



June 4, 2021

Hon. Michelle L. Phillips
Secretary
New York State Public Service Commission
Three Empire State Plaza
Albany, NY 12223-1350

RE: CASE 20-G-0560 - In the Matter of the Rules and Regulations of the Public Service Commission, Contained in 16 NYCRR - Proposed Amendments to Chapter I, Rules of Procedure, Subchapter A, General, Part 10, Referenced Material; and Chapter III, Gas Utilities, Subchapter C, Safety, Part 255, Transmission and Distribution of Gas, to Ensure Conformance with Title 49, Code of Federal Regulations, Part 192, Transportation of Natural and Other Gas by Pipeline.

Via Email

Dear Secretary Phillips:

The Northeast Gas Association¹ (NGA) respectfully submits the following comments on behalf of our New York State natural gas local distribution company members (“LDCs”) in response to The New York State Public Service Commission’s (“Commission”) NOTICE INVITING COMMENTS ON PROPOSED DRAFT RULEMAKING issued May 11, 2021. The proposal amends the rules relating to gas pipeline facilities contained in Title 16 NYCRR Part 10, Referenced Material (Part 10), and 16 NYCRR Part 255, Transmission and Distribution of Gas (Part 255). The proposed changes are intended to bring Part 10 and Part 255 into conformance with Federal Regulations found in 49 CFR Part 192; however, it also includes proposed additions beyond the scope of recent changes adopted in Part 192.

¹ 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 U.S. NGA represents natural gas distribution companies, transmission companies, liquefied and compressed natural gas suppliers, and associate member companies. Its member companies provide natural gas service to over 13 million customers in 9 states (CT, ME, MA, NH, NJ, NY, PA, RI, VT).

For the purposes of this filing, the LDCs are:

- Central Hudson Gas and Electric Corp.
- Consolidated Edison Company of New York, Inc.
- Corning Natural Gas Corp.
- Hamilton Municipal Gas
- Liberty Utilities
- National Fuel Gas Distribution Corp.
- National Grid
- New York State Electric and Gas Corp.
- Orange and Rockland Utilities, Inc.
- Rochester Gas and Electric Corp.
- Valley Energy Inc.

As described in the Notice, the Commission is a federally certified state pipeline safety program administrator and is required pursuant to 49 USC §60105(b)(2) to adopt federal pipeline safety standards. While most of the proposed regulations are verbatim to PHMSA's rules, the LDCs believe that there are several proposed additional requirements beyond the scope of Part 192 that, while well intended, may conflict with federal requirements and/or definitions; and in this regard, further clarification is necessary. More specifically, these proposed requirements include the definition of *Accident*; definition of *Calendar year*; the extended definition of a service line in New York State vs the current federal definition and resulting implications under the proposed transmission rule requirements in some circumstances; maximum allowable operating pressure reconfirmation and identification of potential threats to pipeline integrity and use of threat identification in an integrity management program. In addition, NGA recommends updating existing definitions for Leak Survey to be consistent with Commission Orders issued to implement inside service inspections and adopting a definition of Distribution Center to provide additional clarity when applying the definition of a Transmission Line.

Comments:

1. §255.3 Definitions

(3) Accident means an unforeseen or unplanned event involving gas facilities that is significant in the judgement of the operator but does not meet the definition of an incident as prescribed by 49 CFR 191.3.

This definition is not consistent with the code section incorporating use of the term and while unintended, the use of the term Accident and Incident are used interchangeably in applicable code sections, further confusing the proposed definition §255.801 Reports of Incidents states, *(a) Each operator shall report all accidents where gas facilities may be involved, which cause injury or death to any person or damage to property or could cause concern because of coverage by news media.* The discrepancies include use of the term *involving gas* vs. *where gas may be involved*, and *but does not meet the definition of an incident as prescribed by 49 CFR 191.3* (which includes death and certain property damage) vs. *which cause injury or death to any person or damage to property.*



§255.801(e) uses the terms interchangeably:

(e) This report shall set forth a chronological sequence of events including a detailed description of the:
(1) accident (incident);

Further, the proposed definition for Accident is overly broad and subject to interpretation and potential inconsistent enforcement. NGA recommends aligning the proposed definition with intended use and purpose of the language in §255.801 and to review applicable code sections to ensure consistent use of terminology.

(8) Calendar year means the period of 365 days, or 366 days in leap years, starting from any date.

The legal definition of calendar year is: **Calendar Year** means each successive period of twelve (12) months commencing on January 1 and ending on December 31. Calendar year is used extensively throughout pipeline safety code in describing inspection and survey frequencies and other compliance deadlines. The new definition will require LDCs to manage inspections and surveys on a rolling twelve-month basis vs. a January 1 to December 31 basis as prescribed by federal code. This may result in the unintended consequence of managing two different compliance due dates (one for New York and one federally). Additionally, with this definition it is unclear how the “not to exceed” allowance could ever be utilized based on the proposed calendar year definition.

In the following example from this rulemaking an LDC could perform leak surveys on 3/1/2019, 10/1/2019, 5/10/2020 and 12/1/2020. Under the federal definition an LDC would be compliant; however, with the new state definition, if the NYDPS inspector selected 4/1/2019 as the “beginning” of the calendar year then the LDC would **not** have surveyed twice in the DPS selected calendar year:

§255.935 Preventive and mitigative measures to protect the high consequence areas.

(d)(3) Perform [semi annual] leak surveys twice each calendar year at intervals not exceeding 7-1/2 months (four times each calendar year at intervals not exceeding 4-1/2 months [quarterly] for unprotected pipelines or cathodically protected pipe where electrical surveys are impractical).

A similar situation could arise in the following example if an LDC re-evaluated a Type 3 leak on 6/1/2019 and performed a reevaluation again on 7/15/2020. If the NYDPS inspector selected 7/1/2019 as the beginning of the calendar the new 15-month allowance would be a moot point since the second re-evaluation is not within the selected calendar year:

§255.817 Leaks: Type 3 classification.

(c) Type 3 leaks shall be reevaluated during the next required leakage survey or within one calendar year at intervals not exceeding 15 months [annually], whichever is less.

NGA respectfully requests that the Commission adopt the same definition for “Calendar Year” as established by the federal code and further described in PHMSA TAMP FAQ 41. While NGA appreciates the Commission’s intent, NGA submits that the administrative burdens associated with tracking numerous “Calendar Year” requirements by LDCs will greatly increase if the Commission’s proposal is adopted. In addition, these increased administrative burdens may lead to LDC personnel confusion, scheduling challenges and other administrative burdens that run counter to the principles of enhanced safety. The federal definition allows for an orderly inspection scheduling process, yet affords LDCs the flexibility to address numerous future unknowns, such as unpredictable weather events or other unknown situations. NGA urges the Commission to follow that model. Furthermore, the Commission should consider adopting the term Calendar Year in lieu of Year or Years when referencing gas pipeline reassessment intervals in §255.710.

(27) Leakage survey means a systematic survey made for the purpose of locating leaks in a gas piping system using an approved instrument which continuously analyzes atmospheric samples near ground level and is capable of detecting the presence of gas in parts per million in air.

NGA requests updating the definition of Leakage Survey addressing devices to conduct leak surveys of exposed, visibly accessible jurisdictional piping in addition to subsurface buried piping. As approved in Case 15-G-0244, for visibly accessible, exposed piping, approved devices include use of a properly calibrated combustible gas indicator (CGI) or approved equivalent device similar to approved devices for conducting leak investigations.²

NGA suggests the following definition for consideration:

Leakage survey means a systematic survey made for the purpose of locating leaks in a gas piping system using an approved instrument. For subsurface (buried) piping, the approved instrument shall continuously analyze atmospheric samples near ground level and is capable of detecting the presence of gas in parts per million in air. For visibly accessible, exposed piping, approved devices include use of a properly calibrated combustible gas indicator (CGI) or approved equivalent device.

2. New York State Definition of a Service Line vs Federal Definition and Conformance with Transmission Rule Proposals As Applied to High Pressure Service Laterals

NGA is concerned regarding how differences in the State and Federal definitions of Service Line may result in compliance inconsistencies with proposed transmission rule adoption due to differences in demarcation points of distribution system jurisdictional piping. While §192 and §255 define a transmission line similarly however, §192 defines a service line as clearly excluding transmission:

² GTI Project Number 21971, May 12, 2016 Leak Survey Equipment Considerations for NY Operators, Development of a Regulatory Conformance and Technology Applicability White Paper. Appropriate fit-for-use application of CGI’s to conduct exposed jurisdictional piping leak surveys was subsequently acknowledged in Case 15-G-0244.

§192.3: *Service line* means a distribution line that transports gas from a common source of supply to an individual customer, to two adjacent or adjoining residential or small commercial customers, or to multiple residential or small commercial customers served through a meter header or manifold. A service line ends at the outlet of the customer meter or at the connection to a customer's piping, whichever is further downstream, or at the connection to customer piping if there is no meter.

In contrast, under the current New York State definition of Service Line:

§255.3 *Service line* means the piping, including associated metering and pressure reducing appurtenances, that transports gas below grade from a main or transmission line to the outlet of the customer meter or at the connection to a customer's piping, whichever is further downstream where a meter is located within the building; if a meter is located outside the building, the service line will be deemed to terminate at the outside of the building's foundation wall.

In the New York State definition, arguably all piping downstream of a transmission line could be deemed a "service line", including laterals serving a large volume user downstream of a distribution center, inadvertently making all such piping subject to the transmission rule. While NGA does not believe it is the Commission's intent to go beyond federal code, in this instance it demonstrates the need for clarification. NGA requests that Staff clarify, in adopting this rulemaking, that they did not intend to expand upon the applicability of the MAOP Rule, beyond PHMSA's jurisdiction. NGA also believes that for purposes of compliance with proposed code sections, adopting a definition of Distribution Center will provide further clarity as to demarcation points of intended application of transmission rule.

NGA proposes adding the following definition to **§255.3** which is similar in content and structure to that identified by the Gas Pipeline Safety Advisory Committee (GPAC)³⁴:

Distribution Center means the point where gas piping used primarily to deliver gas to customers who purchase it for consumption, for example, at a metering and/or pressure reduction custody transfer location(s) that define a gas franchise territory, unless voluntarily determined by the operator to be transmission pipeline, as opposed to customers who purchase it for resale.

NGA supports allowing an LDC to voluntarily designate pipeline laterals or other segments as a transmission pipeline, as PHMSA has done with farm taps, that would otherwise fall outside the scope of transmission rule application.

³ Comments on Pipeline Safety: Safety of Gas Transmission Pipelines, MAOP Reconfirmation, Expansion of Assessment Requirements and Other Related Amendments Filed by American Gas Association, American Public Gas Association, American Petroleum Institute, Interstate Natural Gas Association of America, May 1, 2018

⁴ Pipeline Safety: Meeting of the Gas Pipeline Safety Advisory Committee, 82 Fed. Reg. 51760 (November 7, 2017). The GPAC is a peer review committee charged with providing recommendations on the technical feasibility, reasonableness, cost-effectiveness, and practicability of PHMSA's proposed safety standards for gas pipeline facilities. 49 U.S.C. §§ 60102(b)(2)(G), 60115.



This is essential so that LDCs who have managed a defined pipe segment in accordance with the transmission regulatory framework can continue to do so, even if the *Distribution Center* definition would allow the segment to be classified as distribution.

Additionally, this criterion allows an LDC to designate a pipeline downstream of a distribution center that operates at less than 20% SMYS as a transmission line, if the LDC believes the risks to that pipeline are best managed through a Transmission Integrity Management Program. NGA believes that codification of a definition for *Distribution Center* will serve to better align all stakeholders on which pipelines are distribution versus transmission, particularly high-pressure service laterals and application of transmission rule requirements considering differences in service line definitions.

3. §255.5 Class locations.

NGA recommends amending proposed language to clarify application of this section to transmission pipeline segments in parallel with §192.5(d):

(g) An operator must have records for *transmission pipelines* that document the current class location of each pipeline segment and that demonstrate how the operator determined each current class location in accordance with this Section.

4. §255.607(g) Uprating.

NGA believes the code section reference is incorrect and should read *as described by Section 255.107(b)(2)* and not 192.255(b)(2) of this Part.

The material properties determined from the destructive or nondestructive tests required by this Section cannot be used to raise the grade or specification of the material, unless the original grade or specification is unknown and MAOP is based on an assumed yield strength of 24,000 p.s.i. as described by Section 255.107(b)(2) of this Part.

5. §255.624 Maximum allowable operating pressure reconfirmation: Onshore steel transmission pipelines.

(c)(2) Method 2: Pressure Reduction. Reduce pressure, as necessary, and limit MAOP to no greater than the highest actual operating pressure sustained by the pipeline during the 5 years preceding October 1, 2019, divided by the greater of 1.25 or the applicable class location factor in Section 255.619(a)(2)(ii) of this Part. The highest actual sustained pressure must have been reached for a minimum cumulative duration of 12 hours during a continuous 30-day period. The value used as the highest actual sustained operating pressure must account for differences between upstream and downstream pressure on the pipeline by use of either the lowest maximum pressure value for the entire pipeline segment or using the operating pressure gradient along the entire pipeline segment (i.e., the location-specific operating pressure at each location).

Federal requirements mandate an 8 hour cumulative duration during a continuous 30 day period which is consistent with the federal pressure test duration requirement in §192.505. In the corresponding §255 language, the Commission is proposing a 12-hour pressure test which is inconsistent with federal requirements.

This inconsistency does not pose significant concerns for LDCs when considering a new construction pressure test under §255.505, as the additional duration can be incorporated into the overall construction planning process with no material effect on the resulting MAOP. However, it may result in unintended consequences when relying on historical operating pressures to establish MAOP under proposed §255.624(c)(2). In this case, for Method 2, when relying on a historical operating pressure which may fluctuate throughout the day based on demand and delivery volumes, a longer duration of time may in some cases result in a lower MAOP allowance than would be allowed by federal code, without providing any appreciable safety benefit. NGA recommends conforming with federal requirements to minimize the possibility of unintended lowering of MAOP.

6. §255.917 Identification of potential threats to pipeline integrity and use of the threat identification in an integrity program.

- (3) Manufacturing and construction defects. **[If an operator identifies the threat of manufacturing and construction defects (including seam defects) in the covered segment, a] An operator must analyze the covered segment to determine **and account for** the risk of failure from **[these defects] manufacturing and construction defects (including seam defects) in the covered segment.**** The analysis must consider the results of prior assessments on the covered segment. An operator may consider manufacturing and construction related defects to be stable defects **only** if the **operating pressure on the covered segment** has **[not been increased over the maximum operating pressure experienced during the five years preceding identification of the high consequence area] been subjected to hydrostatic pressure testing satisfying the criteria of the testing requirements of this Part (PHMSA states *satisfying the criteria of subpart J of at least 1.25 times MAOP*), and the covered segment has not experienced a reportable incident attributed to a manufacturing or construction defect since the date of the most recent pressure test.** If any of the following changes occur in the covered segment, an operator must prioritize the covered segment as a high-risk segment for the baseline assessment or a subsequent reassessment.
- (i) **[Operating pressure increases above the maximum operating pressure experienced during the preceding five years] The pipeline segment has experienced a reportable incident, since its most recent successful pressure test, due to an original manufacturing-related defect, or a construction-, installation-, or fabrication-related defect;**
- (ii) MAOP increases; **[or]**
- (iii) The stresses leading to cyclic fatigue increase[.]; or
- (iv) Operating pressure increases above the maximum operating pressure experienced during the preceding five years.**

NGA believes that in some circumstances, the proposed language may result in unintended consequences of reduced safety and non-compliance with federal regulations.

For example, an HCA in a Class 1 location, on a pipeline installed prior to July 1, 2020, would only require a pressure test of 1.1 times MAOP to rule out manufacturing and construction defects based on the proposed language, whereas federal regulations would require a test of 1.25 times MAOP⁵. NGA recommends adopting the federal rule as written to ensure safety and avoid non-conformance with federal regulations.

NGA also requests clarification of the technical justification and resulting safety benefit of including (3)(iv) which is not included in federal regulations. Inclusion of the language in (3)(iv) may lead to unintended consequences and interpretation that manufacturing and construction defects must be assessed or reassessed if the pipeline operating pressure remains within MAOP but *increases above the maximum operating pressure experienced during the preceding five years*. This would rule out the use of otherwise valid assessment methods such as ILI and ECDA, which do not assess for manufacturing defects, and may unnecessarily require taking critical pipelines out of service to perform a pressure test assessment that would not be required by federal code.

NGA recommends that absent technical justification and clarification of the safety benefit of the addition of (3)(iv), the Commission's proposal should conform with federal requirements.

Conclusion

The LDCs and NGA appreciate the opportunity to provide the above comments. Please contact us if you have any questions.

Respectfully submitted,



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⁵ According to the Final Report prepared for PHMSA, Final Report No. 05-12R on Evaluating the Stability of Manufacturing and Construction Defects in Natural Gas Pipelines prepared by John F. Kiefner dated April 26, 2007, page 36, states "One conclusion is that in a segment of pipe that has been subjected to a hydrostatic test to 1.25 times MAOP, there is no need for integrity assessments, either baseline or periodic, *solely for the purpose of addressing the threat of manufacturing defects in the absence of any interacting threat*. The calculations of times to failure and the pressure-reversal probabilities for such defects suggest that they are not likely to cause failures within the conceivable useful life of a natural gas pipeline. Even if annual five-percent pressure excursions above the validated MAOP occur, the conclusion remains valid."

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