



***National Fuel***

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December 5, 2011

**VIA ELECTRONIC FILING & U.S. MAIL**  
Ms. Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

RE: Natural Gas Pipeline Replacement  
and Performance Plans  
Docket No. M-2011-2271982

Dear Secretary Chiavetta:

Enclosed please find National Fuel Gas Distribution Corporation's Comments regarding the Commission's *Tentative Order* and *Secretarial Letter* filed at Dkt. No. M-2011-2271982.

Very truly yours,

Christopher M. Trejchel  
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CMT/cjc

Enclosures

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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**Natural Gas Pipeline Replacement and Performance Plans** :  
: **COMMENTS**  
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: **Docket Number: M-2011-2271982**  
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**COMMENTS OF  
NATIONAL FUEL GAS DISTRIBUTION CORPORATION**

**TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:**

**I. Introduction.**

On November 10, 2011, the Pennsylvania Public Utility Commission (the “Commission”) entered a *Tentative Order* in this matter requiring that each natural gas distribution public utility submit a copy of its Distribution Integrity Management Plan (“DIMP Plan”) and its Integrity Management Plan (“IM Plan”) to the Chief, Gas Safety Division in the Bureau of Investigation and Enforcement and also requiring each natural gas distribution public utility to conduct enhanced leak surveys of its cast iron and unprotected bare and coated steel systems. Subsequently the Commission issued a *Secretarial Letter* on November 21, 2011 that instituted a temporary stay on the directives of the *Tentative Order* and requested comments on

these issues by December 5, 2011.<sup>1</sup> The *Secretarial Letter* was ratified by the Commission at its December 1, 2011, public meeting.

For its response to the *Tentative Order* and the *Secretarial Letter*, National Fuel Gas Distribution Corporation (“National Fuel” or “the Company”) submits the following Comments.

## **II. Comments.**

### **A. Submission of DIMP and IM Plans**

The *Tentative Order* directs each gas utility to provide an electronic copy of its DIMP Plan and IM Plan to the Gas Safety Division no later than November 30, 2011. That directive was stayed by the *Secretarial Letter*, which requested that comments regarding the submission of DIMP and IM plans be filed by December 5, 2011. For the reasons set forth below, the Commission should not require the submission of DIMP and IM plans at this time.

As the Commission is aware, there is currently pending before the Pennsylvania Commonwealth Court a challenge to the Commission’s protection from public disclosure certain gas safety investigative materials and records. *Pa. P.U.C. v. Gilbert and The Wall Street Journal*, No. 1381 CD 2011 (Petition for Review Filed July 27, 2011) (“*Wall Street Journal case*”). It is the Commission’s position, supported by the gas industry, that such material is exempt from disclosure, pursuant to various exemptions under the *Right to Know Law* and the *Pennsylvania Public Utility Confidential Security Information Disclosure Protection Act*. Among the exemptions from disclosure asserted in that case is that disclosure of the information will create a reasonable likelihood of endangering the safety or the physical security of public utility infrastructure and facilities.

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<sup>1</sup> The *Secretarial Letter* also extended the time period for filing comments regarding proposed Pipeline Replacement and Performance Plans as set forth in the *Tentative Order* from December 2, 2011 to January 13, 2012.

National Fuel believes that portions of its DIMP Plan and, in particular, the IM Plan fall within the exemptions of the *Right to Know Law*, and in particular contain information the release of which could create a reasonable likelihood of endangering the safety or security of its plant infrastructure.<sup>2</sup> However, until the *Wall Street Journal case* is decided, it is unknown whether the information contained in National Fuel's DIMP Plan and IM Plan will, subsequent to submission, be required to be made available to the public. Although National Fuel is confident that the Commission will endeavor to protect sensitive material from public disclosure, the decision whether the DIMP Plan and IM Plan information will remain confidential is outside the Commission's hands; and therefore, the Commission should not require each gas utility to submit its DIMP Plan and IM Plan to the Commission. Rather than ordering gas utilities to submit copies of their DIMP and IM plans, the Commission should require that copies of the plans be made available for confidential review by Gas Safety Division personnel at the companies' offices. This issue could be reexamined at a later date based on the final decision in the *Wall Street Journal case*. A proper balancing of the potential harm due to the release of confidential and proprietary information in the DIMP and IM plans and public interest standards

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<sup>2</sup> National Fuel's DIMP and IM plans contain various information about operations procedures and pipeline systems. The DIMP Plan applies to National Fuel and its affiliated company National Fuel Gas Supply Corporation. The function of the Plan is to enhance safety by identifying and reducing distribution pipeline integrity risks. The Plan consists primarily of the methodologies utilized to assess risks. The Appendices to the Plan contain historical pipeline system information and data that should be maintained as confidential. By way of comparison, the IM Plan applies to National Fuel and certain affiliated companies. The function of the IM Plan is to implement a risk assessment and integrity management program regarding gas transmission pipelines, including the program elements set forth in 49 CFR § 192.911. The IM Plan contains detailed information about critical infrastructure, particularly identification of high consequence areas, that requires confidential treatment and should not be subject to public disclosure. The need for confidentiality concerning the IM Plan is recognized by federal regulations, which require pipeline integrity management plans to contain procedures for reviewing requests for documents by jurisdictional authorities and others. *See*, 49 CFR § 192.911(n).

can be achieved by allowing Gas Safety Division staff to review, but not retain, copies of the plans.

**B. Frost Patrols**

By the *Secretarial Letter* ratified on December 1, 2011, the Commission revised the Frost Patrol provisions set forth in the *Tentative Order* and it directed gas utilities to conduct Frost Patrols as specified in their DIMP and IM plans, pending further action by the Commission. The Commission also required gas utilities to file comments regarding Frost Patrols. Following are National Fuel's comments.

**1. National Fuel's Current Procedures**

National Fuel's number one priority is to operate a safe natural gas pipeline system. National Fuel currently has in place a proactive plan of Frost Patrols and leak repairs, which exceeds State and Federal safety requirements and is an efficient and cost effective plan to manage leaks on its gas pipeline system. In addition to its patrols and leak surveys, National Fuel has been engaged in a program over the last 14 years to modernize its distribution system, including the replacement of unprotected bare steel pipe. National Fuel has invested an average of \$12.3 million each year for the last five years in this effort. With this spending level National Fuel has replaced, on average, 38 miles of bare steel and wrought iron mains along with 1,585 bare steel services each year. National Fuel's cast iron mains were replaced prior to the implementation of the systematic replacement program.

National Fuel performs substantial leakage surveys on its facilities. As explained more fully below, the schedule for surveying its facilities for leaks and other conditions depends upon the nature of the facility and the potential hazards to public safety. In general, leakage surveys consist of inspecting the pipeline route by sampling the atmosphere with a flame ionization unit,

optical methane detector or equivalent device to detect leakage and by observing any signs of activity that might affect the safe operation of the pipeline. During leakage surveys, National Fuel investigates the area near its facilities for leakage and inspects above-grade exposed piping facilities, including meter sets, for physical damage. It also inspects all exposed piping for atmospheric corrosion, paying particular attention to the air to soil interface. National Fuel also inspects all locking devices used to secure valves, inspects locks on enclosures used to secure regulator station facilities and checks to make certain that weather caps at regulator stations on the vent termini or outlets of the relief valve piping are in their proper positions. During leakage surveys, National Fuel also inspects the condition of all exposed pipe supports and anchors and the condition of unsupported pipes. National Fuel checks to determine whether pipes have become exposed as a result of erosion, particularly at river or creek crossings. National Fuel also checks the condition of signs, line markers and other warning devices to insure that they are appropriately placed and contain correct information. Surrounding areas are checked for potentially hazardous conditions, and areas surrounding pipelines are checked for construction or other situations that could affect National Fuel's facilities. The overall conditions of rights-of-way and ground surfaces above buried pipelines are inspected for signs of erosion, soil movement, subsidence or unstable slopes.

*i. Distribution Mains*

Leak surveys of distribution mains are conducted a minimum of once every five years, not to exceed five years and three months, on all cathodically protected steel and plastic lines located outside business districts. All other lines are leak surveyed at least once every two and a half years, not to exceed three years. The frequency of patrolling of distribution mains is determined by the severity of the conditions which would cause failure or leakage and the

potential hazard to the public safety. When unusual conditions occur such as extreme frost, floods, washouts at creek crossings, earthquakes or extensive third party excavations, supervision will determine if additional patrols or leakage surveys are required under the circumstances.

*ii. Service Lines*

Service line leakage surveys include all service line piping and customer owned service line piping which is between the main, pipeline or other source of supply and the more remote of either the meter set assembly or the wall of the residence or commercial building if the customer owns part of the piping. Master meter installations are included in the survey. Leakage surveys at service lines are scheduled in coordination with leakage surveys of their associated mains.

*iii. Active Corrosion*

Pipelines determined to have active corrosion are leakage surveyed once every April and October until required remedial action has been completed.

*iv. Business Districts*

Leakage surveys of business districts are conducted once each calendar year at intervals not exceeding fifteen months. A business district consists of plazas or streets which are predominately commercial or industrial and where the mains and services are largely located under paved or concrete surfaces that are wall-to-wall or continuous from the main to building wall.

*v. Exposed Piping*

Patrolling is conducted on exposed piping on all mains where anticipated physical movement or external loading could cause failure or leakage. Exposed mains in places or on structures where anticipated physical movement or external loading could cause failure or leakage are patrolled in business districts four times each calendar year at intervals not exceeding

four and one-half months. Outside business districts, exposed mains are patrolled twice each calendar year at intervals not exceeding seven and one-half months.

*vi. Priority Segments*

A Priority Segment is a distribution main segment that has been identified for additional accelerated actions based on analysis of leak history and location to determine the likelihood and potential consequences of future leaks. Leak surveying of Priority Segments will be conducted each Spring and Fall until the section of mainline in question is abandoned or replaced. This is an initiative that was developed as a result of analyses performed under National Fuel's DIMP Plan and was implemented in the Spring of 2011. This program exceeds minimum leak survey requirements under Federal and State regulations.

*vii. Public Buildings*

"Public Buildings" include any school, hospital, nursing home, licensed child day care center, or factory which normally employs 75 or more persons or any other building with a normal capacity of 75 or more persons to which the public is regularly admitted (excluding office buildings and apartments). Leak patrolling and surveying of Public Building service lines is included in the general service line inspection program. Buried valves on service lines for Public Buildings are inspected once each calendar year at intervals not to exceed 15 months. Additionally, in 2011, National Fuel voluntarily instituted an enhanced program, to perform leak surveys of piping around schools, hospitals, nursing homes, and licensed child day care centers on a monthly basis (not to exceed 45 days from the first day of the month). This special leak survey program exceeds State and Federal leak survey standards and provides an additional margin of safety for public buildings that are difficult to evacuate.

*viii. Frost Plan*

National Fuel's Frost Plan is implemented based upon the depth of frost, amount of snow cover, sustained sub-freezing temperatures and other pertinent, observed factors. During conditions of extreme frost, National Fuel determines whether additional patrols and/or leakage surveys are appropriate. The Frost Plan involves periodic walking or mobile flame ionization leakage surveys of mains and service lines within business districts. In addition, intervals for reinvestigating type-2 leaks may be reduced where, under frost conditions, leaks may migrate to a higher level classification. Type-3 leaks within fifty feet of a building and under a continuously paved area will be leak surveyed three times annually (November, January, and March).<sup>3</sup> These frost patrol procedures are incorporated into National Fuel's O&M Manual and referenced in the DIMP Plan.

As explained above, National Fuel has implemented a substantial program for patrolling and surveying its facilities for leaks in order to operate a safe pipeline system for the benefit of our customers and the public.

**2. Proposed Enhancements to Frost Patrols**

National Fuel is confident that its current Frost Patrol procedures facilitate the safe operation of its pipeline system at reasonable cost to ratepayers. In response to the *Secretarial Letter*, however, National Fuel proposes the following enhancements to its Frost Plan for this winter season.

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<sup>3</sup> The procedure for type-3 leaks was modified in April 2011 to change the survey months from November, March and July to November, January and March thereby incorporating the procedure into the Frost Plan.

*i. Type-3 Leaks*

National Fuel proposes to reinvestigate type-3 leaks within 50 feet of a building and under a continuously paved area on a monthly basis during frost conditions.

*ii. Priority Segments*

National Fuel proposes to leak survey its Priority Segments on a monthly basis during frost conditions.

*iii. Areas of Active Corrosion*

National Fuel proposes to leak survey areas of active corrosion on a monthly basis during frost conditions.

*iv. Type-2 Leaks*

National Fuel proposes to reinvestigate type-2 leaks on a monthly basis during frost conditions.

National Fuel looks forward to discussing these proposed enhancements in more detail during its upcoming meeting with the Chief, Gas Safety Division.

### **3. Leak Reporting**

In its *Tentative Order*, the Commission requested that utilities report all leaks to the Gas Safety Division on a bi-weekly basis from November 1 to April 30, and to provide a schedule for repairing all reported leaks. The *Secretarial Letter* did not discuss leak reporting, therefore, National Fuel presumes that this reporting is not required. However, in the event the matter remains at issue, National Fuel submits the following comments regarding leak reporting.

The Commission should not require additional accelerated leak reporting, particularly a broad request that *all* leaks be reported. It is not clear how the public safety is improved by a mandate to report lower-priority leaks, which are classified as lower-priority precisely because

they pose no immediate risk to the public. The majority of the leaks National Fuel identifies are lower priority type-2 or type-3 leaks that do not require immediate repair, but may be subject to additional surveillance during frost conditions. Type-1 leaks are immediately repaired or are surveyed daily until repaired, so by the time they would be reported they would already have been remediated. That being the case, there is no justification for increasing the frequency of reporting for these leaks. Additional reporting is not required; however, if the Commission desires increased leak reporting, National Fuel suggests that such reporting be monthly rather than bi-weekly and that reporting be limited to potentially hazardous type-1 leaks.<sup>4</sup>

The Commission should not request a schedule for repairing reported leaks. This would represent a significant change that should be addressed through the regulatory process so that all interested parties have an opportunity to comment.

#### **4. Commission Standards for Frost Patrols**

The Commission should not impose uniform standards for Frost Patrols on all gas utilities across the state, regardless of their individualized circumstances.

Each gas utility in the Commonwealth must address frost issues based on its own unique pipeline system, leak history, weather conditions, terrain, urban/suburban/rural service territories, business districts, and operating procedures. Due to the operational, pipeline system and geographic variances among the gas utilities in the Commonwealth, a one-size-fits-all approach to frost patrols would be inefficient and potentially ineffective. Instead, the Commission should allow each gas utility to design a frost patrol plan that best fits its operations. Indeed, the mild temperatures experienced throughout Pennsylvania this November supports a more tailored

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<sup>4</sup> It is conceivable that a requirement to report low-priority leaks might generate demands to increase repairs of those leaks. In that case, the result would be *contrary* to the public's interest because repair crews would be diverted from higher-priority projects to repair leaks that, by their very definition, pose no immediate danger to the public.

approach. If the Commission were to implement a bright line rule to start frost patrols on November 1 as originally proposed in the *Tentative Order*, every gas utility would have spent a great deal of time and resources last month to perform enhanced leak surveys where no region within the Commonwealth experienced frost conditions. Because each gas utility has unique circumstances regarding frost conditions, the Commission should not attempt to mandate statewide standards for frost patrols; but rather, it should do what it has already required each gas utility to do via its *Secretarial Letter*, i.e., each gas utility should meet with the Commission's Gas Safety Division to discuss its frost procedures in greater detail.

If, after meeting with each of the gas utilities, the Commission remains convinced that it should impose statewide standards regarding frost patrols, that initiative should be pursued through the regulatory process because any mandated enhanced Frost Patrol provisions would presumably establish a binding, prospective obligation on all affected gas utilities. Notably, the Commission has previously adopted, through regulations, gas safety standards for distribution facilities. *See*, 52 Pa. Code §§ 59.33 – 59.36. Any enhanced Frost Patrol standards would be a modification to those procedures and, as such must also be adopted as a regulation. *See*, *Borough of Bedford v. Commonwealth*, 972 A.2d 53, 67 (Pa. Cmwlth. 2009) (“A regulation can only be repealed or amended by adoption of another regulation.”).<sup>5</sup> As a regulation, any enhanced leak survey standards could not be adopted without complying with formal rulemaking procedures, including compliance with the *Commonwealth Documents Law* and the *Regulatory Review Act*.

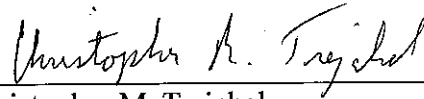
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<sup>5</sup> *See, e.g.*, Section 201 of the Commonwealth Documents Law, 45 P.S. §1201 (providing that the procedure contained therein applies not only to promulgation of a new regulation, but also to “amend[ment] or repeal” of existing regulations); *City of Philadelphia v. Fraternal Order of Police, Lodge No. 5*, 574 A.2d 123, 125 (Pa. Cmwlth. 1990) (explaining that merely announcing a new policy does not effect an amendment to a governing regulation; proper promulgation is necessary).

**WHEREFORE**, for the reasons set forth above, National Fuel respectfully requests that gas utilities should not be required to submit copies of their DIMP Plans and IM Plans to the Gas Safety Division at this time, and that the Commission should not issue an order establishing statewide standards regarding enhanced Frost Patrols.

Respectfully submitted,

Date: December 5, 2011



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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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**Natural Gas Pipeline Replacement and  
Performance Plans**

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**Docket Number: M-2011-2271982**

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I hereby certify that I have this day served a true copy of the foregoing document upon the participants, listed below, in accordance with the requirements of § 1.54 (relating to service by a participant).

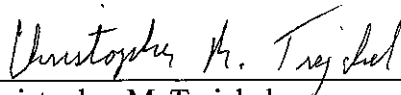
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NATIONAL FUEL GAS  
DISTRIBUTION CORPORATION

Date: December 5, 2011

  
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