



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P.O. BOX 3265, HARRISBURG, PA 17105-3265

January 10, 2014

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Re: Pennsylvania Public Utility Commission, Bureau of Investigation  
and Enforcement v. Pine Roe Natural Gas Co., Inc.  
Docket No. C-2014-

Dear Secretary Chiavetta:

On behalf of the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission, enclosed for filing please find the Complaint in the above referenced case. Copies have been served on the parties of record in accordance with the Certificate of Service.

Sincerely,

Stephanie M. Wimer  
Prosecutor  
PA Attorney ID No. #207522

Counsel for the Bureau of  
Investigation and Enforcement

Enclosures

cc: As per Certificate of Service  
Wayne T. Scott, I&E  
Scott Granger, I&E

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## NOTICE

**A. You must file an Answer within 20 days of the date of service of this Complaint.**

The date of service is the mailing date as indicated at the top of the Secretarial Letter. See 52 Pa. Code §1.56(a). The Answer must raise all factual and legal arguments that you wish to claim in your defense, include the docket number of this Complaint, and be verified. You may file your Answer by mailing an original to: Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Or, you may eFile your Answer using the Commission's website at [www.puc.pa.gov](http://www.puc.pa.gov). The link to eFiling is located under the Filing & Resources tab on the homepage. If your Answer is 250 pages or less, you are not required to file a paper copy. If your Answer exceeds 250 pages, you must file a paper copy with the Secretary's Bureau.

Additionally, a copy should either be mailed to:

Wayne T. Scott, First Deputy Chief Prosecutor  
Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Or, emailed to Mr. Scott at: [RA-PCCmplntResp@pa.gov](mailto:RA-PCCmplntResp@pa.gov)

B. If you fail to answer this Complaint within 20 days, the Bureau of Investigation and Enforcement will request that the Commission issue an Order imposing the penalty.

C. You may elect not to contest this Complaint by paying the civil penalty within 20 days. Your check or money order for the civil penalty should be payable to the Commonwealth of Pennsylvania and mailed to: Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

D. If you file an Answer which either admits or fails to deny the allegations of the Complaint, the Bureau of Investigation and Enforcement will request the Commission to issue an Order imposing the penalty set forth in this Complaint.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The Judge is not bound by the penalty set forth in the Complaint, and may impose additional and/or alternative penalties as appropriate.

F. If you are a corporation, you must be represented by legal counsel. 52 Pa. Code §1.21.

G. Alternative formats of this material are available for persons with disabilities by contacting the Commission's ADA Coordinator at 717-787-8714.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, :  
Bureau of Investigation and Enforcement, :  
Complainant :  
v. :  
Pine Roe Natural Gas Co., Inc. :  
Respondent :

Docket No. C-2014

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**SECRETARY'S BUREAU**

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**FORMAL COMPLAINT**

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NOW COMES the Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement (“I&E”), by its counsel, pursuant to Section 701 of the Public Utility Code, 66 Pa.C.S. § 701, and files this Formal Complaint against Pine Roe Natural Gas Co., Inc. (“Pine Roe,” “Company” or “Respondent”) alleging violations of the Pennsylvania Code, Public Utility Code and Code of Federal Regulations. In support of its Formal Complaint, I&E respectfully represents the following:

**Parties and Jurisdiction**

1. The Pennsylvania Public Utility Commission (“PUC” or “Commission”) with a mailing address of P.O. Box 3265, Harrisburg, PA 17105-3265, is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth pursuant to the Public Utility Code, 66 Pa.C.S. §§ 101, *et seq.*
2. Complainant is the Commission’s Bureau of Investigation and Enforcement and is

the entity established to prosecute complaints against public utilities pursuant to 66 Pa. C.S. § 308.2(a)(11); *See also Implementation of Act 129 of 2008; Organization of Bureaus and Offices*, Docket No. M-2008-2071852 (August 11, 2011) (delegating authority to initiate proceedings that are prosecutory in nature to I&E).

3. Complainant's counsel are as follows:

Stephanie M. Wimer  
Prosecutor  
[stwimer@pa.gov](mailto:stwimer@pa.gov)  
717.772.8839

Scott Granger  
Prosecutor  
[sgranger@pa.gov](mailto:sgranger@pa.gov)  
717.425.7593

Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
P.O. Box 3265  
Harrisburg, PA 17105-3265

4. Respondent is Pine Roe Natural Gas Co., Inc., a natural gas utility with a main mailing address of P.O. Box 145, Clarion, PA 16214, Attention: John Habjan.

5. Pine Roe is a "public utility" as that term is defined at 66 Pa.C.S. § 102,<sup>1</sup> as it is engaged in providing public utility service as a natural gas distribution company to the public for compensation.

6. Section 501(a) of the Public Utility Code, 66 Pa.C.S. § 501(a), authorizes and

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<sup>1</sup> At 66 Pa.C.S. § 102, "Public utility" is defined under that term at subsection (1)(i) as:

- (1) Any person or corporation now or hereafter owning or operating in this Commonwealth equipment or facilities for:
  - (i) Producing, generating, transmitting, distributing or furnishing natural or artificial gas, electricity, or steam for the production of light, heat, or power to or for the public for compensation.

obligates the Commission to execute and enforce the provisions of the Public Utility Code.

7. Section 701 of the Public Utility Code, 66 Pa.C.S. § 701, authorizes the Commission, *inter alia*, to hear and determine complaints against public utilities for violations of any law or regulation that the Commission has jurisdiction to administer or enforce.

8. Section 3301 of the Public Utility Code, 66 Pa.C.S. § 3301, authorizes the Commission to impose civil penalties on any public utility or any other person or corporation subject to the Commission's jurisdiction for violation(s) of the Public Utility Code and/or Commission regulations. Section 3301 further allows for the imposition of a separate fine for each day's continuance of such violation(s).

9. Respondent, in providing gas distribution service for compensation, is subject to the power and authority of this Commission pursuant to Section 501(c) of the Public Utility Code, 66 Pa.C.S. § 501(c), which requires a public utility to comply with Commission orders.

10. Pursuant to the Commission's regulations at 52 Pa. Code § 59.33(b), the Commission's Gas Safety Division, which is part of I&E, also has the authority to enforce the federal gas pipeline safety regulations set forth in 49 U.S.C.A. §§ 60101, *et seq.* and implemented in 49 C.F.R. Parts 191-193, 195 and 199, 49 C.F.R. §§ 191-193, 195 and 199.

11. Pursuant to the provisions of the applicable Commonwealth and federal statutes

and regulations, the Commission has jurisdiction over the subject matter of this complaint and the actions of Respondent related thereto.

## **Background**

### **Findings of the Gas Safety Division**

12. On November 28, 2012, Gas Safety Inspector David Kline conducted an inspection of the Company's pipeline facilities and records.

13. During his inspection, Mr. Kline discovered the following deficiencies:

- a. As a gas distribution pipeline system operator, Pine Roe is required to submit an annual report to the U.S. Department of Transportation's ("DOT") Pipeline and Hazardous Materials Safety Administration ("PHMSA") by March 15 of each year. Submission of the report requires an operator identification ("Operator ID") obtained from the DOT's Office of Pipeline Safety ("OPS").

Pine Roe has never submitted a distribution system annual report and does not possess a DOT Operator ID.

- b. To ensure that gas in a distribution line contains a proper concentration of odorant, a distribution system operator is required to conduct periodic sampling of combustible gasses. The sampling must use an instrument capable of determining the percentage of gas in air at which the odorant becomes detectable.

Pine Roe could not produce records or equipment to demonstrate that it periodically monitored the odor levels of natural gas.

- c. In areas that are outside of business districts, a distribution system operator must conduct a leakage survey with leak detector equipment at least once every 3 calendar years on cathodically unprotected distribution lines.

Pine Roe's records show that for the past 3 years, the Company completed leak surveys by walking the pipeline and surveying for dead vegetation. Pine Roe has no documentation demonstrating that it used an instrument to conduct the leak surveys.

- d. An operator is required to check and service each valve that is necessary for the safe operation of its distribution system at intervals not exceeding 15 months, but at least once each calendar year.

*Pine Roe's valve inspection records do not identify the inspection history of each emergency valve in its system.*

14. As a result of this inspection, on January 9, 2013, the Gas Safety Division mailed a non-compliance letter, NC-04-13, listing the above-mentioned violations of the Code of Federal Regulations, 49 C.F.R., Part 192, *et seq.*

15. Pine Roe was afforded a specified amount of time, until February 6, 2013, to perform the following corrective actions and submit to the Gas Safety Division written documentation showing that each of the violations had been corrected:

- a. File the annual report with PHMSA.
- b. Create and perform a program to complete odor level testing on the distribution system using a capable instrument by February 1, 2013.
- c. Perform a leak survey with the appropriate instrumentation by May 1, 2013.
- d. Create a form for valve inspections that identifies the valve and inspection history to show that each emergency valve is being inspected annually.

16. Pine Roe did not respond to NC-04-13.

17. On September 9, 2013, Gas Safety Inspector Andrew Geibel conducted an inspection of the Company's pipeline facilities and records.

18. Mr. Geibel discovered that the Company did not correct the violations that were cited in NC-04-13.

19. During his inspection, Mr. Geible found the following additional violations:

- a. As a distribution system operator, Pine Roe is required to place line markers as close as practical over each buried main and transmission line. Line markers must be placed at the crossing of public roads and railroads and wherever necessary to identify the location of the line to reduce the possibility of damage or interference.

Line markers at the following locations were missing or were not legible: (i) Route 68 and Stone House Road; (ii) Brook Road near Old Town Road; and (iii) Old Town Road and South of Brook Road. The majority of Pine Roe's line markers were faded or were missing stickers.

- b. Pine Roe is required to inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion at least once every 3 calendar years, but with intervals not exceeding 39 months.

Pine Roe has no record of atmospheric corrosion inspections.

- c. Pine Roe must clean and coat each pipeline or portion of pipeline that is exposed to the atmosphere. The coating material must be suitable for the prevention of atmospheric corrosion.

Atmospheric corrosion is present on Pine Roe's meter riser at 486 Stone House Road.

- d. Pine Roe is required to develop and implement an integrity management program that includes a written integrity management plan.

Pine Roe does not have a Distribution Integrity Management Program ("DIMP").

- e. Each distribution system pipeline operator is required to develop and implement a written continuing public education program that follows the guidance provided in the American Petroleum Institute's Recommended Practice.

Pine Roe does not have a public awareness/education program.

- f. Pine Roe is required to patrol mains, the frequency of which is determined by the severity of the conditions that could cause failure or leakage and the consequent hazards to the public.

Pine Roe did not maintain documentation in sufficient detail to show that patrols were conducted.

- g. Each distribution system pipeline operator is required to prepare and follow a manual of written procedures for conducting operations and maintenance activities and for emergency response. Operators are also required to review and update the manual at intervals not exceeding 15 months, but at least once each calendar year.

Pine Roe performed its annual review of its manual after NC-04-13 was issued on January 9, 2013 and did not update the manual to reflect the items that Pine Roe was required to implement in NC-04-13.

- h. Pine Roe is required to keep complete maps, plans and records of its entire distribution showing the size, character and location of each main, district regulator, street valve and drip, and each service connection, together with such other information as may be necessary. The maps, plans and records must be kept up to date so that the Company is able to promptly and accurately furnish any information regarding its facilities upon request by the Commission.

Pine Roe does not maintain records in sufficient detail to demonstrate that the Company is completing inspections of its system that are required under 49 C.F.R. Part 192, Subparts L (relating to Operations) and M (relating to Maintenance).

20. As a result of this inspection, on October 15, 2013, the Gas Safety Division mailed a non-compliance letter, NC-51-13, listing the above-mentioned violations of the Code of Federal Regulations, 49 C.F.R., Part 192, *et seq.*, and Pennsylvania gas safety regulations found at 52 Pa. Code, Chapter 59.

21. Pine Roe was afforded a specified amount of time, until November 12, 2013, to *perform the following corrective actions and submit to the Gas Safety Division written documentation showing that each of the violations had been corrected:*

- a. Replace the stickers on all pipeline markers, including those that were missing.
- b. Replace or wrap the meter riser at 486 Stone House Road.

- c. Develop a form to document atmospheric corrosion and perform an inspection of all above-ground equipment.
- d. Develop a form to document patrols and perform an inspection of all pipelines.
- e. Conduct a public awareness program.
- f. Create a DIMP plan.
- g. Develop and use forms with sufficient detail for every inspection that is required under 49 C.F.R. Part 192, Subparts L (relating to Operations) and M (relating to Maintenance), to show that the operator is completing inspections in compliance with the regulations.

22. The Company did not respond to NC-51-13.

### **Assessment Reports**

23. On or about February 15, 2011, the Fiscal Office in the Commission's Bureau of Administrative Services (BAS) mailed to Pine Roe an assessment report form for the Company to list its 2010 calendar year revenues.

24. The assessment report form was accompanied by a letter, which notified Pine Roe that the report was due on or before March 31, 2011.

25. Pine Roe failed to file an assessment report to show its 2010 calendar year revenues.

26. On or about February 15, 2012, the Fiscal Office mailed to Pine Roe an assessment report form for the Company to list its 2011 calendar year revenues.

27. The assessment report form was accompanied by a letter, which notified Pine Roe that the report was due on or before March 31, 2012.

28. Pine Roe failed to file an assessment report to show its 2011 calendar year

revenues.

29. On or about February 15, 2013, the Fiscal Office mailed to Pine Roe an assessment report form for the Company to list its 2012 calendar year revenues.

30. The assessment report form was accompanied by a letter, which notified Pine Roe that the report was due on or before March 31, 2013.

31. Pine Roe failed to file an assessment report to show its 2012 calendar year revenues.

### **Violations**

32. I&E has reviewed the actions and business practices of Pine Roe and alleges as follows:

- a. Pine Roe failed to submit annual distribution system reports to PHMSA in that it has not obtained an Operator ID from the U.S. DOT, which is required to file the reports.

This is a violation of 49 C.F.R. § 191.11 and 52 Pa. Code § 59.33.

- b. Pine Roe failed to demonstrate that the gas in its distribution system contains a proper concentration of odorant in that it could not produce records to show that it periodically monitors the odor levels of natural gas.

This is a violation of 49 C.F.R. § 192.625 and 52 Pa. Code § 59.33.

- c. Pine Roe failed to demonstrate that it conducts leakage surveys using leak detector equipment at least once every 3 calendar years on cathodically unprotected lines in that its records show that Pine Roe completed leak surveys by walking the pipeline and searching for dead vegetation.

This is a violation of 49 C.F.R. § 192.723 and 52 Pa. Code § 59.33.

- d. Pine Roe failed to demonstrate that it checked and serviced each valve that is necessary for the safe operation of its distribution system at least once each calendar year in that its records do not identify the inspection history of each emergency valve.

This is a violation of 49 C.F.R. § 192.747 and 52 Pa. Code § 59.33.

- e. Pine Roe failed to place or maintain line markers over each buried main and transmission line, and at the crossing of public roads and railroads, in that lime markers were missing or illegible at several locations.

This is a violation of 49 C.F.R. § 192.707 and 52 Pa. Code § 59.33.

- f. Pine Roe failed to inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion at least once every 3 calendar years in that it has no records to demonstrate that it conducted inspections for atmospheric corrosion.

This is a violation of 49 C.F.R. § 192.481 and 52 Pa. Code § 59.33.

- g. Pine Roe failed to clean and coat each pipeline or portion of pipeline that is exposed to the atmosphere in that atmospheric corrosion was present on Pine Roe's meter riser at 486 Stone House Road.

This is a violation of 49 C.F.R. § 192.479 and 52 Pa. Code § 59.33.

- h. Pine Roe failed to develop and implement an integrity management program in that it does not have a written Distribution Integrity Management Program.

This is a violation of 49 C.F.R. § 192.1003 and 52 Pa. Code § 59.33.

- i. Pine Roe failed to demonstrate that it patrolled mains, the frequency of which is determined by the severity of conditions that could cause failure or leakage and the consequent hazards to the public, in that Pine Roe did not maintain records in sufficient detail to show that patrols were conducted.

This is a violation of 49 C.F.R. § 192.721 and 52 Pa. Code § 59.33.

- j. Pine Roe failed to update its operations and maintenance manual in that it reviewed the manual after NC-04-13 was issued on January 9, 2013, but did not update the manual to reflect the items that Pine Roe was required to implement in NC-04-13.

This is a violation of 49 C.F.R. § 192.605 and 52 Pa. Code § 59.33.

- k. Pine Roe failed to keep complete records of its entire distribution system in that it does not maintain detailed records to demonstrate that it is

performing the inspections that are required under 49 C.F.R. Part 192, Subparts L (relating to Operations) and M (relating to Maintenance).

This is a violation of 49 C.F.R. § 192.13(c) and 52 Pa. Code §§ 59.37 and 59.33.

- I. Pine Roe failed to file statements, under oath, showing its gross intrastate operating revenues per calendar year in that it did not file assessment reports for the 2010, 2011 and 2012 calendar years.

This is a violation of 66 Pa.C.S. § 510(b).

**WHEREFORE**, for all the foregoing reasons, the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission respectfully requests that:

- a. After consideration of the record, the Office of Administrative Law Judge and the Commission find Pine Roe in violation of each and every count as set forth herein, and that Pine Roe be ordered to pay a civil penalty in the amount of \$40,500, pursuant to 66 Pa.C.S. § 3301(c). Said payment shall be made by certified check payable to the Commonwealth of Pennsylvania and presented to the undersigned prosecutors within twenty (20) days of the date of the Commission's order sustaining this complaint;
- b. That Pine Roe not be permitted to recover any portion of the civil penalty through rates regulated by the Commission;
- c. That Pine Roe be ordered to cease and desist from committing any further violations of gas safety regulations;
- d. That Pine Roe be ordered to implement the programs and procedures enumerated in Paragraphs 15 and 21 of this complaint; and
- e. That the Commission grant such further relief as is just and reasonable.

Respectfully submitted,



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Stephanie M. Wimer  
Prosecutor  
PA Attorney ID No. 207522

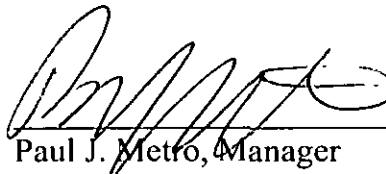
Scott Granger  
Prosecutor  
PA Attorney ID No. 63641

Date: January 10, 2013

## VERIFICATION

I, Paul J. Metro, Manager, Gas Safety Division, Bureau of Investigation and Enforcement, hereby state that the facts set forth above are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

Date: January 10, 2014



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Paul J. Metro, Manager  
Gas Safety Division  
Bureau of Investigation and Enforcement  
PA. Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

(717) 787-1063

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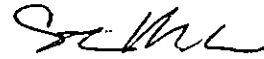
**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing Complaint upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

Notification by First Class Mail:

John Habjan, President  
Pine Roe Natural Gas Co., Inc.  
P.O. Box 145  
Clarion, PA 16214

Joseph D. Gaudet  
Pine Roe Natural Gas Co., Inc.  
353 East New Castle Street  
Zelienople, PA 16063



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Stephanie M. Wimer  
Prosecutor  
PA Attorney ID No. 207522

Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Dated: January 10, 2014

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