



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

February 3, 2016

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-2014-2400485

Dear Secretary Chiavetta:

Enclosed for filing is the original copy of the Amended Complaint of the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement (I&E) in the above-captioned matter. I&E's Amended Complaint updates the violations alleged and modifies the relief requested.

Copies have been served on the parties of record in accordance with the Certificate of Service.

Should you have any questions, please contact me at (717) 772-8839.

Sincerely,

Stephanie M. Wimer
Prosecutor

Enclosures

cc: As per Certificate of Service

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2016 FEB -3 PM 2:09
PA PUC
SECRETARY'S BUREAU

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility :
Commission, Bureau of :
Investigation and Enforcement :
 :
 :
v. : Docket No. C-2014-2400485
 :
 :
Pine Roe Natural Gas Co., Inc. :

NOTICE

A. You must file an Answer within twenty (20) days of the date of service of this Amended 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 shall raise all factual and legal arguments that you wish to claim in your defense, include the docket number of this Amended 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, Pennsylvania 17105-3265

Alternatively, you may eFile your Answer using the Commission's website at 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, please serve a copy on the undersigned prosecutor:

Stephanie M. Wimer, Prosecutor
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, Pennsylvania 17105-3265
stwimer@pa.gov

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B. If you fail to answer this Amended Complaint within twenty (20) days, the

Bureau of Investigation and Enforcement will request that the Commission issue an Order granting the requested relief.

C. You may elect not to contest this Amended Complaint by paying the civil penalty proposed in the Amended Complaint by certified check or money order made payable to the "Commonwealth of Pennsylvania" and forwarded to:

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

Your payment is an admission that the Company committed the alleged violations and agrees to cease and desist from committing further violations. Upon receipt of payment, the Complaint proceeding shall be closed.

D. If you file an Answer, which admits or fails to deny the allegations of the Amended Complaint, the Bureau of Investigation and Enforcement will request that the Commission issue an Order granting the requested relief.

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

F. If you are a corporation, you must be represented by legal counsel. *See* 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**

RECEIVED

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

FEB 3 2016

PA PUBLIC UTILITY COMMISSION
Docket No. C-2014-2400485
SECRETARY'S BUREAU

**AMENDED COMPLAINT
OF THE
BUREAU OF INVESTIGATION AND ENFORCEMENT**

NOW COMES the Pennsylvania Public Utility Commission (Commission), Bureau of Investigation and Enforcement (I&E), by its prosecuting attorneys, pursuant to Section 701 of the Public Utility Code, 66 Pa.C.S. § 701, and Sections 5.21 and 5.91 of the Commission's regulations, 52 Pa. Code §§ 5.21 and 5.91, and files this Amended *Formal Complaint against Pine Roe Natural Gas Co., Inc. (Pine Roe, Company or Respondent)* alleging violations of the Public Utility Code, Commission regulations and Code of Federal Regulations, as set forth herein. The purpose of I&E's Amended Complaint is to update the violations alleged by I&E by including gas safety incidents and other violations that occurred subsequent to the filing of I&E's initial Complaint. In addition, the Amended Complaint modifies the relief requested.¹

¹ This Amended Complaint is intended to replace the original Complaint filed at this docket on January 10, 2014.

I. PARTIES AND JURISDICTION

1. The Pennsylvania Public Utility 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 prosecutor is as follows:

Stephanie M. Wimer
Prosecutor
stwimer@pa.gov
717.772.8839

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 distribution company with a main mailing address of P.O. Box 146, Clarion, PA 16214, Attention: John Habjan.

5. Pine Roe is a “public utility” as that term is defined at 66 Pa.C.S. § 102,² 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 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(c) of the Public Utility Code, 66 Pa.C.S. § 3301(c), allows for the imposition of a separate civil penalty for each pipeline

² At Section 102 of the Public Utility Code, “Public utility” is defined, in pertinent part, as:

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.
- ...
- (v) Transporting or conveying natural or artificial gas, crude oil, gasoline, or petroleum products, materials for refrigeration, or oxygen or nitrogen, or other fluid substance, by pipeline or conduit, for the public for compensation.

66 Pa.C.S. § 102(1)(i), (v).

safety violation and each day's continuance of such violation(s), not to exceed \$200,000 for each violation for each day that the violation persists, or \$2,000,000 for any related series of violations.

9. Respondent, in providing natural gas distribution service to the public 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 a division within 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 Amended Complaint and the actions of Respondent related thereto.

II. PROCEDURAL BACKGROUND

12. On January 14, 2014, I&E filed a Formal Complaint (Complaint) against Pine Roe alleging, *inter alia*, violations of various gas safety regulations discovered during inspections conducted by the I&E Gas Safety Division (Gas Safety), as well as violations pertaining to the filing of annual assessment reports to the Commission.

13. In the Complaint, I&E sought relief including that a civil penalty in the amount of \$40,500 be imposed and that Pine Roe not be permitted to recover any portion

of the civil penalty through rates regulated by the Commission. I&E also requested that Pine Roe address the violations set forth in the Complaint by implementing certain programs and procedures that I&E alleged are non-existent. Additionally, I&E demanded that Pine Roe cease and desist from committing further violations of gas safety regulations.

14. After receiving an extension of time, Pine Roe filed an Answer on March 4, 2014, denying the material averments set forth in I&E's Complaint. Pine Roe alleged that it believes it has cured the violations raised in I&E's Complaint. Pine Roe also requested a reduction of the civil penalty.

15. Subsequent to the filing of I&E's initial Complaint on January 14, 2014, I&E avers that additional violations occurred. I&E hereby files this Amended Complaint, which updates the violations alleged by I&E by adding gas safety incidents and other non-compliance issues that occurred subsequent to the filing of I&E's initial Complaint. The Amended Complaint also modifies the relief requested by I&E.

III. AMENDED COMPLAINT

A. 2012 and 2013 Inspections of the Gas Safety Division³

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

17. During the inspection, Gas Safety discovered the following deficiencies:

³ The factual allegations set forth in this section were pled in I&E's initial Complaint that was filed in this proceeding on January 14, 2014.

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).

At the time of the November 28, 2012 inspection, Pine Roe never submitted a distribution system annual report and did 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 gases. The sampling must use an instrument capable of determining the percentage of gas-in-air at which the odorant becomes detectable.

At the time of the November 28, 2012 inspection, Pine Roe could not produce records or equipment to demonstrate that it periodically monitored odorant levels.

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 three (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. At the time of the November 28, 2012 inspection, Pine Roe had no documentation demonstrating that it used an instrument to conduct 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 fifteen (15) months, but at least once each calendar year.

At the time of the November 28, 2012 inspection, Pine Roe's valve inspection records did not identify the inspection history of each emergency valve in its system.

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

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

- a. File the annual report with PHMSA;
- b. Create and perform a program to complete odorant 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; and
- d. Create a form for valve inspections that identifies the valve and inspection history to show that each emergency valve is being inspected annually.

20. Pine Roe did not respond to non-compliance letter NC-04-13.

21. On September 9, 2013, Gas Safety conducted another inspection of the Company's pipeline facilities and records.

22. Gas Safety discovered that the Company had not corrected the violations that were cited in NC-04-13.

23. During the September 9, 2013 inspection, Gas Safety 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.

At the time of the September 9, 2013 inspection, 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 three (3) calendar years, but with intervals not exceeding thirty-nine (39) months.

At the time of the September 9, 2013 inspection, Pine Roe had 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.

At the time of the September 9, 2013 inspection, atmospheric corrosion was 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.

At the time of the September 9, 2013 inspection, Pine Roe did not have a written 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.

At the time of the September 9, 2013 inspection, Pine Roe had not maintained documentation in sufficient detail to show that such 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 an 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 system 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).

24. As a result of this inspection, on October 15, 2013, Gas Safety 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, *et seq.*

25. Pine Roe was afforded a specified amount of time, until November 12, 2013, to perform the following corrective actions and submit to Gas Safety written documentation showing that each of the above-described violations was 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; and
 - 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.
26. The Company did not respond to non-compliance letter NC-51-13.

B. Commission Assessment Requirements⁴

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

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

29. Pine Roe failed to file an assessment report stating revenues earned during the 2010 calendar year.

30. On or about February 15, 2012, the Assessment Section of the Fiscal Office in BAS mailed to Pine Roe an assessment report for the Company to list revenues earned during the 2011 calendar year.

31. The assessment report was accompanied by a letter, which notified Pine

⁴ The factual allegations set forth in Paragraphs 27 through 35 in this section were pled in I&E's initial Complaint that was filed in this proceeding on January 14, 2014.

Roe that the report was due on or before March 31, 2012.

32. Pine Roe failed to file an assessment report stating revenues earned during the 2011 calendar year.

33. On or about February 15, 2013, the Assessment Section of the Fiscal Office in BAS mailed to Pine Roe an assessment report for the Company to list revenues earned during the 2012 calendar year.

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

35. Pine Roe failed to file an assessment report stating revenues earned during the 2012 calendar year.

36. On or about September 11, 2014, the Assessment Section of the Fiscal Office in BAS sent Pine Roe, through certified mail, an assessment invoice for the July 1, 2014 to June 30, 2015 Fiscal Year (2014-2015 Fiscal Year). Pine Roe's assessment was \$365.

37. On October 29, 2014, Pine Roe signed a certified mail card, which indicated that it received an assessment invoice for the 2014-2015 Fiscal Year.

38. Accompanying the assessment invoice was a notice that informed Pine Roe that it was obligated to pay the amount listed on the assessment invoice within thirty (30) days or file objections within fifteen (15) days.

39. The Commission received no objections from Pine Roe to the assessment amount set forth in the 2014-2015 Fiscal Year assessment invoice.

40. Pine Roe failed to pay the amount of its 2014-2015 Fiscal Year assessment invoice.

41. The outstanding assessment balance for Pine Roe for the 2014-2015 Fiscal Year assessment is \$365.

C. June 2015 Gas Leak

42. On June 15, 2015, a customer of Pine Roe notified Gas Safety of a potential gas leak at 192 Timber Bridge Road, Reidsburg, PA 16214.

43. During the morning of June 15, 2015, a 9-1-1 dispatcher was also notified of the leak and a Pennsylvania Emergency Management Agency (PEMA) report was created at Report No. 20150615-0046 concerning the presence of the odor of gas.

44. At 3:30 PM on that same day, a Gas Safety inspector arrived at the site and noticed dead vegetation being present on both sides of the road.

45. Readings were taken with a combustible gas indicator in the area of the dead vegetation. The readings ranged from 8% to 89% of gas-in-air.

46. Gas-in-air was present against the deck of the house at 192 Timber Bridge Road, Reidsburg, PA 16214, thereby rendering the leak classification to be "grade one" or a leak in need of an emergency repair.

47. No Company representative was at the site of the leak when Gas Safety arrived.

48. At the site, the Gas Safety inspector attempted to contact a Company representative numerous times without success.

49. Around 4:30 PM, the Gas Safety inspector left the site and traveled to a hotel owned and operated by the owner of Pine Roe. The owner was out of town and was unavailable. The Gas Safety inspector returned to the site of the leak.

50. A Company representative did not report to the site until between 5:30 PM and 6:00 PM on June 15, 2015.

51. The Company representative did not have a combustible gas indicator or other equipment present at the site to take gas readings.

52. The Company representative responded by digging the pipeline beneath the road in the shoulder of the road on both sides to vent the gas.

53. The Gas Safety inspector left the site around 6:00 PM and returned at 8:30 PM to take gas readings. The readings ranged from the lower explosive limit (LEL), or less than 5% of gas-in-air, to 40% of gas-in-air. No Company representative was present when the Gas Safety inspector returned.

54. The Gas Safety inspector returned to the site of the gas leak on June 16, 2015 at 7:30 AM. No Company representative was present. Readings were taken around the house, which ranged from LEL to 28% gas-in-air. The Gas Safety inspector left the site at 8:00 AM.

55. At 9:30 AM, a Gas Safety supervisor arrived on site. No Company representative was present. The Gas Safety supervisor left the site at or about 10:00 AM.

56. At 4:30 PM, a Gas Safety inspector arrived on site and the Company first began to repair the pipeline.

57. During the repair process, Pine Roe used a battery-powered pipe cutter to cut a live gas line. Gas was not purged from the pipe when the pipe was cut. The Company did not use intrinsically safe tools in the presence of blowing gas.

58. The Gas Safety inspector observed that the Company permitted members of the general public to crawl into the area that was excavated while gas was leaking from the pipeline.

59. During the repair process, Pine Roe repaired one leak by using two stab fittings, which is designed to hold two segments of pipe together, and one piece of yellow polyethylene pipe. The yellow polyethylene pipe was not pressure-tested prior to installation.

60. Pine Roe repaired a second leak by cutting the line where the pipe was punctured and joining the two sides together with another stab fitting.

61. The Company did not have a fire extinguisher present during the repair process.

62. Plastic pipeline was exposed during the repair process and the Gas Safety inspector observed that no tracer wire was present around the pipe.

63. At the site, line markers were missing the proper information, including the name of operator and a telephone number.

64. On June 19, 2015, the Gas Safety inspector returned to the site and obtained gas readings. Gas readings continued to be present in the ground around the location of the leak, but no readings were discovered against the deck of the residence at 214 Timber Bridge Road.

65. On June 23, 2015, the Gas Safety inspector returned to the site again and obtained gas readings. Gas readings up to 60% of the LEL were present at the location of the leak, but appeared to be decreasing.

66. On June 25, 2015, Gas Safety mailed to Pine Roe non-compliance letter, NC-17-15, listing violations of the Code of Federal Regulations, 49 C.F.R., Part 192, *et seq.*, and the Pennsylvania Code related to the June 2015 gas leak incident.

67. Pine Roe was afforded a specified amount of time, until July 23, 2015, to perform the following corrective actions:

- a. Install tracer wire in all of Pine Roe's plastic main or service lines, or locate by Global Positioning System (GPS) and map all facilities for accurate locations of main and service lines;
- b. Obtain a combustible gas indicator and training on how to use it;
- c. Obtain the proper tools for gas line maintenance and training on how to use them properly;
- d. Hire an outside contractor to perform training with Company personnel on the proper way to fuse, join and repair leaking pipelines;
- e. Develop procedures to not allow the general public to climb in the Company's excavations in the presence of blowing gas;
- f. Perform a system-wide leak survey conducted by Company personnel or a contractor with the required leak detection instrumentation and document the findings;
- g. Develop a procedure to respond to hazardous leaks immediately; and
- h. If the Company does not have enough qualified employees to respond to emergencies, then hire a qualified contractor who can respond immediately when Company personnel are not available.

68. By letter to Paul J. Metro, Gas Safety Manager, dated July 17, 2015, Pine Roe requested a thirty day extension of time to respond to NC-17-15.

69. By letter to Paul J. Metro, Gas Safety Manager, dated August 28, 2015, Pine Roe requested an additional extension of time of sixty (60) days to comply with NC-17-15.

70. By letter to Paul J. Metro, Gas Safety Manager, dated October 28, 2015, Pine Roe requested an additional extension of time of twenty (20) days to comply with NC-17-15. By e-mail from Mr. Metro to Pine Roe dated October 28, 2015, the extension of time was denied.

71. By e-mail from Pine Roe to Mr. Metro dated October 28, 2015, the Company requested an extension of time until October 30, 2015 to respond to NC-17-15. The extension of time was granted and Pine Roe was given until October 31, 2015 to respond and comply with NC-17-15.

72. On October 31, 2015, Pine Roe submitted partial responses to non-compliance letter NC-17-15. Specifically, Pine Roe confirmed that it retained a qualified outside contractor to respond to emergencies. No other issue raised in NC-17-15 was addressed by the Company.

D. 2015 Audit Report Findings

73. On October 1, 2015, a report from the Commission's Bureau of Audits (Audits) concerning Pine Roe's Statements of Gas Cost Rate Over/(Under) Collections for the twelve months ending August 31, 2014, August 31, 2013 and August 31, 2012 was made public. The report is docketed at D-2015-2464712 and contains five findings.

74. Among the findings discussed in the report, Audits found that Pine Roe has purchased gas from an affiliate since June 1, 2007 without first obtaining written approval from the Commission. The affiliate with whom Pine Roe purchases gas has a familial/blood relationship with the owner of the Company.

75. In a previous audit report, Audits included a finding and recommendation that Pine Roe submit an Affiliated Interest Agreement (AIA) to the Commission for approval. Pine Roe filed an AIA with the Commission on January 31, 2013, at Docket No. G-2013-2346140. However, the AIA was never approved because Pine Roe failed to supply additional information requested by the Commission.

76. Pine Roe submitted another AIA for Commission approval on September 8, 2015 at Docket No. G-2015-2502973. This AIA has not yet been approved by the Commission.

77. In the report, Audits also found that Pine Roe maintains arrearages with three natural gas suppliers and Pine Roe's arrearages have increased since 2011. Pursuant to Section 1307(a) of the Public Utility Code, 66 Pa.C.S. § 1307(a), the Gas Cost Rate is intended to provide dollar-for-dollar recovery of purchased gas costs. Section 1307(h) defines "natural gas costs" and "gas costs" as "the direct costs paid by a natural gas distribution company for the purchase and the delivery of natural gas to its system in order to supply its customers." 66 Pa.C.S. § 1307(h). Audits concluded that since Pine Roe maintains increasing arrearages to its natural gas suppliers, this pattern indicates that Pine Roe is not using money collected pursuant to its Gas Cost Rate established in its tariff to pay for costs associated with the purchase of natural gas from

suppliers. *Pine Roe Natural Gas Company, Inc., Supplement No. 3 to Gas-Pa. No. 1, Original Page No. 13*, effective December 1, 1981.

78. Audits further found that Pine Roe is required to file quarterly reports related to Gas Cost Rate revenues, expenses and over/under collections within thirty (30) days following the conclusion of each computation year quarter, pursuant to Pine Roe's tariff. *Pine Roe Natural Gas Company, Inc., Supplement No. 4 to Gas-Pa. No. 1, First Revised Page No. 15, Cancelling Original Page No. 15*, effective November 1, 1994. Audits recommended that Pine Roe submit the quarterly reports or seek Commission approval of tariff language changes dropping the quarterly reporting requirement.

79. Pine Roe has not submitted quarterly reports as required by its tariff or sought Commission approval of tariff language changes.

E. Unaccounted for Gas Filing Requirements

80. As a Natural Gas Distribution Company (NDGC), Pine Roe is required to report data related to unaccounted-for-gas (UFG) on an annual basis for the 12 months ending August 31. UFG is generally defined as the difference between total gas supplies delivered to the NGDC and the amount of gas the NGDC subsequently delivers to its customers, adjusted for company use, temperature, pressure variations and other allowed variables. *See Rulemaking Re: Establishing a Uniform Definition and Metrics for Unaccounted-for-Gas*, Docket No. L-2012-2294746 (Final Rulemaking Order entered April 4, 2013) at 3. Such reports are required to be filed by September 30 of each year. 52 Pa. Code § 59.111(c)(2).

81. Pine Roe did not file UFG reports demonstrating metrics for distribution system losses for the 12 months ending August 31, 2014 and August 31, 2015.

IV. Violations

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

2012-2013 Gas Safety Inspections

a. Pine Roe failed to submit annual distribution system reports to PHMSA in that it had 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.
(1 count) I&E's proposed civil penalty for this violation is \$5,000.

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 using an instrument capable of determining the percentage of gas-in-air at which the odor becomes readily detectable.

This is a violation of 49 C.F.R. § 192.625 and 52 Pa. Code § 59.33.
(1 count) I&E's proposed civil penalty for this violation is \$5,000.

c. Pine Roe failed to demonstrate that it conducts leakage surveys using leak detector equipment at least once every three (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.
(1 count) I&E's proposed civil penalty for this violation is \$5,000.

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.
(1 count) I&E's proposed civil penalty for this violation is \$5,000.

c. 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 line markers were missing or illegible at several locations during the inspection on September 9, 2013.

This is a violation of 49 C.F.R. § 192.707 and 52 Pa. Code § 59.33.
(1 count) I&E's proposed civil penalty for this violation is \$2,500.

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 three (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.
(1 count) I&E's proposed civil penalty for this violation is \$2,500.

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.
(1 count) I&E's proposed civil penalty for this violation is \$2,500.

h. Pine Roe failed to develop and implement an integrity management program in that it did not have a written Distribution Integrity Management Program at the time of the September 9, 2013 inspection.

This is a violation of 49 C.F.R. § 192.1005 and 52 Pa. Code § 59.33.
(1 count) I&E's proposed civil penalty for this violation is \$2,500.

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.
(1 count) I&E's proposed civil penalty for this violation is \$2,500.

j. Pine Roe failed to create a public awareness program in that it has not developed and implemented a written continuing public education program that follows the guidance provided in the American Petroleum Institute's Recommended Practice.

This is a violation of 49 C.F.R. § 192.616 and 52 Pa. Code § 59.33. (1 count) I&E's proposed civil penalty for this violation is \$2,500.

k. 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. (1 count) I&E's proposed civil penalty for this violation is \$2,500.

l. 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. (1 count) I&E's proposed civil penalty for this violation is \$2,500.

Commission Assessment Requirements

m. 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). (3 counts) I&E's proposed civil penalty for this violation is \$3,000.

n. Pine Roe failed to satisfy its 2014-2015 Fiscal Year assessment in that it did not pay the amount due, \$365, within thirty (30) days of receipt of the invoice.

This is a violation 66 Pa.C.S. § 510(c). (1 count) I&E's proposed civil penalty for this violation is 15% of the outstanding 2014-2015 Fiscal Year assessment, or \$55.

June 2015 Gas Leak

o. Pine Roe failed to promptly and effectively respond to a gas odor reported near a building in that no Company representative responded to the gas leak at 192 Timber Bridge Road, Reidsburg, PA 16214 after a PEMA report was created and emergency services were notified, and the Company only initially responded several hours after Gas Safety attempted to locate the Company's owner.

This is a violation of 49 CFR § 192.605(b)(11), 49 CFR § 192.615(a)(3)(i) and 52 Pa. Code § 59.33. (1 count) I&E's proposed civil penalty for this violation is \$30,000.

p. Pine Roe failed to make available necessary equipment and tools at the site of the leak in that it did not have a combustible gas indicator to take gas readings.

This is a violation of 49 CFR § 192.615(a)(4) and 52 Pa. Code § 59.33. (1 count) I&E's proposed civil penalty for this violation is \$30,000.

q. Pine Roe failed to promptly repair a hazardous leak in that the Company waited for more than 24-hours to begin repairing a reported gas leak in which gas-in-air was present against the deck of a residence.

This is a violation of 49 CFR § 192.703(c) and 52 Pa. Code § 59.33. (1 count) I&E's proposed civil penalty for this violation is \$30,000.

r. Pine Roe failed to promptly repair, replace or remove from service the segment of pipe that was leaking in that the leak had been occurring prior to June 15, 2015, the date that it was reported, due to the presence of dead vegetation at the leak site.

This is a violation of 49 CFR § 192.703(b) and 52 Pa. Code § 59.33. (1 count) I&E's proposed civil penalty for this violation is \$30,000.

s. Pine Roe violated its written procedures regarding minimizing hazards during a gas pipeline emergency in that it permitted members of the general public to crawl into the excavated area with the presence of blowing gas from the leaking pipeline.

This is a violation of 49 CFR § 192.615(a)(5) and (a)(7), and 52 Pa. Code § 59.33. (1 count) I&E's proposed civil penalty for this violation is \$30,000.

t. Pine Roe failed to minimize the danger of accidental ignition of gas where the presence of gas constitutes a hazard of fire or explosion in that the Company used a battery-powered pipe cutter to cut a live gas line and did not have a fire extinguisher present.

This is a violation of 49 CFR § 192.751(a) and 52 Pa. Code § 59.33.
(1 count) I&E's proposed civil penalty for this violation is \$30,000.

u. Pine Roe failed to test the pressure of the yellow polyethylene pipe used to replace the segment of leaking pipe prior to its installation.

This is a violation of 49 CFR § 192.513 and 52 Pa. Code § 59.33.
(1 count) I&E's proposed civil penalty for this violation is \$30,000.

v. Pine Roe failed to install tracer wire in underground plastic pipeline in that during the leak repair, the Gas Safety inspector observed exposed plastic pipe without an electrically conducting wire or other means of locating the pipe.

This is a violation of 49 CFR § 192.321(e) and 52 Pa. Code § 59.33.
(1 count) I&E's proposed civil penalty for this violation is \$30,000.

w. Pine Roe failed to include the proper information on line marker warnings in that the name of operator and telephone number where the operator can be reached were missing.

This is a violation of 49 CFR § 192.707(d)(2) and 52 Pa. Code § 59.33.
(1 count) I&E's proposed civil penalty for this violation is \$30,000.

Audit Findings

x. Pine Roe failed to obtain written approval from the Commission regarding its arrangement to purchase gas from a family member of the owner of the Company in that it has purchased gas from this family member since June 1, 2007 without an approved Affiliated Interest Agreement.

This is a violation of 66 Pa.C.S. § 2102. (1 count) I&E's proposed civil penalty for this violation is \$1,000.

y. Pine Roe failed to adhere to its tariff in that it has not used revenue collected pursuant to its Gas Cost Rate for the purchase of natural gas as

evidenced by the increasing arrearages it maintains with three natural gas suppliers.

This is a violation of 66 Pa.C.S. §§ 1303 and 1307(a), (h). (1 count) I&E's proposed civil penalty for this violation is \$1,000.

z. Pine Roe has not adhered to reporting requirements established in its Gas Cost Rate tariff in that it has failed to submit quarterly reports related to Gas Cost Rate revenues, expenses and over/under collections within thirty (30) days following the conclusion of each computation year quarter.

This is a violation of 52 Pa. Code §§ 53.66 and 53.67. (1 count) I&E's proposed civil penalty for this violation is \$1,000.

Unaccounted For Gas Filing Requirements

aa. Pine Roe failed to show metrics regarding distribution system losses for the 12 months ending August 31, 2014 and August 31, 2015 in that it did not file unaccounted-for-gas reports by September 30, 2014 and September 30, 2015, respectively.

This is a violation of 52 Pa. Code 59.111(c)(2). (2 counts) I&E's proposed civil penalty for these violations is \$2,000.

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 of the thirty (30) counts as set forth herein, and that Pine Roe be ordered to pay a civil penalty in the amount of \$318,055, pursuant to 66 Pa.C.S. § 3301. Said payment shall be made by certified check or money order payable to the Commonwealth of Pennsylvania and presented to the undersigned prosecutor within twenty (20) days of the date of the Commission's order sustaining this Amended Complaint;
- b. Pine Roe not be permitted to recover any portion of the civil penalty through rates regulated by the Commission;
- c. Pine Roe be ordered to pay its outstanding assessment balance of \$365 related to the Commission's assessment for the 2014-2015 Fiscal Year;
- d. Pine Roe be ordered to cease and desist from committing any further violations of the Public Utility Code, Commission regulations and Federal pipeline safety regulations; and
- e. The Commission order such other remedy as the Commission may deem to be appropriate, including revocation of Pine Roe's Certificate of Public Convenience at A-00102046.

Respectfully submitted,



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
stwimer@pa.gov
(717) 772-8839

Date: February 3, 2016

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility
Commission, Bureau of
Investigation and Enforcement

v.

Pine Roe Natural Gas Co., Inc.

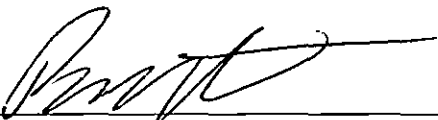
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Docket No. C-2014-2400485

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: 29 Jan 10



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

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Pennsylvania Public Utility
Commission, Bureau of
Investigation and Enforcement

v.

Pine Roe Natural Gas Co., Inc.

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Docket No. C-2014-2400485

VERIFICATION

I, Mandy Freas, Accountant, Bureau of Administrative Services, Assessment Section, 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 of Investigation and Enforcement 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: 1/28/2016

Mandy Freas

Mandy Freas, Accountant
Assessment Section
Bureau of Administrative Services
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

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**BEFORE THE
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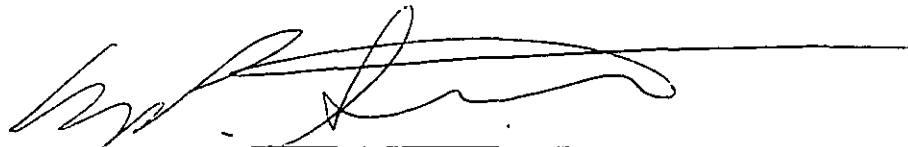
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Docket No. C-2014-2400485

VERIFICATION

I, Matthew P. Stewart, Fixed Utility Valuation Engineer, Bureau of Technical Utility Services, 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 of Investigation and Enforcement 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: 2-3-16



Matthew P. Stewart, Fixed Utility Valuation Engineer
Bureau of Technical Utility Services
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility
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v.

Pine Roe Natural Gas Co., Inc.

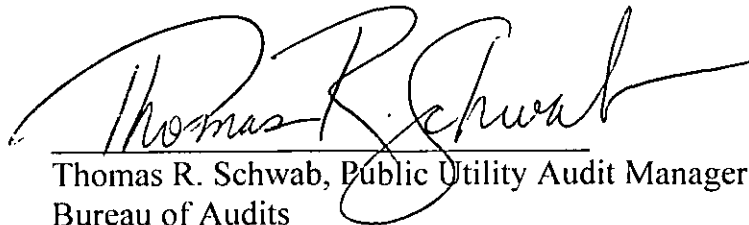
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Docket No. C-2014-2400485

VERIFICATION

I, Thomas R. Schwab, Certified Public Accountant, Bureau of Audits, 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 of Investigation and Enforcement 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: 1/28/16



Thomas R. Schwab, Public Utility Audit Manager
Bureau of Audits
PA Public Utility Commission
3070 William Pitt Way
Bldg. A-6, Rm. 163
Pittsburgh, PA 15238

CERTIFICATE OF SERVICE

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

Service by First Class Mail:

John Habjan, President
Pine Roe Natural Gas Co., Inc.
P.O. Box 146
Clarion, PA 16214

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



Stephanie M. Wimer
Prosecutor
PA Attorney ID No. 207522

Pennsylvania Public Utility Commission
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P.O. Box 3265
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stwimer@pa.gov
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Date: February 3, 2016

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