



National Fuel

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January 13, 2012

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 Natural Gas Pipeline Replacement and Performance Plans 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**

**Natural Gas Pipeline Replacement and
Performance Plans** :
: **COMMENTS**
:
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: **Docket Number: M-2011-2271982**
:

**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 (“NGDC”) submit comments by December 2, 2011, regarding the Commission’s proposal that NGDCs file Pipeline Replacement and Performance Plans (“PRP Plans”). Subsequently the Commission issued a *Secretarial Letter* on November 21, 2011, that instituted a temporary stay on the directives of the *Tentative Order* and extended the time period for filing comments regarding proposed PRP Plans as set forth in the *Tentative Order* from December 2, 2011 to January 13, 2012. The *Secretarial Letter* was ratified by the Commission at its December 1, 2011, public meeting.

National Fuel Gas Distribution Corporation (“National Fuel” or “the Company”) submits the following Comments regarding the proposed PRP Plans. National Fuel also supports the

Comments of the Energy Association of Pennsylvania, of which National Fuel is a member, filed contemporaneously at this docket.

II. Comments.

A. DIMP Plans

Each NGDC's Distribution Integrity Management Plan ("DIMP Plan") is designed to address the concerns raised by the Commission in its *Tentative Order* regarding replacement of facilities and therefore a separate PRP Plan is not necessary.

As the Commission notes, "one of the most important elements of a DIMP Plan is the identification and implementation of measures to address risks." *Tentative Order* at 5. *See also*, 49 CFR § 192.1007(d). Each NGDC has a plan/program in place for evaluating and addressing risks to its pipeline system, including replacement of facilities. For example, National Fuel is engaged in a longstanding program 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. Also, National Fuel's cast iron mains were replaced prior to the implementation of its systematic replacement program. The experiences of other NGDC's will undoubtedly be different since there are broad differences in each NGDC's mix of pipeline materials, particularly cast iron and unprotected bare steel.

Even though the Company believes that its systematic replacement program has been efficient and timely, the recently adopted DIMP regulations have required a greater focus on identifying and evaluating risks to the Company's pipeline system. Pursuant to the DIMP regulations, NGDCs are required to identify threats, evaluate and rank risk, identify and

implement measures to address risks, measure performance, monitor results, evaluate effectiveness, and conduct periodic evaluations and improvements. *See generally*, 49 CFR § 192.1007. All of these elements are encompassed in each NGDC's comprehensive DIMP Plan as required by the regulations.

Although DIMP has changed the distribution pipeline integrity landscape, each NGDC has only 5 ½ months of experience under their initial DIMP Plans that went into effect on or about August 2, 2011. As both the industry and the regulators have had so little time to experience and evaluate the impact of the new DIMP requirements, it seems premature for the Commission to be seeking to implement any changes to these rules. Notably, the Commission's Gas Safety Division has not had the time and opportunity to review each company's DIMP Plan and advise the Commission regarding the same. Prior to recommending any policy or rule changes, the Commission should thoroughly review each NGDC's DIMP Plan to fully understand each NGDC's current risk assessments and facility replacement plans.

Additionally, the *Tentative Order* only vaguely identifies what the Commission is proposing for PRP Plans. As a result, the brief description in the *Tentative Order* makes it difficult to provide more substantive comments as the lack of detail leaves significant doubt as to the Commission's intent regarding PRP Plans. Some questions arising from the PRP Plan discussion in the *Tentative Order* are:

- How often would the PRP Plan need to be filed?
- What are the specific required components of a PRP Plan?
- How will performance metrics for pipeline replacement be measured (annual, multi-year, multi-year average, etc.)?
- What performance metrics does the Commission expect for damage prevention, corrosion control and distribution system leaks, emergency response times, and critical valve determinations?
- Would PRP Plans be maintained as confidential and proprietary?

- DIMP Plans will certainly change over time, would every change to the DIMP Plan that affects the PRP Plan need to be filed with and approved by the Commission?
- What if a NGDC must deviate from its PRP Plan?
- What if a NGDC fails to comply with any part of its PRP Plan?
- What is the potential impact on PRP Plans if legislation permitting alternative ratemaking mechanisms is *not* passed by the General Assembly?
- How does the Commission define “high risk pipe”?
- How does the Commission define “critical valve”?
- What is the factual basis for establishing any performance metrics?

National Fuel respectfully requests that the above questions, and others, should be explored in further proceedings, or on a utility-specific basis as described below, in order to develop an informed PRP Plan, if that is the goal notwithstanding each utility’s existing DIMP Plan.

B. The Risk of Unintended Consequences

A risk attendant to rigid requirements under a PRP Plan is that the utility, to avoid penalties, might focus on achieving an arbitrary performance target instead of improvements for which there may be a greater need. Utility resources are limited and are optimally deployed according to risk assessment best practices and prudent budget practices, a process that is detailed in the Company’s DIMP Plan. It is for this reason that PRP Plans, if deemed necessary, need to be carefully designed to avoid the risk of unintended consequences, such as, *e.g.*, replacing sound unprotected bare steel pipe to meet a pipeline replacement target when the necessary capital might be better deployed on another higher priority project. A rigid, inflexible performance incentive scheme fundamentally is *not* a suitable means of promoting infrastructure modernization without creating the risk of unintended consequences. The better solution is to design a program that utilizes the NGDC’s DIMP Plans and perhaps observes a set of guidelines issued under the far more flexible vehicle of a Policy Statement.

C. Company Specific PRP Plans

The Company agrees that the Commission should not impose uniform standards for PRP Plans on all NGDCs. This point merits emphasis.

While all of the Commonwealth's NGDCs distribute natural gas to retail customers, similarity with respect to physical operating systems ends there. The pipeline system for an NGDC operating in Sharon is different than the pipeline system for an NGDC operating in Carlisle, which is different than the system in York, which is different than the system in Philadelphia. Each NGDC in the Commonwealth must address operation and maintenance issues, including pipeline replacement, based on its own unique pipeline system, leak history, weather conditions, service territories, business districts, and risk factors. Due to operational and pipeline system variances among the gas utilities in the Commonwealth, a one-size-fits-all approach to PRP Plans would be inefficient and potentially ineffective.¹ Rather than issuing rules establishing uniform standards for all NGDCs, the Commission should allow PRP Plans to be developed and addressed on a utility-by-utility basis so that each NGDC's PRP Plan is specifically tailored to and designed for its unique circumstances. Indeed, it is doubtful that uniform standards for each NGDC could be implemented in a manner consistent with the comprehensive risk assessments that are so integral to each NGDC's DIMP Plan.

Also, by allowing PRP Plans to be developed on a utility-by-utility basis, the Commission will be allowing the flexibility needed to quickly modify goals and reallocate resources based on unexpected operational or financial changes that may occur for any particular

¹ The Commission acknowledges the difficulty in creating any uniform standards in its *Tentative Order*, wherein it states "Because "one size does not fit all," we will permit these utilities to design PRP Plans that take into consideration each utility's total amount of risky pipe, customer rate stability, utility financial health, and the amount of time that the utility estimates to replace the failing infrastructure." *Tentative Order* at 6.

NGDC. If NGDCs are required to comply with fixed goals for which they will be penalized if they fail to achieve, it is possible that lower priority jobs may be addressed in advance of higher priority jobs in order to satisfy a performance metric established by Order of the Commission. Such a result would be contrary to the DIMP regulations and the DIMP Plans currently in effect for NGDCs.

D. Regulatory Process

The Commission should initiate a rulemaking proceeding if it desires a formal process for filing and approval of detailed PRP Plans with performance targets. As an alternative, and in recognition of the need for flexibility, the Commission should implement guidelines or principles for PRP plans through a Policy Statement.

National Fuel's highest priority is to operate a safe pipeline system for the benefit of customers and the general public. To that end, National Fuel would welcome the opportunity to review its DIMP Plan with Commission Staff, to discuss the Company's short and long-term pipeline replacement goals and how these goals contribute to a comprehensive risk mitigation focused DIMP Plan, and to participate in a stakeholder working group addressing these issues. If the Commission prefers, however, to adopt PRP plans with performance metrics as proposed in the Tentative Order, that initiative should be pursued through the regulatory process because any mandated PRP Plan provisions would establish a binding, prospective obligation on all affected gas utilities. Notably, the Commission has previously adopted, through regulations, gas safety standards for distribution facilities, including the new DIMP rules. *See*, 52 Pa. Code §§ 59.33 – 59.36. As the proposed PRP Plans appear to be closely integrated with or even intended to be incorporated into each NGDC's DIMP Plan, any changes to the required components of DIMP would be a modification to the Commission's gas safety standards and, as such, should also be

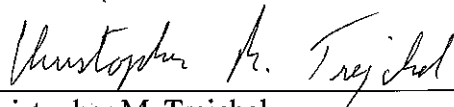
adopted as a regulation, with full and fair opportunity for comment, review and informed analysis.

III. Conclusion

For the reasons set forth above, National Fuel respectfully requests that the Commission avoid adopting an inflexible requirement for PRP plans as evidently proposed in the Tentative Order. Instead, the Commission should undertake a process to develop a plan for pipeline replacement and improvement within existing DIMP Plans. If the Commission determines to proceed with PRP plans as contemplated in the Tentative Order, it should do so through a formal rulemaking or, as an alternative, by developing reasonable guidelines or principles issued through a Policy Statement.

Respectfully submitted,

Date: January 13, 2012



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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Natural Gas Pipeline Replacement and
Performance Plans**

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: **CERTIFICATE OF SERVICE**
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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).

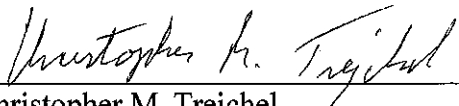
Via Electronic Copy To:

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NATIONAL FUEL GAS
DISTRIBUTION CORPORATION

Date: January 13, 2012



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