

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Northern Natural Gas Company)

Docket No. CP09-465-002

**MOTION TO INTERVENE AND COMMENTS OF THE INTERSTATE NATURAL
GAS ASSOCIATION OF AMERICA**

Pursuant to the Federal Energy Regulatory Commission’s (“Commission” or “FERC”) November 7, 2017 Notice of Filing regarding a Motion to Show Cause (“Motion”) filed by the Kansas Corporation Commission (“KCC”),¹ and Rule 214 of the Commission’s Rules of Practice,² the Interstate Natural Gas Association of America (“INGAA”) respectfully submits this motion to intervene and associated comments.

INGAA is a trade association that advocates regulatory and legislative positions of importance to the natural gas pipeline industry in North America. INGAA’s 26 members represent the majority of interstate natural gas transmission pipeline companies in the United States. Its United States members are regulated by the Commission pursuant to the Natural Gas Act (“NGA”).³ INGAA’s members, which operate approximately 200,000 miles of pipelines and greater than 10,000 storage wells, serve as an indispensable link between natural gas producers and consumers.

MOTION TO INTERVENE

KCC’s motion petitions the Commission to compel Northern Natural Gas Company (“Northern”) to undertake specific remedial measures on production wells owned by third parties that intersect Northern’s Cunningham Storage Field. The relief requested by the KCC could

¹ *Northern Natural Gas Co.*, Notice of Filing, Docket No. CP09-465-002 (Nov. 7, 2017).

² 18 C.F.R. § 385.214.

³ 15 U.S.C. §§ 717-717w.

impact INGAA members and operations of their respective underground natural gas storage facilities. Accordingly, as a representative of underground natural gas storage facility operators, INGAA has a direct and significant interest in the outcome of this proceeding, and such interest cannot be adequately represented or protected by any party hereto.

COMMUNICATIONS

Please direct all correspondence regarding this matter to the following individuals:

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COMMENTS

The Commission must reject the KCC's Motion in this proceeding. KCC's motion petitions the Commission to compel Northern to undertake specific remedial measures on abandoned production wells owned by third party producers purportedly to ensure safe operations of the Cunningham Storage Field. However, the relief sought by the KCC is contrary to Kansas state law, because the KCC has exclusive jurisdiction over the operation and abandonment of oil and natural gas production wells and can address the situation by exercising its jurisdiction accordingly by requiring the owners of the production wells to secure the wellbores. The FERC must not be inserted into a matter which the KCC can resolve, but has failed to do so. While the FERC continues to retain its exclusive authority related to the

certification of underground natural gas storage facilities,⁴ Congress has directed PHMSA to issue minimum safety standards for the operation of underground natural gas storage facilities,⁵ and PHMSA has promulgated regulations in accordance with the Congressional direction.⁶ Therefore, the KCC should enforce its own abandonment regulations and additional direction from FERC on how Northern should manage the safety of its Cunningham Storage Field is unnecessary.

The KCC filed its Motion following the blowout of an abandoned, third-party production well (“Mabel #2 Well”) within the FERC certificated boundaries of Northern’s Cunningham Storage Field.⁷ In the Motion, the KCC argues that the FERC must compel Northern to isolate other third-party wellbores from its storage facility (Viola and Simpson formations) to prevent the vertical loss of storage gas within the Cunningham Storage Field.⁸

The Commission must reject the KCC’s Motion, because the KCC has exclusive jurisdiction over oil and natural gas production wells within Kansas, including “all practices involved in the...abandonment and postabandonment of oil and gas wells.”⁹ Rather than appropriately exercising its own authority under Kansas state law and the KCC’s own regulations to require the production well owners to take any necessary safety actions,¹⁰ the KCC is attempting to insert the Commission into this matter incorrectly. It is undisputed that the proper plugging and abandoning of the Mabel #2 Well and the other production wells is a matter

⁴ See 15 U.S.C. § 717f; See also 18 C.F.R. Part 157.

⁵ “Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2016,” Pub. L. No. 114-183, 130 Stat. 514 (codified as amended at 49 U.S.C. §§ 60101-60141 (2016)).

⁶ “Pipeline Safety: Safety of Underground Natural Gas Storage Facilities Interim Final Rule”, 81 Fed. Reg. 91,860 (Dec. 19, 2016).

⁷ KCC Motion at 2-3.

⁸ KCC Motion at 22.

⁹ Kan. Stat. Ann. § 74-623(a).

¹⁰ See Kan. Stat. Ann § 55-162; Kan. Stat. Ann. § 55-164.

of KCC jurisdiction.¹¹ Furthermore, it is undisputed that Nash Oil & Gas, the original operator of the Mabel #2 Well, failed to plug the well following the expiration of its temporary abandonment authority in accordance with KCC regulations.¹² Similarly, it is undisputed that the four other production wells at issue here, owned by Nash and Val Energy, are inactive but have not been plugged and abandoned in accordance with KCC regulations.¹³

Thus, the KCC should enforce its own regulations and require the operators of the abandoned production wells at issue here to plug them properly. In the alternative, Kansas state law gives the KCC the authority to enter onto the premises of these production wells in such situations and to plug the wells if necessary.¹⁴ Such actions have been taken by the KCC before, when it employed this authority to address the blowout at the Mabel #2 well.¹⁵ This same authority should be used to address the other production wells at issue in the KCC Motion.

Further, issues regarding the safety of operating storage facilities are addressed appropriately by PHMSA, the federal safety regulator, under recently promulgated underground natural gas storage regulations. These regulations for underground natural gas storage facilities¹⁶ incorporate two American Petroleum Institute (“API”) standards by reference: API RP 1170: *Design and Operation of Solution-mined Salt Caverns used for Natural Gas Storage*¹⁷ and API

¹¹ See e.g. KCC Motion at 3, n.4; Northern Answer at 21.

¹² See e.g. KCC Motion at 3, n. 4; Northern Answer at 21. See also Kan. Admin. Regs. § 82-3-111(d) (“At the expiration of any approved temporary abandonment period, each well temporarily abandoned shall be plugged, repaired, or returned to operation in accordance with applicable regulations.”).

¹³ KCC Motion at 11.

¹⁴ Kan Stat. Ann. § 55-182.

¹⁵ KCC Motion at 3.

¹⁶ 49 C.F.R § 192.12.

¹⁷ API Recommended Practice 1170 “Design and Operation of Solution-mined Salt Caverns used for Natural Gas Storage” (1st edition, July 2015).

RP 1171: *Functional Integrity of Natural Gas Storage in Depleted Hydrocarbon Reservoirs and Aquifer Reservoirs*.¹⁸

Through incorporation of these API standards, PHMSA regulations require operators to assess the risk to storage wells and formations from various hazards and threats. A storage operator's risk assessments should drive decisions and actions regarding monitoring, inspection, and testing to evaluate integrity and then the employment of preventative and mitigative measures to reduce risk.¹⁹ Rather than dictate specific outcomes, the PHMSA regulations require a management system for assessing risk, evaluating integrity and developing appropriate preventative and mitigative programs to address relevant threats.

Thus, PHMSA regulations outline federal requirements for managing safety in underground natural gas storage facilities and PHMSA, not FERC, is the appropriate regulator of the safety of Northern's Cunningham Storage Field. Additional direction from FERC on how Northern should address the safety of its storage field is unnecessary. Moreover, the KCC has the authority to require the owners of the inactive production wells to mitigate the risk of an incident by permanently plugging and abandoning the wells in accordance with Kansas state law.

¹⁸ API Recommended Practice 1171 "Functional Integrity of Natural Gas Storage in Depleted Hydrocarbon Reservoirs and Aquifer Reservoirs" (1st edition, September 2015).

¹⁹ PHMSA's regulations became effective in January 2017, but PHMSA has provided for phased implementation over a 3 – 8 year period (<https://primis.phmsa.dot.gov/UNG/faqs.htm>). As a result, not all requirements are in effect today.

CONCLUSION

For the foregoing reasons, INGAA requests that the Commission accept this motion to intervene and reject the KCC's Motion in accordance with the comments filed hereto.

Respectfully Submitted,



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Vice President and General Counsel



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DATE: November 28, 2017

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing documents upon the parties designated on the official service list compiled by the Secretary of the Federal Energy Regulatory Commission for the above-captioned docket in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure.

Dated at Washington, D.C. this 28th day of November, 2017.



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