUBLIC SERVICE
COMMISSION

RESPONSE OF EASTERN STATES OIL & GAS, INC.
AND REQUEST FOR AN INFORMAL CONFERENCE
WITH THE COMMISSION STAFF

I.
Introduction and Request For An Informal Conference

Now comes Eastern States Oil & Gas, Inc. ("Eastern States") and in accordance with paragraph 3 of the Commission's Show Cause Order of September 17, 1999, presents a written response to the allegations contained in the Complaint Inspection Report. Eastern States hereby also requests an informal conference with the Commission Staff at a mutually convenient time, but in advance of the November 3, 1999 hearing date to discuss this matter in detail.

II.
Background

Eastern States is an oil and gas exploration and production company who actively drills, and produces natural gas and oil in the Appalachian basin. In 1998 Eastern States purchased a group of wells, future production acreage and gathering lines

from Carson Associates in Lawrence, Elliot and Johnson Counties, Kentucky. Included in the sale was a five and one-half mile gathering line supported by a field compressor (which for clarity sake we shall call the "Coal Creek pipeline" in this Response). Carson Associates had previously purchased the sites from Ashland Exploration, Inc. in 1993, and it is believed that Ashland constructed the Coal Creek gathering system around 1985. From its construction around 1985 the Coal Creek line only carried unprocessed, production gas from its supporting wells. Further, until the Complaint Inspection Report this summer no one treated the Coal Creek pipeline as anything other than a gathering line.

On July 2, 1999 Eastern States was notified of a possible gas leak beneath the Vic Ferguson farm¹. Eastern States investigated the same day and promptly shut down the line. On July 4, 1999 Eastern States completed repairs of the Coal Creek pipeline and restored the line to service. No injury or property damage resulted due to the leak. To determine what if any other steps should be taken, Eastern States then sent several pieces of the Coal Creek pipe to an independent laboratory for testing. Test results are expected back within a week to ten days. Since Eastern States did not build the Coal Creek pipeline and has only operated it for a year, its information is limited to documents obtained from Carson Associates at the sale. Thus the test results are thought to be particularly instructive to guide future actions.

Since the Coal Creek pipeline is a gathering line which contains no sales taps nor performs any other utility service², Eastern States' response was appropriate. Further, as detailed in the following sections of this Response, it was not in violation of

¹ At no point is the farm house closer than 1,000 feet from the pipeline. The Complaint put the farmhouse at 100 yards.

either the United States Department of Transportation or this Commission's regulations. Eastern States intends to keep the Commission Staff informed on what it finds from its additional study of the Coal Creek pipeline.

III.

Legal Analysis

A. **No documentation has been provided indicating that the installed fiberglass pipe fails to meet the established specification for pipeline qualification nor is it required to establish a maximum allowable operating pressure**

1. **Alleged violations of federal law.**

Eastern States asserts that the material standards established in 49 CFR part 192 are for transmission and distribution pipelines and thus do not apply to the Coal Creek pipeline because Coal Creek is a gathering line. A "gathering line" is defined as "a pipeline that transports gas from a current production facility to a transmission line or main." See 49 CFR § 192.3 (1998). As noted above, the only purpose that the Coal Creek pipeline has ever served was to bring production from discrete wells to an interconnection with another producer's production. The Coal Creek line ends at a meter station where the Coal Creek area production physically mixes with production from other wells and there is also a change in ownership of the pipeline.

To assist in applying the definition of a gathering line the Office of Pipeline Safety of the United States Department of Transportation issues opinion letters. These letters list four points during the transport of gas from a well when it can be said that gathering ends and transmission begins. Those four points are: 1) At the outlet of a processing plant; 2) At the outlet of a compressor station, if there is no upstream

² The landowners pursuant to their right of way agreements receive free gas from the Coal Creek pipeline.

processing plant (this does not include compressor units at the well head to facilitate production and gathering); 3) At the point where two or more well lines converge and 4) At the point where there is a change in ownership of the pipeline. (See the attached copy of the May 9, 1985 letter from the Office of Pipeline Safety to the Missouri Public Service Commission).

Since the Coal Creek pipeline is upstream of all processing, upstream of the convergence of other gathering lines, and upstream of the first change in pipeline ownership; three of the four points clearly weigh in favor of Coal Creek being classified a gathering line. Since there is a field compressor on the Coal Creek line it can be argued that one point favors classification as a transmission line. Closer examination though reveals that the purpose of the field compressor is to aid in production and gathering, not to transport gas to distribution systems.

Federal law³ exempts all continental, onshore gathering facilities from the standards in part 192 save for gathering lines located in incorporated cities, towns and villages or high density commercial and residential areas. Id. at § 192.1(b)(2)(i) and (ii). The Coal Creek pipeline does not transverse any such incorporated areas. In fact, as shown on the attached map, within the whole of the five and half miles there are only 14 residences within the pipeline corridor area established by the Department of Transportation for review of population density for purposes of calculating maximum allowable operating pressure ("MAOP").

³ "Transportation of gas" means the gathering, transmission or distribution of gas by pipeline or its storage in interstate or foreign commerce; except that it shall not include the gathering of gas in those rural locations which lie outside the limits of any incorporated or unincorporated city, town, village, or any other designated residential or commercial area such as a subdivision, a business or shipping center, a community development, or any similar populated area which the Secretary may define as a nonrural area[.] 49 U.S.C. § 1671 (3).

In sum, since 49 CFR part 192 does not apply to gathering lines, and Coal Creek is a gathering line, the Coal Creek pipeline cannot be in violation of either the construction or MOAP standards established in part 192.

2. Alleged violations of state law.

Eastern States also asserts that it has not violated the companion laws of the Commonwealth of Kentucky relating to the specification for pipeline construction for the Coal Creek pipeline under Section 13(11) of 807 KAR § 5:022. Since 807 KAR § 5:022 codifies Part 192, the Commission could proceed on a violation of pipeline construction standards or for failure to establish an MAOP under either federal or state law. As detailed above, since the Coal Creek pipeline is a gathering line, the standards of part 192 or the Kentucky recodification of part 192 does not apply to Coal Creek.

In addition to transmission lines, the Commission has also applied the standards of Part 192 to all state utility pipelines. Statutory authority for this regulation is found in Section 278.280(2) of the Kentucky Revised Statutes which states that “the commission shall prescribe rules for the performance of any service or the furnishing of any commodity of the character furnished or supplied by the utility.” See 807 KAR § 5:022; KRS 278.280(2). Since Eastern States’ Coal Creek line does not perform a utility service or furnish a commodity to the public similar to that done by a utility, Section 5:022 should not apply.

In other words, Eastern States contends that its Coal Creek line falls outside of the Commission’s jurisdiction under 807 KAR § 5:022 since that line is not a

transmission line, nor a pipeline used for utility service. Once again, Coal Creek is only used to gather field production.

In summary, it appears that the regulatory scheme for both the Department of Transportation and the State of Kentucky have established a two tier standard for pipeline construction. Pipelines that directly serve the public, transverse populated areas, or move gas from production areas to distribution systems must be constructed to the standards established in 49 CFR part 192. On the other hand, pipelines used just to collect natural gas in the production field must be safe, but are not held to the more rigorous standards of Part 192.

Finally, even if 807 KAR§ 5:022 standards do apply, it appears as though Eastern States may still be in compliance with both the design specifications and the MAOP standards. The fiberglass material which comprises part of the Coal Creek pipeline, is permit for use by ASTM Specification D2571. Eastern States believes that the operation of the Coal Creek pipeline is within those specifications. Similarly, the Coal Creek line may meet the requisite MAOP. Subsection 5:022(13)(11)(a) lists four methods for calculating the MAOP for a plastic / fiberglass line. The records left from Carson Associates does not indicate a pressure limit which has been exceeded.

B. Eastern States has an operation and maintenance plan containing procedures for the correct method of repair for its pipelines. or that Eastern States failed to establish a maximum allowable operating pressure.

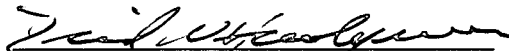
Eastern States avers that it has an operation and maintenance plan and is therefore in compliance with the regulations of both the Department of Transportation and the Commission. Both the federal and state administrative regulations require that each operator prepare a manual of written procedures for conducting operations and

maintenance activities and for emergency response. See 49 CFR § 192.605(a); 807 KAR § 5:022(2)(b). Neither regulation mentions nor requires that the plan be filed with either the Department of Transportation or the Commission. See 49 CFR § 192.605(a)-(e); 807 KAR § 5:022(3)(a)-(f). Accordingly, Eastern States firmly believes that its plan is in compliance with the federal and state regulations. Nevertheless, should the Commission grant the request for an informal conference, Eastern States would welcome the opportunity to present its plan to the Commission for detailed review.

**IV.
Conclusion**

WHEREFORE, for the reasons discussed, Eastern States respectfully requests that the Commission grant its request for an informal conference with the Commission Staff at a mutually convenient time, but in advance of the November 3, 1999 hearing date to discuss this matter in detail.

Respectfully submitted,



David W. Hardyman (KBA 87792)
Vorys, Sater, Seymour and Pease LLP
52 East Gay Street
P.O. Box 1008
Columbus, Ohio 43216-1008
(614) 464-5651
(614) 464-6350 - facsimile

Interpretation 192.3 (Gathering) 7 of 11

May 9, 1985

Mr. Dale Johansen
Assistant Director
Gas Department
Missouri Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65101

Dear Mr. Johansen:

Many states in the Central Region have encountered problems regarding definitions pertaining to gathering lines. On April 11, 1985, a meeting was held in St. Joseph, Missouri, for all interested state enforcement people within the Central Region.

The purpose of this meeting was to provide comments to MTB personnel to apprise them of the problems encountered in the field and provide proposed guidelines for enforcement. Since the April meeting, it has come to my attention that the gathering line problem is not unique with the Central Region, but encompasses the entire country.

With this in mind, I am submitting to you the guidelines developed at the April meeting, anticipating that NAPSRR would assist in recommending clarity and action.

As you well know, the basic problem lies in defining where gathering ends and transmission begins. The following terms were defined at the April 11, 1985 meeting.

The gathering process terminates:

1. At the outlet of a processing plant.
2. At the outlet of a compressor station, if there is no upstream processing plant (this does not include compressor units at the well head to facilitate production and gathering).
3. At the point where two or more well lines converge.
4. At the point where there is a change in ownership of the pipeline.

If these guidelines should be adopted, the next question is when does this become effective? Can we enforce this policy back to 1970? This is a very real problem and one that needs to be answered.

I am enclosing all the information I have been able to assemble regarding gathering. I am respectfully requesting that NAPSRR pick up on this and request action from MTB.

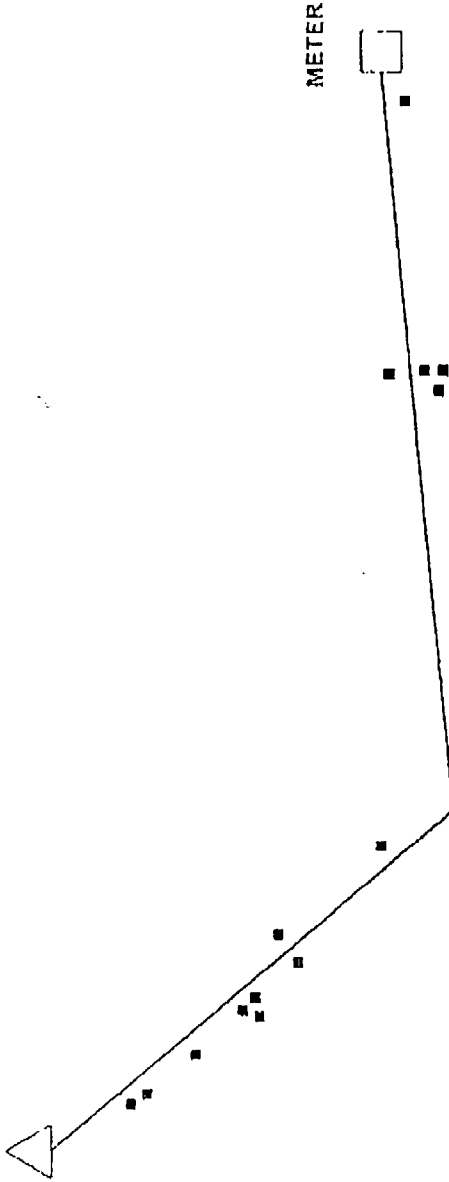
Should you have any questions please do not hesitate to contact me.

Sincerely,



Energy Management & Services Co.
450 W. Spr. Avenue P.O. Box 1007
Versailles, KY 40383
936-873-0076 Fax: 905-870-5672

COAL CREEK COMPRESSOR



Total Dwellings = 14

Scaled Length = 5.5 Miles

Avg./Mile = 2.5

Max./Mile = 8

EASTERN STATES OIL & GAS, INC.

Density Survey

Coal Creek Compressor

Single Unit Dwellings Within 660 Feet Of Pipeline

Not To Scale



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION

730 SCHENKEL LANE
POST OFFICE BOX 615
FRANKFORT, KY. 40602
(502) 564-3940

September 17, 1999

Hugh B. Byers
Supervisor of Gas Development
Eastern States Oil and Gas, Inc.
P. O. Box 2347
Charleston, WV. 25238 2347

RE: Case No. 99-374

We enclose one attested copy of the Commission's Order in
the above case.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie Bell".

Stephanie Bell
Secretary of the Commission

SB/hv
Enclosure

Z 360 073 289

US Postal Service
Receipt for Certified Mail

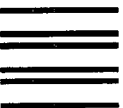
No Insurance Coverage Provided.
Do not use for International Mail (See reverse)

Sent to	Hugh B Byers
Street & Number	P.O. Box 2347
Post Office, State, & ZIP Code	Charleston, WV 25238
Postage	\$.77
Certified Fee	1.40
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	1.25
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage & Fees	\$ 3.42
Postmark or Date	

PS Form 3800, April 1995

PHD
99-374

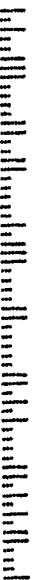
UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

- Print your name, address, and ZIP Code in this box ●

PUBLIC SERVICE COMPANY
730 SHERMAN AVE
P.O. BOX 615
PASADENA, CA 91106



Is your RETURN ADDRESS completed on the reverse side?

HU 99-374

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- 1. Addressee's Address
- 2. Restricted Delivery

3. Article Addressed to:

Hugh B. Byers

4a. Article Number

2 360 073 289

4b. Service Type

- Registered
- Express Mail
- Return Receipt for Merchandise
- Certified
- Insured

7. Date of Delivery SEP 20

5. Received By: (Print Name)

8. Addressee's Address (Only if requested and fee is paid)

6. Signature (Addressee or Agent)

H. Blamlein

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

EASTERN STATES OIL & GAS, INC.)	
)	
)	
_____)	CASE NO. 99-374
)	
ALLEGED VIOLATION OF COMMISSION)	
REGULATION 807 KAR 5:022)	

O R D E R

Eastern States Oil & Gas, Inc. ("Eastern States") is a natural gas pipeline company that operates a gathering system in eastern Kentucky and supplies natural gas to customers pursuant to KRS 278.485.

On September 17, 1999, the Commission directed Eastern States to appear before it and show cause why it should not be penalized, pursuant to KRS 278.992(1), for its alleged violation of Commission Regulation 807 KAR 5:022. Following the commencement of this proceeding, Eastern States and Commission Staff entered into negotiations to resolve all outstanding issues in this proceeding. On December 20, 1999, they executed a Settlement Agreement, appended hereto, and jointly moved for Commission approval of that Agreement.

In reviewing the Settlement Agreement, the Commission has considered, *inter alia*, the circumstances surrounding the July 2, 1999 incident; Eastern States' efforts to comply with the Commission's safety regulations; its agreement to patrol annually; and

its willingness to improve and enhance its existing safety programs and operations. The Commission finds that the Settlement Agreement is in accordance with the law, does not violate any regulatory principle, results in a reasonable resolution of this case, and is in the public interest.

IT IS THEREFORE ORDERED that:

1. The Settlement Agreement, appended hereto, is incorporated into this Order as if fully set forth herein.

2. The terms and conditions set forth in the Settlement Agreement are adopted and approved.

3. Within 10 days of the date of this Order, Eastern States shall pay to the Commonwealth of Kentucky the sum of One Thousand Dollars (\$1,000). This payment shall be in the form of a cashier's check made payable to "Kentucky State Treasurer" and shall be mailed or delivered to the Office of General Counsel, Public Service Commission of Kentucky, 730 Schenkel Lane, Post Office Box 615, Frankfort, Kentucky 40602.

4. This case is closed and removed from the Commission's docket.

Done at Frankfort, Kentucky, this 28th day of January, 2000.

By the Commission

ATTEST:

Deputy Wm H. Bowber
Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE
KENTUCKY PUBLIC SERVICE COMMISSION

IN CASE NO. 99-374

DATED JANUARY 28, 2000

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

JAN 11 2000

GENERAL COUNSEL

In the Matter of:

EASTERN STATES OIL & GAS, INC.)
)
)
 _____)
)
)
 ALLEGED VIOLATION OF COMMISSION)
 REGULATION 807 KAR 5:022)

CASE NO. 99-374

SETTLEMENT AGREEMENT

THIS AGREEMENT is made and entered into this 20th day of December, 1999, by and between the STAFF OF THE PUBLIC SERVICE COMMISSION OF KENTUCKY ("Commission Staff") and EASTERN STATES OIL & GAS, INC. ("Eastern").

WITNESSETH:

WHEREAS, Eastern is authorized to do business in Kentucky; owns and operates a natural gas gathering system in eastern Kentucky that supplies natural gas to customers, pursuant to KRS 278.485; and,

WHEREAS, on July 2, 1999, a fiberglass section of the Coal Creek natural gas pipeline belonging to Eastern ruptured near Martha, Kentucky; and on August 24, 1999, Commission Staff issued a Complaint Inspection Report regarding this incident; and,

WHEREAS, on September 17, 1999, the Public Service Commission entered an Order establishing this case and directing Eastern to show cause why it should not be subject to the penalties of KRS 278.992(1) relating to this incident; and,

WHEREAS, on October 7, 1999, Eastern, by counsel, filed its response to the Commission's Order of September 17, 1999; and,

WHEREAS, Eastern and Commission Staff held an informal conference on November 22, 1999 at which Eastern agreed to submit a Supplemental Response which was filed on December 16, 1999.

WHEREAS, Eastern and Commission Staff desire to settle the issues raised by this proceeding and have entered into this Settlement Agreement through compromise to settle this proceeding.

NOW, THEREFORE, Eastern and Commission Staff agree that:

1. Within 10 days after the entry of an Order approving this Settlement Agreement, Eastern shall pay to the Commonwealth of Kentucky the sum of \$1,000. This payment shall be in the form of a cashier's or certified check made payable to Treasurer, Commonwealth of Kentucky, and shall be mailed or delivered to the Office of General Counsel, Public Service Commission of Kentucky, 730 Schenkel Lane, P. O. Box 615, Frankfort, Kentucky 40602.
2. Eastern, in its Supplemental Response, has addressed issues discussed at the informal conference of November 22, 1999 and has supplied the Commission Staff with information concerning the fiberglass pipe.
3. Eastern agrees that it will patrol the entire Coal Creek pipeline with leak detection equipment at least once each calendar year.
4. Eastern, upon the discovery of fiberglass in its pipeline system, has included in its O&M plan procedural policies that establish the proper method, according to the manufacturer's instructions, of maintaining and repairing fiberglass pipe.

5. Nothing contained herein shall be construed as an admission of a violation of any federal or state statute or any provision of an administrative regulation nor shall the Public Service Commission's acceptance of this agreement be construed as a finding of a violation of any statute or administrative regulation. This Settlement Agreement shall not be used for any purpose in any subsequent legal or administrative proceeding (other than a proceeding by the Commission to enforce the terms of this Settlement Agreement), and Eastern shall not be precluded or estopped from raising any issue, claim or defense therein by reason of the execution of this Settlement Agreement.

6. This Agreement is subject to the acceptance of and approval by the Public Service Commission. If this settlement is accepted by an Order of the Public Service Commission, the parties agree not to request rehearing or to file an appeal of that Order in the Franklin Circuit Court.

7. If the Public Service Commission fails to accept and approve this Settlement Agreement in its entirety, this proceeding shall go forward and neither the terms of this Settlement Agreement nor any matters raised during settlement negotiations shall be binding on either signatory or be construed against either Eastern or Commission Staff.

8. Commission Staff shall recommend to the Public Service Commission that this Settlement Agreement be accepted and approved.

IN WITNESS WHEREOF, Eastern and Commission Staff have executed this Settlement Agreement the day and year first above-written by an through their duly authorized attorneys.

STAFF OF PUBLIC SERVICE
COMMISSION OF KENTUCKY

BY: James R. Goff
Staff Attorney

EASTERN STATE OIL & GAS, INC.

BY: James Park Jr
Title: Attorney

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

EASTERN STATES OIL & GAS, INC.)
_____) CASE NO. 99-374
ALLEGED VIOLATION OF COMMISSION)
REGULATION 807 KAR 5:022)

O R D E R

Eastern States Oil & Gas, Inc. ("Eastern") is a natural gas pipeline company that operates a gathering system in eastern Kentucky and supplies natural gas to customers, pursuant to KRS 278.485.

On August 16, 1999, a telephone call was received from Vic Ferguson in which he stated that on July 2, 1999, a 3-inch fiberglass natural gas pipeline crossing his farm in Martha, Kentucky had ruptured and released large volumes of natural gas into the atmosphere within approximately 100 yards of his home. Fiberglass gas pipe is allowed under certain conditions set forth in ASTM Specification D2517, "Standard Specifications for Reinforced Epoxy Resin Gas Pressure Pipe and Fittings." An onsite visit was made on August 17, 1999 to meet with Mr. Ferguson and obtain other information available at the site of the rupture. Photographs were taken of a small piece of the damaged pipeline and of the site of the incident.

On August 19, 1999, Commission Staff met with Lloyd Hall, Operations Manager of Eastern, at his office in Pikeville, Kentucky. Mr. Hall stated that the line in question was originally installed by Ashland Oil at an undetermined time. The line was later sold to a

gathering company in the Martha area and was only recently acquired by Eastern when it purchased some of Ashland's holdings. The portion of the pipeline in question is located downstream from a compressor station, and is operating at between 250 and 300 pounds per square inch gage. An interpretation from USDOT considers pipelines downstream of compression to be transmission lines and, therefore, subject to the federal and state pipeline safety regulations.

As a natural gas pipeline operator, Eastern is subject to the safety jurisdiction of the Commission, pursuant to KRS 278.040 and KRS 278.495. Eastern is also subject to Commission jurisdiction under the authority of and in compliance with federal pipeline safety laws, 49 U.S.C. § 60101, *et seq.*, and the regulations of 49 CFR 189-199. Pursuant to these statutes and 49 CFR 189-199, the Commission promulgated Administrative Regulation 807 KAR 5:022. Commission Staff has submitted to the Commission a Complaint Inspection Report, dated August 24, 1999, in which Commission Staff alleges the following violations:

1. There is no documentation that the installed fiberglass pipe meets the specifications of Appendix B of 49 CFR 49 192 and 807 KAR 5:022.
2. There is no maximum allowable operating pressure established for this segment of pipeline. 49 CFR 192.619 and 807 KAR 5:022, Section 13(11).
3. There are no procedures in the operation and maintenance plan for the correct and proper methods of repair for this type of pipe. 49 CFR 192.605 and 807 KAR 5:022, Section 13(3).

Based on its review of the Complaint Inspection Report, and being otherwise sufficiently advised, the Commission finds *prima facie* evidence that Eastern has failed to comply with Administrative Regulation 807 KAR 5:022.

The Commission, on its own motion, HEREBY ORDERS that:

1. Eastern shall appear before the Commission on November 3, 1999, at 9:30 a.m., Eastern Standard Time, in Hearing Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky, for the purpose of presenting evidence concerning the alleged violations of Administrative Regulation 807 KAR 5:022, and of showing cause why it should not be subject to the penalties prescribed in KRS 278.992(1) for these alleged violations.

2. The Complaint Inspection Report, dated August 24, 1999, a copy of which is appended hereto, is made part of the record of this proceeding.

3. Within 20 days of the date of this Order, Eastern shall submit to the Commission a written response to the allegations contained in the Complaint Inspection Report.

4. Any motion requesting an informal conference with Commission Staff to consider any matter that would aid in the handling or disposition of this proceeding shall be filed with the Commission no later than 20 days from the date of this Order.

Done at Frankfort, Kentucky, this 17th day of September, 1999.

By the Commission

ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 99-374 DATED SEPTEMBER 17, 1999

**COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION**

COMPLAINT INSPECTION REPORT

**EASTERN STATES OIL & GAS, INC.
Pikeville, Kentucky**

August 24, 1999

BRIEF

As a result of a complaint from Mr. Vic Ferguson of Martha, Kentucky, a partial inspection of Eastern States Oil & Gas, Inc. ("Eastern States") was conducted on August 17 and 19, 1999. This inspection was conducted in accordance with the Public Service Commission's ("PSC") policy of inspecting all jurisdictional operators. Natural gas operators are jurisdictional to the PSC under KRS 278.040, 278.495 and also through a 5(a) Agreement with the United States Department of Transportation, Office of Pipeline Safety, for the enforcement of the Natural Gas Pipeline Safety Act of 1968.

INSPECTION

On August 16, 1999, a telephone call was received from Mr. Vic Ferguson. Mr. Ferguson stated during the phone call that on July 2, 1999 a 3-inch fiberglass natural gas pipeline crossing his farm in Martha, Kentucky had ruptured and released large volumes of natural gas into the atmosphere within approximately 100 yards of his home. Fiberglass gas pipe is allowed under certain conditions set forth in ASTM Specification D2517, "Standard Specifications for Reinforced Epoxy Resin Gas Pressure Pipe and Fittings." An onsite visit was made on August 17, 1999 to meet with Mr. Ferguson and obtain what other information was available at the site of the rupture. Photographs were taken of a small piece of the damaged pipeline and of the site of the incident.

On August 19, 1999, I met with Mr. Lloyd Hall, Operations Manager of Eastern States at his office in Pikeville, Kentucky. Mr. Hall stated that the line in question was originally installed by Ashland Oil at an undetermined time. The line was later sold to a gathering company in the Martha area and was only recently acquired by Eastern States that has purchased some of Ashland's holdings. The portion of the pipeline in question is located downstream from a compressor station and is operating at between 250 and 300 pounds per square inch gage ("psig"). An interpretation from USDOT considers pipelines downstream of compression to be transmission lines and, therefore, subject to the Federal and State Pipeline Safety regulations.

Several violations of the pipeline safety standards were found and will be further discussed in the findings section of this report.

FINDINGS

The following deficiencies were found:

1. There is no documentation that the installed fiberglass pipe meets the specifications of Appendix B of 49 CFR 49 192 and KAR 5:022.
2. There is no maximum allowable operating pressure ("MAOP") established for this segment of pipeline. 49 CFR 192.619 and 807 KAR 5: 022, Section 13(11).
3. There are no procedures in the Operation and Maintenance ("O&M") Plan for the correct and proper methods of repair for this type of pipe. 49 CFR 192.605 and 807 KAR 5:022, Section 13(3).

RECOMMENDATIONS

It is recommended that Eastern States:

1. Conduct immediately a leakage survey of the fiberglass pipeline mentioned in this report.
2. Provide immediately all necessary paperwork to document the established MAOP.
3. Provide all the necessary paperwork to document the correct type of pipe and document the correct and proper methods to repair this pipe in the O&M Plan.

It is further recommended that a copy of this report be sent to Eastern States directing it to respond by September 24, 1999 with a schedule of compliance to the cited deficiencies for Commission approval.

It is also recommended that the Commission initiate a hearing to allow Eastern States to show cause why it should not be penalized for failure to comply with the pipeline safety regulations.

Respectfully submitted,

David B. Kinman

David B. Kinman
Gas Utility Investigator
Gas Branch

*EBS
LLA*

