



October 26, 2012

Debra A. Howland, Executive Director
New Hampshire Public Utilities Commission
21 South Fruit Street
Suite 10
Concord, NH 03301-2429



RE: Docket No. DRM 11-077; Rulemaking for New Hampshire Code of Administrative Rules PART Puc 500, Rules for Gas Service

Dear Ms. Howland:

On September 5, 2012, The State of New Hampshire Public Utilities Commission (Commission) initiated a rulemaking for New Hampshire Code of Administrative Rules PART Puc 500, Rules for Gas Service. The Commission's initial proposal represents a re-adoption of the existing Puc 500 rules with amendments.

On October 19, 2012, the Commission held a Public Hearing on the proposed amendments to the rules for gas service.

The Northeast Gas Association (NGA) commends the Commission for its work in proposing enhancements to New Hampshire's pipeline safety regulations. NGA and its New Hampshire members - Liberty Utilities, New Hampshire Gas Corporation, and Unitil - are strongly committed to pipeline safety. For NGA, this is our mission, "to promote and enhance the safe, reliable, efficient, and environmentally responsible delivery of natural gas to customers in the region."

However, NGA has concerns with several proposed Puc 500 amendments and offers general and specific comments below.

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Northeast Gas Association (NGA)

The Northeast Gas Association (NGA) is a regional trade association that focuses on education and training, technology research and development, operations, planning, and increasing public awareness of natural gas in the Northeast United States. NGA represents natural gas distribution companies, transmission companies, liquefied natural gas importers, and associate member companies. These companies provide natural gas to approximately 10 million customers, approximately 15% of natural gas customers in the U.S., in eight states (Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island and Vermont).

General Comments

The Puc 500 Rules Order of Notice states, “The proposed rules are intended to clarify and standardize certain safety related rules applicable to gas utilities.” NGA supports this goal but believes the proposed rules have gone beyond clarifying and standardizing. Several of the proposed changes NGA considers as directing how a utility should run their daily operations, e.g. Puc 506.02(u)(6).

The Puc 500 Rules Order of Notice states, “All proposed amendments are based on field inspections that have occurred since 2005; review of regional and national pipeline incidents and explosions to assess applicability, with an emphasis on prevention; review of national best practices regarding pipeline safety; as well as federal alert notices, advisory bulletins, rulemakings and enforcement actions.” NGA and its members are continuously evaluating practices to implement “best practices” to improve efficiencies and enhance public and employee safety. NGA applauds the Commission’s effort to incorporate regional and national practices which could be considered “best practices.” However, NGA believes that several of the proposed rules are very prescriptive and would constrain opportunities to implement best practices. A best practice today may be an old practice one year from now. NGA believes that some of the proposed rules should not be prescriptive, but rather be performance-based, e.g. Puc 508.04(m).

At the October 19, 2012 Public Hearing, the Commission noted its role in seeking to balance performance and prescriptive rulemaking. NGA recognizes the Commission's challenge to develop regulations that are clear, effective, efficient and easy to enforce. While we understand the challenge, NGA believes that performance-based regulations should be used in most situations. A utility should be regulated on the outcome required and less on how to achieve the outcome. Research and actions by federal and state regulatory authorities support this position. United States Government Executive Order 12866, issued by President Clinton and retained by Presidents Bush and Obama, directs agencies wherever feasible to specify performance objectives, rather than behavior, in crafting new regulations. Over the past ten years, both the Nuclear Regulatory Commission and the Department of Transportation have issued risk-based performance regulations to achieve their safety goals.

As stated earlier, NGA's mission is to enhance the safe, reliable, efficient delivery of natural gas to customers in the region. NGA's programs, developed with its member utilities, are designed to comply with this mission and provide the flexibility necessary to enable our members to customize the programs to reflect the needs of their distinct distribution systems. For example, NGA developed the Distribution Integrity Management Plan, Transmission Integrity Management Plan and Public Awareness Plan with a performance-based design. These Plans address the outcomes desired and provide options for addressing the outcomes, but ultimately allow our members the flexibility to decide how best to reach the desired outcomes.

NGA is concerned that in several sections the proposed language in PUC 500 creates possible confusion with the requirements of the December 4, 2009, Pipeline and Hazardous Materials Safety Administration's (PHMSA) Distribution Integrity Management (DIMP) Rule. Several amendments, in our view, contradict the spirit of the federal DIMP Rule.

NGA proposes that as an alternative to prescriptive regulations, the Commission consider performance-based regulations and work with industry to develop “Guidelines.” Throughout the Northeast, NGA members have been working with respective state PUC staff to develop “Guidelines.” These “Guidelines” are not incorporated into state gas standards and can be updated, incorporating new best practices, without future rulemakings. For example, New York utilities worked with New York Public Service Commission staff in 2010 to develop a leak and odor procedure guideline. In 2012, Massachusetts utilities worked with MA PUC staff to development a leak classification guideline.

Specific Comments

NGA provides specific comments on the proposed rule in the sequence presented in the notice.

Puc 504.05 Emergency Notification

(a) The utility shall notify the safety division of the commission by telephone when any of the following occur:

(8) A gas facility-related incident that the utility is aware of, including any incident that is likely to be, or has been, reported in the news media;

This amendment addresses a concern that safety division staff receives calls from interested parties, regarding an incident, prior to being notified by the utility. NGA appreciates this concern and believes updating state officials on newsworthy incidents is a utility’s responsibility. The language used in the amendment, however, is vague. It can imply that safety division staff should be notified for very minor incidents that have no impact on the public, employees or property.

NGA recommends the following language: “A gas facility-related incident that is likely to be, or has been, reported in the news media.”

Puc 504.05 Emergency Notification

(a) The utility shall notify the safety division of the commission by telephone when any of the following occur:

(9) Any indication of insufficient levels of odorant that do not meet the requirements of 506.02(1), regardless of how the operator becomes aware of such indication:

NGA is concerned that the wording, “any indication”, is vague and will lead to misinterpretation.

NGA recommends the following language: “when the operator confirms that odorant levels have fallen below the requirements of 506.02(1).”

Puc 504.07 Emergency Response.

(a) For any utility that serves a single municipality or serves fewer than 2,500 customers, emergency response shall be limited to within 30 minutes

NGA believes this amendment contradicts a goal outlined in the Puc 500 Rules Order of Notice, “the equal application of these rules by all gas utilities and operators.” The amendment addresses one company in the state.

NGA recommends the amendment be deleted.

Puc 505.01 Meter Installations.

(c) Meter installations shall be protected from anticipated or potential dangers including but not limited to vehicles, ice, snow, flooding, or corrosion.

NGA is concerned with the words, “anticipated or potential danger.” The wording is vague and can be misinterpreted. NGA does not believe the objective of this amendment is to require utilities to forecast history-making storms or a vehicle that drives 500 feet through a resident’s lawn and hits a gas meter on the side of the home.

NGA recommends the following alternate language: “meter installations shall be protected from known dangers including but not limited to vehicles, ice, snow, flooding, or corrosion.”

Puc 506.01 Pipeline Safety Standards

(d) Utilities shall ensure that welders performing welding work on utility pipeline facilities are qualified, as follows:

(1) No utility shall permit a welder to make any pipeline weld unless the welder has qualified by destructive testing within the preceding 27 months, but at least once every 2 calendar years in accordance with 49 C.F.R. §192.7 and Appendix C to Part 192.

NGA believes this amendment is excessive and goes beyond federal regulations and industry best practices. PHMSA regulations allow welders to remain qualified without performing a destructive test, if a non-destructive test is performed every six months. NGA's Welding Program requires welders to be qualified, per destructive testing, every five years. NGA's Welding Program was implemented in 2004 after two years of work with regional state pipeline safety officials, including New Hampshire.

Welding has been a much-discussed topic due to some industry incidents in the past five years in the U.S. PHMSA has held multiple workshops addressing welding practices and methods but very little on welder qualifications. The causes of the incidents, as reported by the National Transportation Safety Board, were related to the practices, methods and decisions made by management and not the qualification of the welder. In addition, the welds on the pipes related to the incidents were performed prior to the OQ regulations we adhere to today.

NGA recommends the following alternate language: "...within the preceding 63 months, but at least once every 5 calendar years..."

Puc 506.01 Pipeline Safety Standards

(g) Utilities shall attach inspection stickers to all such equipment covered under (g) above, indicating the date of the most recent inspection and/or calibration. In the event an inspection sticker is not legible or has become detached, the operator shall make available upon request records of all periodic inspections and calibrations in the field that will adequately enable the safety division to determine appropriate calibration of equipment.

NGA believes that all equipment should be inspected and/or calibrated to the requirements outlined in the manufacturer's manual with supporting records. This amendment however goes beyond the desired outcome that all equipment is inspected and/or calibrated. This amendment directs utilities on how to reach the desired outcome. This amendment is too prescriptive. Stickers are an administrative challenge and easily detach on small equipment.

NGA recommends the amendment be deleted.

Puc 506.02 Construction. Operations and Maintenance

(m) All combustible gases transported or distributed by a pipeline shall have a distinctive odor of sufficient intensity so that at a concentration of one-fifth of the applicable lower explosive limit, in accordance with Table 508-I, the odor is readily perceptible to the normal or average olfactory sense of a person coming from fresh, uncontaminated air into a closed room.

NGA believes the proposed amendment is confusing and requires additional testing that is not warranted. The present requirement of a concentration of 1% gas in the air is consistent with federal requirements. Studies conducted by utilities show concentrations beyond the current regulations to have little impact on public safety.

NGA recommends the amendment be deleted.

Puc 506.02 Construction. Operations and Maintenance

(t) Operator qualification plans shall list all covered tasks and include specific abnormal operating conditions for each task. All operator qualifications covered tasks shall be cross referenced with applicable construction standards or specifications or applicable operation and maintenance activities including emergency response.

NGA's Operator Qualification (OQ) Program was designed to qualify individuals on tasks common to industry in all states. During the OQ Rulemaking process and after the Rule was initiated, The U.S. Department of Transportation's Office of Pipeline Safety

(OPS) encouraged the development of regional OQ Programs. In 2002, shortly after the Rule was implemented, NGA was audited by OPS and used as a model in presentations to industry. The current PHMSA OQ inspection form addresses qualifications conducted by regional organizations as an acceptable method of qualification. NGA believes its OQ program, developed by its members, is one of the top programs in the nation and is continuously updating the program. In fact, the NGA OQ program has been enhanced nine times in the past eleven years.

Qualification assessments are designed to evaluate the knowledge and/or skill of an individual. A student takes the national math SAT exam to determine knowledge in math. An individual takes an online knowledge test and a road test to acquire a driver's license. In both cases, the knowledge and skill required is the same from state to state. If you live and drive in Massachusetts and move to New Hampshire, you do not have to re-take the knowledge or skill assessment even though there are differences in driving laws. A person that is qualified to drive a car in Massachusetts is qualified to drive in New Hampshire. The same principle applies to OQ. NGA's OQ program, designed to qualify an individual on inspecting for atmospheric corrosion for example, should be qualified to perform this task in Massachusetts or New Hampshire. NGA's regional OQ Program provides efficiencies to utilities and contractors. It establishes a network of qualified personnel available to any company when mutual assistance is required.

NGA believes the proposed amendment would force New Hampshire utilities and contractors to develop new OQ assessment and training materials. NGA has approximately fifteen years of experience developing OQ assessment and training materials and estimates the cost for development to be over \$300,000 for the three New Hampshire utilities.

NGA recommends the amendment be deleted.

Puc 506.02 Construction. Operations and Maintenance

(u) Construction quality assurance plans shall be written, followed and documented as follows:

(1) Each utility shall inspect any new construction by outside contractors that is or will be incorporated into the utility's system to verify that the resulting installation meets company specifications

Section 506.02(u) is too prescriptive. NGA agrees that a utility should have a written quality assurance plan that measures established outcomes. How a utility designs, implements and achieves the outcome should be left to each utility and not be prescribed. Quality assurance programs are fluid and a utility should have the opportunity to utilize "best practices" to achieve the desired outcomes.

A contractor is an extension of a utility's workforce, trained and qualified. Requiring inspections on jobs performed by contractors, compared to a utility's employees, adds additional costs and time to the new construction project that are not warranted.

NGA recommends Section (u) read: "Construction quality assurance plans shall be written and implemented to assess: (1) new construction installations meet company specifications."

Puc 506.02 Construction. Operations and Maintenance

(u) Construction quality assurance plans shall be written, followed and documented as follows:

(2) A representative number of field verification audits shall be conducted after field work is completed for specific tasks; (3) Performance audits shall be conducted to evaluate a representative sample of various tasks are evaluated during the actual time that the work is being performed by the employee or contractor; (4) Construction inspections shall be conducted frequently enough to encompass most of the new facility installation and repairs that are done on the utility system:

See general comments to Section (u) above.

In addition to being too prescriptive, the language in the proposed amendment is vague and somewhat confusing. In (2) above, how much is a “representative sample?” In (3) above, how many tasks are a “various” sample? In (4) above, how often is “frequently” and is “most” 80% or 90% of the installations? The answers to these questions will depend on factors like the sample size, the type of installation and more. It differs among utilities.

NGA recommends Section (u) read: “Construction quality assurance plans shall be written and implemented to assess: (1) new construction installations meet company specifications. Plans should address field verification audits during and post installation.”

Puc 506.02 Construction. Operations and Maintenance

(u) Construction quality assurance plans shall be written, followed and documented as follows:

(6) Audits of employees and crews shall be conducted by management personnel (for example, supervisors, engineers) to ensure that all personnel have reviewed the quality assurance plan and that all construction work is inspected on a regular basis.

See general comments to Section (u) above.

NGA believes that the issue of who conducts an audit - company employee, third party or contractor (if equally trained) - has no correlation to pipeline safety. The decision should be left to the utility that is responsible for the daily operation and management of their workforce.

NGA recommends the amendment be deleted.

Puc 506.02 Construction. Operations and Maintenance

(7) Utilities shall take remedial action within 3 months to correct or make substantial progress toward correction of any deficiencies indicated by construction quality assurance audit and inspection findings.

The language in the proposed amendment is unclear. For example, what is meant by the word, “substantial?”

NGA recommends the amendment be changed to read, “...to correct or make progress toward...”

Puc 508.04 Leakage Surveys and Inspections

(m) A utility shall assign a classification of leaks as follows

As discussed above in the general comments, NGA believes details of leak classification and construction quality assurance plans should be performance-based and not prescribed in the Puc 500 rules. NGA would welcome the opportunity to work with member utilities and Commission staff to develop guidelines to address both plans.

NGA has many questions regarding the reasons and supporting data used to propose several of the amendments on leak classification. For example, LEL percentages in Sections (m)(5) and (m)(7) for classifying leaks differ greatly from industry standards and practices.

NGA recommends minor edits to the definitions of class 1, 2 and 3 leaks, as proposed. NGA recommends prescriptive amendments, how and when to perform and classify leaks, be deleted.

Puc 509.15 Status of Leaks.

(e) Additionally, for those leaks reported during the month, the utility shall provide:

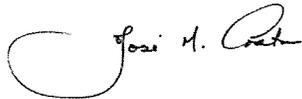
(1) The leak address:

NGA questions the value of reporting a leak's address. NGA has experience with the pros and cons of reporting a leak's address and strongly discourages this practice. Leak reports are public documents that can easily be misinterpreted.

NGA recommends the amendment be deleted.

In conclusion, NGA appreciates the opportunity to present comments and recommend changes to the Commission regarding the proposed regulation. As stated above, NGA would welcome the opportunity to continue to work with member utilities and the Commission in this process. Please feel free to call on us if you have any questions.

Respectively submitted,

A handwritten signature in black ink, appearing to read "Jose M. Costa". The signature is written in a cursive style with a large, looping initial "J".

Jose M. Costa,
Vice President Operations Services

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