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September 15, 2021

Rosemary Chiavetta, Esq., Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, Pennsylvania 17120

**Re: Petition of the Energy Association of Pennsylvania for an Expedited Order
Granting an Extension of Time to File Comments, Docket L-2020-3019417**

Dear Secretary Chiavetta:

Attached for filing, please find the Energy Association of Pennsylvania's Petition for an Expedited Order Granting an Extension of Time to File Comments in the above docket.

Sincerely,

A handwritten signature in black ink, appearing to read "Donna M.J. Clark", with a stylized flourish at the end.

Donna M.J. Clark
Vice President & General Counsel

Enclosure

CC: Certificate of Service

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of the Energy Association of Pennsylvania for an Expedited Order Granting an Extension of Time to File Comments : : **Docket No. L-2020-3019417**

PETITION FOR AN EXPEDITED ORDER GRANTING AN EXTENSION OF TIME TO FILE COMMENTS TO TENTATIVE IMPLEMENTATION ORDER RE: POTENTIAL AMENDMENTS to 52 Pa. Code § 59.34 RELATING to LEAKAGE SURVEYS of CUSTOMER-OWNED SERVICE LINES

NOW COMES, the Energy Association of Pennsylvania (“EAP”) acting on behalf of its natural gas distribution company members (“NGDCs”)¹ and petitions the Pennsylvania Public Utility Commission (“PUC” or “Commission”) pursuant to 52 Pa. Code §§1.15 and 5.41 for an Expedited Order granting an Extension of Time of thirty (30) days, i.e. until October 30, 2021 to all commentators to file comments to the Tentative Order Re: Request for Comments on Implementation of Potential Amendments to 52 Pa. Code § 59.34 Relating to Leakage Surveys of Customer-Owned Service Lines, (“Tentative Order”), Docket No. L-2020-3019417, entered on August 5, 2021. In support of this petition, EAP states the following:

1. On August 5, 2020, the Commission entered a Tentative Order requesting comments on “potential implementation of amendments to 52 Pa. Code § 59.34 relating to leakage surveys of customer-owned service lines, to make Section 59.34 consistent with Part 192.13 (c) of the Code of Federal Regulations (CFR), 49 C.F.R. § 192.13 (c).” Tentative Order at p. 1.

¹ EAP’s NGDC members include Columbia Gas of Pennsylvania, Inc.; Leatherstocking Gas Company, LLC; National Fuel Gas Distribution Corp.; PECO Energy Company; People’s Natural Gas Company LLC; Peoples Gas Company LLC; Philadelphia Gas Works; Pike County Light & Power Company; UGI Utilities, Inc.-Gas Division; and Valley Energy Inc.

2. Pursuant to the Tentative Order, comments are now due on September 30, 2021, i. e., forty (40) days following publication in the *Pennsylvania Bulletin*.

3. The proposed amendments originate from concerns raised by the Director of State Programs, Office of Pipeline Safety at the United States Department of Transportation, Pipeline and Hazardous Materials Safety Administration (“PHMSA”).

4. Based on those concerns, the Commission first proposes “to revise its regulation to clarify that it is the responsibility of the public utility to design, construct, operate, and maintain a customer’s service line upstream of the inlet of the meter serving the customer (or the connection to a customer’s piping at the wall if there is no customer meter).” Tentative Order at p. 8. And, recognizing the conflict between PHMSA’s concerns and Pennsylvania state law at Section 1510 of the Public Utility Code, 66 Pa. C.S. § 1510 which provides, in pertinent part, that “[a] public utility shall not be authorized or required to acquire or assume ownership of any customer’s service line”², the Commission further proposes “that the utility shall require a customer to pay the public utility for all reasonable costs incurred by the public utility to repair and maintain the customer’s service line upstream of the meter (or the connection to a customer’s piping at the wall if there is no customer meter).”

5. The Commission is seeking comments on a solution which may meet the concerns of PHMSA to align Pennsylvania regulations with the federal regulations without violating Pennsylvania statutory law which clearly states that “maintenance of service lines shall be the responsibility of the owner of the service line.” 66 Pa. C.S. § 1510.

6. In this initial step, akin to an advanced notice of proposed rulemaking, the Commission details a number of complex questions under the general categories of “monetary issues” and

² 66 Pa. C.S. § 1510.

“customer-service issues” each of which will require both practical and legal consideration by commentators.

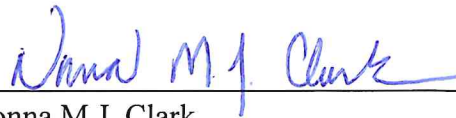
7. In general, the questions cover issues ranging from whether the utility can recover these costs via repayment plans acting as a lender with the right to terminate service for failure to pay to whether costs can be socialized via a DSIC mechanism or capitalized in the utility’s base rates. Comments are sought on the usefulness of uniform tariff language and whether such language should be codified in regulations, required via an order or included in a policy statement. Recognizing the inevitable need for communication with the customer in the event the utility is tasked with maintenance of the customer-owned service line, the Commission also seeks input on how “to ensure customers are provided clear and timely communications regarding their options prior to the utility completing the work”. Tentative Order at p. 12. And finally, the Commission asks commentators to identify any concerns related to what authority the utility has to access customer property to repair and/or maintain customer-owned service lines. A complex legal issue touching on whether this new regulatory scheme proposed by the Commission may result in a “taking” of private property to ensure public safety.

8. The Tentative Order provides that the responses and information gathered at this preliminary stage will benefit the Commission greatly in a contemplated future rulemaking to amend its regulations, specifically 52 Pa. Code § 59.34, to meet the concerns of PHMSA.

9. Given the complex technical, legal and policy issues raised in the Tentative Order and the impact of the proposed amendments on customers who own their service lines, ratepayers of the utility in general, and long-standing utility practices and procedures developed to comply with the statute at 66 Pa. C.S. § 1510, EAP requests an extension of time until October 30, 2021 for all commentators to file comments.

10. EAP believes that the extra time sought through this request will not serve to delay the Commission's goal to issue a notice of proposed rulemaking and in fact, will benefit all potential commentators and the Commission by eliciting a more thorough and nuanced analysis of issues necessary for the Commission to proceed to draft revisions so as to potentially address both the concerns of PHMSA as well as adhere to the legislative intent as evidenced by the clear language set forth in 66 Pa. C.S. § 1510.

WHEREFORE, the Energy Association of Pennsylvania respectfully requests the Commission to issue an expedited order granting an extension of time until October 30, 2021 for all commentators to file comments to the Tentative Order Re: Request for Comments on Implementation of Potential Amendments to 52 Pa. Code § 59.34 Relating to Leakage Surveys of Customer-Owned Service Lines.



Donna M.J. Clark
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Atty. ID # 39866

Date: September 15, 2021

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of the Energy Association of Pennsylvania for an Expedited Order Granting an Extension of Time to File Comments :
: **Docket No. L-2020-3019417**
:

CERTIFICATE OF SERVICE

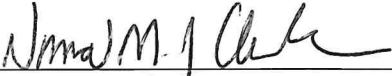
I hereby certify that I have, on this day, served true and correct copies of the Petition of the Energy Association of Pennsylvania for an Expedited Order Granting an Extension of Time to File Comments in the above captioned matter upon the following persons and in accordance with the requirements of 52 Pa. Code § 1.54.

VIA ELECTRONIC MAIL

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Date: September 15, 2021


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