

Richard C. Culbertson  
1430 Bower Hill Road  
Pittsburgh, PA 15243  
(609) 410-0108  
[Richard.c.culbertson@Gmail.com](mailto:Richard.c.culbertson@Gmail.com)

September 22, 2021

Honorable Mark A. Hoyer  
Deputy Chief Administrative Law Judge,  
Office of Administrative Law Judge  
Piatt Place, Suite 220  
301 Fifth Avenue  
Pittsburgh, PA 15222

Re: Pennsylvania Public Utility Commission  
Request for Comments  
Docket L-2020-3019417  
Efile

Dear Judge Hoyer,

Attached is my response to the Commission's request for comments regarding changes in PUC regulations that may be made pertaining to the expansion of service boundaries of Pennsylvania natural gas public utilities.

The direction that the Commission is headed is to take control of the customer's service line (private property) and have the gas public utility assume control over this private property.

<https://www.puc.pa.gov/press-release/2021/puc-seeks-public-comment-on-proposed-changes-in-regulations-for-customer-owned-pipeline-system-service-lines>

The PUC Press Release and related documents touch on some of the same issues I included in my complaint in the Columbia Gas rate case R-2021-3024296.

Property rights, overreach of authority, sources of unreasonable cost, and safety.

The title of the press release is alarming – to begin with, ***“PUC Seeks Public Comment on Proposed Changes in Regulations for Customer-Owned Pipeline System Service Lines --- Proposal Would Align State Regulations with Federal Regulations and Clarify Pipeline Operator’s Responsibility for Safe Operation”***

- The legal term in PA Title 66 Definitions is “customer’s service lines” not – “Customer-Owned Pipeline System Service Lines”
- The customer’s service line is not part of a pipeline system but is an appurtenance of house plumbing, starting at the property line. The utility’s pipeline system terminated at the property line.
- Title 66 § 1510. Ownership and maintenance of natural and artificial gas service lines. “A public utility shall not be authorized or required to acquire or assume ownership of any customer’s service line.”
- Federal and state regulations are clear – utilities do not have ownership and maintenance responsibilities over private property.

The Commission’s Tentative Implementation Order includes:

*“Until now, the Commission has interpreted “responsibility of the owner of the service line” in Section 1510 of the Code, as implemented in Section 59.34 of the Commission’s regulations, as requiring the customer to make the repairs to the customer owned portion of the service line upstream of the meter if a public utility leak survey detects a leak on that portion of the line.”*

Observation – the only organization that I have found that uses “customer owned portion of the service line” is Columbia Gas.

There is no such accountable asset unit. On a utility’s books and records includes “Account 380 Services. A. This account shall include the cost installed of service pipes and accessories leading to the customers’ premises. B. A complete service begins with the connection on the main and extends to but does not include the connection with the customer’s meter. **A stub service extends from the main to the property line or the curb stop.**”

<https://www.law.cornell.edu/cfr/text/18/part-201>

**A stub service is a stub service.**

Another thing I found while writing my comments that should be alarming is regarding overreach. Columbia’s tariff includes:

*"11.5 Access to Premises --The Company, or its authorized agents, shall have access at all reasonable times to the property or premises in or on which gas is used, to determine if the gas is being carried, distributed and burned in a proper and safe manner and in accordance with these Rules and Regulations, or to read, inspect and test the meter or house lines and other appliances, equipment or facilities. Refusal on the part of the customer to allow access to his premises shall constitute sufficient cause for turning off the gas supply to such premises."*

Think what that is: That is a blanket improperly authorized search warrant for a Pennsylvania public utility employee or contractor to have the authority to go into a private residence to determine how gas is being used or whatever. This provision in the tariff is not limited to gas purchases from Columbia or even natural gas. Home facilities and equipment are under the jurisdiction of the homeowner or perhaps the duly authorized municipal code official.

Columbia's tariff, with the Commission's approval, does not supersede **Amendment IV of the United States Constitution**

*"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."*

I am providing what I sent to the Commission so that there is no question that my communications to the Commission are not considered Ex parte communications.

Again these organizations are supposed to have adopted the framework of internal controls ...

Respectfully,

A handwritten signature in black ink, appearing to read 'R. Culbertson', with a stylized flourish at the end.

Richard C. Culbertson  
1430 Bower Hill Road  
Pittsburgh, PA 15243  
(609) 410-0108  
[Richard.c.culbertson@Gmail.com](mailto:Richard.c.culbertson@Gmail.com)

## CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission  
Request for Comments  
Docket L-2020-3019417

:  
:  
:

I hereby certify that I have this day served a true copy of comments in response to the Commission's request Docket L-2020-3019417 pertaining changes to service parameters of natural gas public utilities. This Certificate of Service is in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below: Dated this 22<sup>nd</sup> day of September, 2021.

### SERVICE BY E-MAIL ONLY

Erika L. McLain, Esquire  
Bureau of Investigation & Enforcement  
Advocate Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
1923 Harrisburg, PA 17120

Steven C. Gray, Esquire  
Office of Small Business  
555 Walnut Street  
1<sup>st</sup> Floor, Forum Place  
Harrisburg, PA 17109-

Michael W. Hassell, Esquire  
Lindsay A. Berkstresser, Esquire  
Post & Schell, P.C.  
17 North Second Street, 12<sup>th</sup> Floor  
Harrisburg, PA 17101-1601

Amy E. Hirakis, Esquire  
NiSource Corporate Services Co.  
800 North Third Street  
Suite 204  
Harrisburg, PA 17102

Theodore J. Gallagher, Esquire  
Columbia Gas of Pennsylvania, Inc.  
121 Champion Way  
Suite 100  
Canonsburg, PA 15317

John W. Sweet, Esquire  
Ria M. Pereira, Esquire  
PA Utility Law Project  
118 Locust Street  
Harrisburg, PA 17101

Joseph L. Vullo, Esquire

Todd S. Stewart, Esquire

PA Weatherization Providers Task Force, Inc.  
LLP1460 Wyoming Avenue  
Forty Fort, PA 18704

Charis Mincavage, Esquire  
Kenneth R. Stark, Esquire  
McNees Wallace & Nurick LLC  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166

Richard C. Culbertson  
1430 Bower Hill Road  
Pittsburgh, PA 15243  
609-410-0108  
[Richard.c.culbertson@gmail.com](mailto:Richard.c.culbertson@gmail.com)

Harrison W. Breitman  
Harrison W. Breitman  
Assistant Consumer Advocate  
PA Attorney I.D. # 320580  
E-Mail: [HBreitman@paoca.org](mailto:HBreitman@paoca.org)

Laura J. Antinucci  
Assistant Consumer Advocate  
PA Attorney I.D. # 327217  
E-Mail: [LAntinucci@paoca.org](mailto:LAntinucci@paoca.org)

Darryl A. Lawrence  
Senior Assistant Consumer Advocate  
AdvocatePA Attorney I.D. # 93682  
E-Mail: [DLawrence@paoca.org](mailto:DLawrence@paoca.org)



Richard C. Culbertson

eFile

Hawke McKeon & Sniscak  
100 North Tenth Street  
Harrisburg, PA 17101

Thomas J. Sniscak, Esquire  
Whitney E. Snyder, Esquire  
Bryce R. Beard, Esquire  
Hawke McKeon & Sniscak, LLP  
100 North Tenth Street  
Harrisburg, PA 17101

Barrett C. Sheridan  
Assistant Consumer Advocate  
PA Attorney I.D. # 61138  
E-Mail: [BSheridan@paoca.org](mailto:BSheridan@paoca.org)

Christy M. Appleby  
Assistant Consumer Advocate  
PA Attorney I.D. # 85824  
E-Mail: [CAappleby@paoca.org](mailto:CAappleby@paoca.org)

Counsel for:  
Office of Consumer  
555 Walnut Street  
5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101-  
1923  
Phone: (717) 783-5048  
Fax: (717) 783-7152

**To:**  
The Pennsylvania Public Utility Commission

September 21, 2021

**From:**  
Richard C. Culbertson  
(Asset Management Expert)<sup>1</sup>  
1430 Bower Hill Road  
Pittsburgh, PA 15243  
[Richard.c.culbertson@Gmail.com](mailto:Richard.c.culbertson@Gmail.com)  
609-410-0108

### **Introduction**

I thank the Commission for bringing the need to review and change PUC Regulations 52 Pa. Code § 59.34 -- Leakage surveys of customer-owned service lines.

Honest questions and requests require honest and well thought out answers from those knowledgeable and affected by the considered changes.

Answers to the PUC's request does not start out with clean slate – answers must be based upon the existing Federal and Commonwealth Constitutions, laws, regulations, representations, and tariffs.

Changes and existing PUC's regulations must be in alignment with other requirements that have higher precedence's.

The Commission's requests cannot be answered in isolation or even past decisions or regulations – but must be evaluated from the totality of the established legal and regulatory framework.

I have spent a considerable amount of time identifying the legal and regulatory framework – so the Commission can have a more complete perspective for their decision making.

In my opinion, after spending hours researching requirements and practices, but also with some of my own experiences with natural gas public utilities, I have come to some conclusions.

- 52 Pa. Code § 59.34 -- Leakage surveys of customer-owned service lines should not be modified but should be rescinded.
  - Leakage surveys of customer's service lines are beyond the jurisdiction of the Commission and the Gas public utility.
  - Customer's service lines are private property ... meaning, it is not public property, nor utility-owned or controlled property.
  - When utility employees enter private property, they have limited rights – read the meter and maintain the utility-owned meter. Any other activity on private property the owner may consider trespassing.
  - Utility companies are gas distribution companies – distributions and transportation stop at the point of delivery.

---

<sup>1</sup> See U.S. Government Accountability Office (GAO) report GAO-19-57 <https://www.gao.gov/assets/gao-19-57.pdf>

- Columbia Gas, for example, Tariff-- RULES AND REGULATIONS GOVERNING THE DISTRIBUTION AND SALE OF GAS 7. **Point of Delivery** of Gas to Customer 7.1 Point of Delivery. The point of delivery of gas to a customer **shall be at the outlet side of the curb valve**, or the property or lot line if there is no curb valve, at which point **title of the gas shall pass to the customer**;...
  - By Pennsylvania law ownership, maintenance, and control of customer's service lines is the responsibility of the owner. The Pennsylvania Public Utility Commission does not make or change the law but must stay within bounds of existing law.
- 52 Pa. Code § 59.34 – Permitting leakage surveys of customer-owned service lines are misaligned with higher-level laws and regulations – it is illegal at the highest level – the of Federal and Commonwealth Constitutions and also Pennsylvania is Public Utility Code and the Utility's tariff.
- The Commission has the highest responsibility to protect private property -- not diminish private property rights.
- The physical jurisdiction of the Commission stops at delivery of utility service. The Commission can control customer's behavior on the transport bus, but the Commission cannot control or record behavior not off the bus – the same with gas utilities.
- The requirements and conditions of private property are beyond the jurisdiction of the Commission but are under the requirements of the Pennsylvania Uniform Construction Code, which has adopted the International Building Code of which the International Gas Fuel Code is a part. Inspections of plumbing on private property are the responsibility of the property owner and when needed the municipal code official. Gas utility employees are not code officials ... they are not trained for work on private property nor related tasks "covered tasks".
  - *49 CFR Part 192, Subpart N - Qualification of Pipeline Personnel § 192.801 Scope. (a) This subpart prescribes the minimum requirements for operator qualification of individuals performing covered tasks on a pipeline facility. (A customer's service line is not a component of a pipeline facility – nor a kitchen stove.) (b) For the purpose of this subpart, a covered task is an activity, identified by the operator, that: (1) Is performed on a pipeline facility; (49 CFR § 192.3)*
- The Pennsylvania Public Utility Commission does not have the sovereign right to transfer private property rights and responsibilities of private property (customer's service lines) owners to public utilities.

Let's start with some details of the historical perspective regarding the responsibilities and rights of public utilities and private property owners.

<b><u>Federal Law</u></b>	<p><i>49 (Transportation) U.S. Code § 60113. Customer-owned natural gas service lines Not later than October 24, 1993, the Secretary of Transportation shall prescribe standards requiring an operator of a natural gas distribution pipeline that does not maintain customer-owned natural gas service lines up to building walls <u>to advise its customers of—</u></i></p> <p><i>(1) the requirements for maintaining those lines;</i></p> <p><i>(2) any resources known to the operator that could assist customers in carrying out the maintenance;</i></p> <p><i>(3) information the operator has on operating and maintaining its lines that could assist customers; and (4) the potential hazards of not maintaining the lines.</i></p>
---------------------------	---

	(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1318;
<b><u>Comment</u></b>	<p>The above law recognizes that utilities neither own nor are responsible to maintain the property of which is not owned by the utility.</p> <p>The law has a major flaw – “Customer-owned natural gas service lines”, customers may or may not own plumbing of the home out to the delivery point of the gas or around the property line. Many customers are renting or leasing those premises of which they occupy. There is a requirement in the Financial Accounting Standard Board (FASB) Concept 8. Conceptual Framework for Financial Reporting: <i>“If financial information is to be useful, it <u>must be relevant and faithfully represent what it purports to represent.</u> The usefulness of financial information is enhanced if it is comparable, verifiable, timely, and understandable.”</i> There is no intention to transfer title or responsibility over to a renter. The responsibility to acquire and maintain real property such as “Customer-owned natural gas service lines” remains with the property’s owner.</p> <p>There can be exceptions for wrongdoing, errors or accidents – if the public utility illegally assumes ownership and controls of the customer’s service line and destroys or “abandons” this private property on behalf of the property owner without consent, then the property owner is entitled to restitution from the utility. The utility must replace the customer’s service line or fully compensate the property owner.</p>
<b><u>Federal Regulations</u></b>	<p>49 (Transportation) CFR § 192.1 - <i>What is the scope of this part?</i>  (a) <i>This part prescribes minimum safety requirements for pipeline facilities and the transportation of gas,...</i></p> <p>49 CFR § 192.3 <i>Pipeline means all parts of those physical facilities through which gas moves in transportation,</i></p> <p>49 § 192.16 <i>Customer notification.</i>  (a) <i>This section applies to each operator of a service line who does not maintain the customer's buried piping ... Also, “maintain” means monitor for corrosion according to § 192.465 if the customer's buried piping is metallic, survey for leaks according to § 192.723, and if an unsafe condition is found, shut off the flow of gas, advise the customer of the need to repair the unsafe condition, or repair the unsafe condition. (b) Each operator shall notify <u>each customer once</u> in writing of the following information: (1) <b>The operator does not maintain the customer's buried piping.</b></i></p>
<b><u>Comment</u></b>	<p>The above law and regulation apply to transportation. It does not apply to movement on private property, e.g. DOT has authority over highways but does not have authority over driveways.</p> <p>Leakage surveys particularly at the curb valve – where private property and utility property meet must be jointly addressed by the property owner and the</p>



	<p>utility – the primary responsibility should be of the utility because the utility performs the actual joining of the property.</p> <p>So when does transportation stop? At delivery. Where is delivery? At the property line.</p> <p>So where do most utilities measure the consumption of gas – at the side of or inside of a building.</p> <p>So who has the risk of loss of gas between the property line and the building? The Utility.</p> <p>Why doesn't the utility have the meter and the point of delivery at the same place? The utility chose not to.</p> <p>Could the utility put their customer meter at the same place as delivery at the property line? Yes, this is done, for example in California in a curb box.</p> <p>Does the gas utility have jurisdiction over a property owner's plumbing or a customer's use of gas? No – regardless of what they place in their tariff.</p> <p>Does the Public Utility Commission have the authority to take property and responsibilities of a private property owner and give those rights to a public utility? No, rights and responsibilities are based on law and property deeds.</p> <p>The DOT has authority over the Notice to Customers – it does not have authority over customer's service lines.</p>
<p><b><u>Pennsylvania</u></b> <b><u>Law</u></b></p>	<p><i>The Pennsylvania Public Utility Code --TITLE 66 PUBLIC UTILITIES § 102. Definitions.</i></p> <p><i><b>"Customer's service line."</b> The pipe and appurtenances <u>owned by the customer [property owner]</u> extending from the service connection of the gas utility to the inlet of the meter serving the customer.</i></p> <p><i><b>"Service line."</b> The pipe and appurtenances <u>of the gas utility</u>, water utility, or wastewater utility which connect any main with either the point of connection of a customer's service line or the meter of the public utility if the utility owns all the pipe and appurtenances between its main and meter.</i></p> <p><i><b>"Public utility."</b></i></p> <p><i>(1) Any person or corporations now or hereafter <b>owning or operating</b> in this Commonwealth equipment or <b>facilities</b> for: (i) Producing, generating, transmitting, <b>distributing</b> or furnishing <b>natural</b> or artificial gas, ... for the production of light, heat, or power to or <u><b>for the public for compensation.</b></u> ... (v) <b>Transporting or conveying natural or artificial gas, ... by pipeline or conduit, <u>for the public for compensation.</u></b></i></p> <p><i><b>"Service."</b> Used in its broadest and most inclusive sense, includes any and all acts done, rendered, or performed, and any and all things furnished or supplied, and any and all facilities used, furnished, or supplied by public utilities, or contract carriers by motor vehicle, <u>in the performance of their duties [distributing or furnishing natural ... gas]</u> under this part to their</i></p>

	<p><i>patrons, employees, other public utilities, and the <u>public</u>, ...</i></p> <p><b><u>§ 1510. Ownership and maintenance of natural and artificial gas service lines.</u></b></p> <p><i>When connecting the premises of the customer with the gas utility distribution mains, the public utility shall furnish, install and maintain the service line or connection according to the rules and regulations of the filed tariff. A <b>public utility shall not be authorized or required to acquire or assume ownership of any customer's service line.</b> A public utility shall not be authorized or required to acquire or assume ownership of any pipe or appurtenances installed after the effective date of this section between its main and the meter unless the utility would have been authorized or required to do so according to the rules and regulations of its filed tariff if the pipe or appurtenances had been installed on or before the effective date of this section. <b>Maintenance of service lines shall be the responsibility of the owner of the service line.</b></i></p> <p>(Mar. 7, 1984, P.L.104, No.22, eff. 60 days)</p> <p><b><u>§ 501. General powers. (b) Administrative authority and regulations.</u></b> --<i>The commission shall have general administrative power and authority to supervise and regulate all <u>public utilities</u> doing business [providing service] within this Commonwealth. <b>The commission may make such regulations, not inconsistent with law,</b> as may be necessary or proper in the exercise of its powers or for the performance of its duties.</i></p>
<b><u>Comment</u></b>	<p>What does this mean for the Commission's Regulations?</p> <ul style="list-style-type: none"> <li>• The service of a public utility is finite.</li> <li>• Service to transport by pipeline and delivery gas must be for compensation.</li> <li>• Work of a public utility beyond the definition of service and delivery is out of scope, jurisdiction, and authority of a public utility as well as the Public Utility Commission.</li> <li>• Ownership and responsibilities of service lines and customer's service lines are established by the Pennsylvania Public Utility Code and must not be breached. It would be unlawful for either the utility, customer, private property owner, or the Commission to attempt and change ownership, control, or responsibilities of customer's service line, service lines, or services provided.</li> <li>• Inspection is an element of maintenance. The property owner has the responsibility to determine when maintenance is required over his property.</li> <li>• There is nothing in PA Law that gives the public utility responsibility or authority over customer's service lines.</li> <li>• The customer's service lines are the responsibility of the owner.</li> <li>• Oversight of customer's service lines is the responsibility of the owner, user, and the local code official. The utility, its employee, or a utility's contactor is not a code official.</li> </ul>

	<ul style="list-style-type: none"> <li>• <b>If something is wrong with a customer’s service line, then it is the municipality’s code official who has the responsibility to “red tag” the private property if deemed necessary.</b></li> </ul>
<b><u>Pennsylvania Constitution</u></b>	<p><i>The CONSTITUTION of the COMMONWEALTH OF PENNSYLVANIA, Section 31: Delegation of Certain Powers Prohibited --</i></p> <p><i>The General Assembly shall not delegate to any special <b>commission</b>, private corporation or association, any power to make, supervise or interfere with any municipal improvement, money, property or effects, whether held in trust or otherwise, or to levy taxes <b>or perform any municipal function whatever.</b></i></p>
<b><u>Comment</u></b>	<p>The Pennsylvania Constitution from this does not permit the Pennsylvania Public Utility Commission, on their own to grant or permit a public utility to assume authority over customer’s service lines. The customer’s service line is under the jurisdiction of the Pennsylvania Uniform Construction Code. Pennsylvania Uniform Construction Code does not apply to facilities of a public utility.</p>
<b><u>Pennsylvania Law</u></b>	<p>The Pennsylvania Construction Code Act (35 P. S. § § 7210.101—7210.1103). Title 34—LABOR AND INDUSTRY under the DEPARTMENT OF LABOR AND INDUSTRY includes PART XIV. Uniform Construction Code Chapters 401 AND 403 <a href="http://www.pacode.com/secure/data/034/034toc.html">http://www.pacode.com/secure/data/034/034toc.html</a>  <a href="http://www.pacodeandbulletin.gov/Display/pacode?file=/secure/pacode/data/034/chapter401/chap401toc.html&amp;d=">http://www.pacodeandbulletin.gov/Display/pacode?file=/secure/pacode/data/034/chapter401/chap401toc.html&amp;d=</a></p> <p>§ 401.1. Definitions.</p> <p><b>Code administrator</b>—A municipal code official, construction code official or third-party agency certified with the Department under the act or the Department under section 103 of the act (35 P. S. § 7210.103). The term includes an individual certified in a category established under this chapter to perform plan review of construction documents or administer and enforce codes and regulations in that category under the act or related acts.</p> <p><b>International Building Code</b>—An International Building Code issued by the ICC. Chapter 11 and Appendix E of the ‘International Building Code 2018’ issued by the ICC. The term includes all errata issued by the ICC.</p> <p>Municipalities, for example the Dormont Borough Council adopted the IBC, International Building Code, Act 45 (2009 Edition).  <a href="http://boro.dormont.pa.us/building-zoning-department/">http://boro.dormont.pa.us/building-zoning-department/</a></p> <p><i>101.4.1 Gas. The provisions of the International Fuel Gas Code <b><u>shall apply to the installation of gas piping from the point of delivery, gas appliances and related accessories as covered in this code.</u></b></i>  <a href="https://www3.iccsafe.org/cs/committeeArea/pdf_file/BU_12_90_15.pdf">https://www3.iccsafe.org/cs/committeeArea/pdf_file/BU_12_90_15.pdf</a></p>
<b><u>Comment</u></b>	<p>The International Gas Fuel Code is issued by the ICC.</p>

	<p><a href="https://codes.iccsafe.org/content/IFGC2018P3/effective-use-of-the-international-fuel-gas-code">https://codes.iccsafe.org/content/IFGC2018P3/effective-use-of-the-international-fuel-gas-code</a></p> <p>This covers private property including the customer's service line and various topics such as test methods.</p> <p><i>"406.4.1 Test pressure. The test pressure to be used shall be no less than 1 and 1/2 times the proposed maximum working pressure, (that is .5 PSI) but not less than 3 psig (20 kPa gauge), <b>irrespective of design pressure.</b></i></p> <p><a href="https://up.codes/s/inspection-testing-and-purging">https://up.codes/s/inspection-testing-and-purging</a></p> <p>I BRING THIS UP BECAUSE THE SOME GAS UTILITIES REQUIRE USING TEST PRESURE OF 90 PSIG – THIRTY TIMES CODE WITH THE TESTING OF CUSTOMER'S SERVICE LINES. This is dangerous. See what happened with a Columbia Gas contract employee --</p> <p><a href="https://www.puc.pa.gov/pcdocs/1440177.pdf">https://www.puc.pa.gov/pcdocs/1440177.pdf</a> with the use of 90 PSIG with work on a main line. A 6-inch cap blew off and injured the worker's leg – had it been his head, he probably would have died. Do the math – 90 X square inches in a 6" circle = total pounds pressure on the cap. (The square inches of a circle is 78.5% of a 6' square) 90 X (6X6) X .785 = 2,443 pounds of pressure force on the cap.</p> <p>CFR 49 § 192.513 Test requirements for plastic pipelines. Test pressure is 50 PSI on utility-owned pipes.</p> <p>Not following or enforcing regulations and code creates a dangerous work environment and is harmful to people and property.</p>
<b><u>Pennsylvania Law</u></b>	<p><i>Title 66 § 1101. Organization of public utilities and beginning of service. Upon the application of any proposed public utility and the approval of such application by the commission evidenced by its <u>certificate of public convenience</u> first had and obtained, it shall be lawful for any such proposed public utility to begin to offer, render, furnish, or <u>supply service</u> within this Commonwealth. The commission's certificate of public convenience granted under the authority of this section shall include a description of the <u>nature of the service</u> and of the <u>territory</u> in which it may be offered, rendered, furnished or supplied.</i></p>
<b><u>Pennsylvania Law</u></b>	<p><i>Title 66 § 1103. Procedure to obtain <b>certificates of public convenience.</b></i></p> <p><i>(a)General rule.--Every application for a certificate of public convenience shall be made to the commission in writing, be verified by oath or affirmation, and be in such form, and contain such information, as the commission may require by its regulations. A certificate of public convenience shall be granted by order of the commission, only if the commission shall find or determine that the granting of such <b>certificate is necessary or proper for the <u>service</u>, accommodation, convenience, or safety of the public.</b> The commission, in granting such certificate, may impose such conditions as it may deem to <b>be just and reasonable.</b> In every case, the commission shall make a finding or determination in writing, stating whether or not its approval is granted.</i></p>

<p><b><u>Comment</u></b></p>	<p>A PUC regulation or a change in a PUC Regulations requires going through the process by each utility and the Commission identified in Title 66 § 1101. The general nature of <u>service</u> of a public utility should be included in the certificate of public convenience. The nature of service is included in the utility's tariff.</p> <ul style="list-style-type: none"> <li>• The certificate of public convenience is finite – it has limits. At some point, eminent domain processes may have to be followed as provided <i>15 Pa. C.S. § 1511-- Additional powers of certain public utility corporations.</i></li> <li>• The Commission does not have the authority to permit the Utility to exercise eminent domain authority to include customer's service lines.</li> <li>• The PA PUC providing public utility authority beyond the scope of service as define in the Public Utility Code in a utility's tariff is unlawful. The tariff can violate the indefeasible rights of property owners. Per the Pennsylvania Constitution Article, <i>I § 1 All [people] have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, of <b>acquiring, possessing, and protecting property</b> ...</i></li> <li>• The Public Utility Code does not provide authority to the Commission nor the utility to trespass on private property.</li> <li>• <b>The Commission sometimes wrongly provides authority to the utility to breach private property rights</b> – For example Columbia Gas Tariff: <ul style="list-style-type: none"> <li>○ <i>11.5 Access to Premises --The Company, or its authorized agents, shall have access at all reasonable times to the property or premises in or on which gas is used, to determine if the gas is being carried, distributed and burned in a proper and safe manner and in accordance with these Rules and Regulations, or to read, inspect and test the meter or <b>house lines and other appliances, equipment or facilities. Refusal on the part of the customer to allow access to his premises shall constitute sufficient cause for turning off the gas supply to such premises.</b></i></li> </ul> </li> </ul> <div data-bbox="592 1633 1425 1816" style="border: 1px solid black; padding: 5px;"> <p><b>Think what that is: That is a blanket search warrant for a Pennsylvania public utility employee or contractor to have the authority to go into a private residence to determine how gas is being used. This is not limited to gas purchases from Columbia or even natural gas.</b></p> </div> <div data-bbox="592 1854 969 1885" style="border: 1px solid black; padding: 5px;"> <p><b>Do we live in a police state?</b></p> </div>
------------------------------	--

	<p><b>We the people of the United States and the Commonwealth of Pennsylvania have rights – identified in the 4<sup>th</sup> amendment and 14<sup>th</sup> amendment of our U.S. Constitution.</b></p> <p><b>Amendment IV</b>  <b><u>The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.</u></b></p> <p><b>I demand that the Commission rescinded this and like privileges in utility tariffs.</b></p>
	<p>○ <b><i>4.6 Meter Location 4.6.1 General 4.6.1.1 Unless otherwise specified in this tariff, meters shall be located outside. 4.6.1.2 The Company shall have the right to determine the location of its meters</i></b></p> <p>The public needs to realize how this right got into Columbia's tariff. The Commission tried to put in regulation, but upon review outside of the PUC, the Commonwealth Government rejected this in the proposed regulation, and the transfer of rights was removed. To please utilities, the Commission advised utilities just to put the right in their tariffs.</p> <p>These are examples of the tail wagging the dog.</p> <ul style="list-style-type: none"> <li>• These examples of unconscionable contract requirements in Columbia's tariff under RULES AND REGULATIONS GOVERNING THE DISTRIBUTION AND SALE OF GAS. This is clearly out of the scope of the Commission's and the utility's authority. <b>This is a gross breach of duty, is abuse, and reflects poorly on the Commission and Columbia!</b></li> <li>• For the Commission rule 1 -- <b><u>Faithfully abide by the Oath of Office -- "I do solemnly swear (or affirm) that I will support, obey and defend the Constitution of the United States and the Constitution of this Commonwealth and that I will discharge the duties of my office with fidelity."</u></b></li> </ul>
	<p>The Utility has limited access to step foot on private property.</p> <p>PUC representation to the public.</p>

	<p><i>Your utility company can SHUT OFF your service if you FAIL to: ● <u>Allow the company access to its equipment.</u></i></p> <p><b><u>PA Energy Consumer Bill of Rights --</u></b>  <a href="https://www.puc.pa.gov/general/consumer_ed/pdf/Consumer_Bill_Of_Rights.pdf">https://www.puc.pa.gov/general/consumer_ed/pdf/Consumer_Bill_Of_Rights.pdf</a></p>
<b><u>Comment</u></b>	<p>PHMSA's Concerns As indicated above, Mr. Zach Barrett, Director of State Programs in PHMSA's Office of Pipeline Safety, <a href="mailto:zach.barrett@dot.gov">zach.barrett@dot.gov</a></p> <p>Customer's service lines are outside of Mr. Barrett's authority, jurisdiction and concerns. His opinion is irrelevant, other as a private citizen. Mr. Barret works for the Federal Department of Transportation – Customer's service lines are not under the authority of the Department of Transportation. The DOT has authority over the Notice to Customers – it does not have authority over customer's service lines. 49 CFR § 192.16 Customer notification.</p>
	<p>Safety – Frequently when one has power over another, they will attempt to cut off the discussion by mentioning safety concerns, as safety can trump other objectives.</p> <p>Safety is a consideration and should require risk assessments.</p> <p>Customer's service lines are relatively inherently safe. They generally have a useful life of around 50 years. Customer's service lines may not be of the same kind and may not be installed consistently. Some are expected to have service lives greater than others – plastic, cathode protected heavier or better grades of steel.</p> <p>Other than by accident, I have not been able to find a natural gas service line explosion or fire caused by a normal wear leak in a residence. For good reason the operating pressure is generally about .5 PSI with low pressure, a gas leak smells and generally starts small. Natural gas is much lighter than air – meaning it physically dissipates and floats off into the atmosphere. Large amounts of uncontrolled gas in a confined space is different and can be hazardous ... with explosion and fires.</p> <p>New requirements should be proportional to actual and experienced risk.</p>
	<p>Expansion of the rate base.</p> <p>Public utilities may be in favor of the changes to the PUC's regulation because it expands their market and scope of work and gives them additional power over customers - - who will essentially have no recourse over actions or wishes of the public utility.</p>
	<p>What is being discussed provides additional uncontrolled monopoly power over customers. The PUC lacks resources and jurisdiction to supervise public utilities beyond the scope of control of the Commission.</p>

	Unaffordable rates – Some gas utilities have unaffordable rates now – adding new power and spending opportunities for the utilities will further make rates unaffordable.
--	---

Whatever the Pennsylvania Public Utility Commission places into its regulations must be lawful and consistent with the Constitution of the United States, e.g. the Fourth Amendment, Fourteenth Amendment, and Pennsylvania Law.

The current regulation -- “52 Pa. Code § 59.34 (a) *Plan. A public utility shall establish and execute a plan by which it will periodically survey each customer-owned service line for leakage. The plan shall conform with or exceed the standards established (sic) in 49 CFR 192.723 (relating to distribution (sic) systems; leakages and procedures) as of May 1, 1986 and subsequent amendments thereto which have been ratified by the Commission under § 59.33 (relating to safety).*”

Here, the PUC establishes a regulation that is inconsistent with Federal law, Commonwealth law, and probably the utility’s tariff.

49 CFR § 192.723 - *Distribution systems: Leakage surveys.* This Federal regulation only applies to the distribution system of a public utility – private property outside of a utility’s distribution system – the customer’s service line.

The PUC does not have the authority or jurisdiction to provide a public utility to trespass on private property. The public utility does have an easement to maintain utility property that is located on private property.

As Proposed	As Recommended	Reasons for Recommendations
<p><b>I. Proposed Changes to Section 59.34</b></p> <p>Specifically, the Commission is considering the following actions, and is seeking comments from all interested parties on these issues, prior to the Commission issuing a Notice of Proposed Rulemaking (NOPR) to revise its regulations. The Commission believes that seeking comments prior to issuing the NOPR will allow the Commission to craft the most effective NOPR and streamline the NOPR process.</p>		
A. Amend Section 59.34(b)—Access to Customer Premises	<del>A. Amend Section 59.34(b)—Access to Customer Premises</del> <del>—Consistent with the</del>	This requires the utility to keep records of private property. These are records beyond the delivery of service.



<p>Consistent with the discussion above, the Commission proposes deletions in Section 59.34(b) to reflect that the public utility must include the location of all customer-owned service lines upstream of the meter in its records of its natural gas system. The Commission proposes to delete conflicting language in Section 59.34(b) to make it clear that the public utility must maintain information on such service lines.</p>	<p><del>discussion above, the Commission proposes deletions in Section 59.34(b) to reflect that the public utility must include the location of all customer-owned service lines upstream of the meter in its records of its natural gas system. The Commission proposes to delete conflicting language in Section 59.34(b) to make it clear that the public utility must maintain information on such service lines.</del></p>	<p>To put in another transportation context –would the Commission consider having a bus line keep track of customers' movements after they get off the bus?</p> <p>Of course not! They should not consider this either.</p> <p>This is property not belonging to the utility – would result in unallowable cost.</p> <p>The utility should not be paid for this work.</p> <p>This is outside of the utility’s scope of service.</p>
<p><i>B. Amend Section 59.34(c)—Procedure After Survey</i></p> <p>Consistent with the discussion above, the Commission proposes revisions to Section 59.34(c) to require that the public utility (either directly or through qualified subcontractors) perform repairs or renewals of customer-owned service lines upstream of the meter (or the wall of the property if there is no meter present). The customer would be responsible for repairs or renewals downstream of the meter (or wall if no meter), and the public utility could shut off gas service until such downstream repairs are made to ensure safe and reliable gas service.</p>	<p><del><i>B. Amend Section 59.34(c)—Procedure After Survey</i></del></p> <p><del>—Consistent with the discussion above, the Commission proposes revisions to Section 59.34(c) to require that the public utility (either directly or through qualified subcontractors) perform repairs or renewals of customer-owned service lines upstream of the meter (or the wall of the property if there is no meter present). The customer would be responsible for repairs or renewals downstream of the meter (or wall if no meter), and the public utility could shut off gas service until such downstream repairs are made to ensure safe and reliable gas service.</del></p>	<p>This is illegal – PA Title 66 § 1510. Ownership and maintenance of natural and artificial gas service lines.</p> <p>When connecting the premises of the customer with the gas utility distribution mains, the public utility shall furnish, install and maintain the service line or connection according to the <u>rules and regulations of the filed tariff</u>. <b>A public utility shall not be authorized or required to acquire or assume ownership of any customer's service line. A public utility shall not be authorized or required to acquire or assume ownership of any pipe or appurtenances</b> installed after the effective date of this section between its main and the meter unless the utility would have been authorized or required to do so according to the rules and regulations of its filed tariff if the pipe or appurtenances had been installed on or before the effective date of this section. <b>Maintenance of service lines</b></p>

		<p><b>shall be the responsibility of the owner of the service line.</b></p> <p><b>“Downstream of the meter” are the house lines—real property of the owner except when the meter is in the front yard of a residence.</b></p>
<p><i>C. Add Section 59.34(d)—Maintenance of Customer's Service Lines</i></p> <p>The Commission proposes to add Section 59.34(d) to clarify that the public utility would be responsible for the design, construction, operation, and maintenance of a customer's service line upstream of the inlet of the meter (or wall if no meter) serving the customer, and that the public utility may bill the customer for all costs for the design, construction, operation, and maintenance of a customer's service line upstream of the inlet of the meter (or wall if no meter) serving the customer, in accordance with its tariff.</p>	<p><i>Add Section 59.34(d)—Maintenance of Customer's Service Lines</i></p> <p><del>The Commission proposes to add Section 59.34(d) to clarify that the public utility would be responsible for the design, construction, operation, and maintenance of a customer's service line upstream of the inlet of the meter (or wall if no meter) serving the customer, and that the public utility may bill the customer for all costs for the design, construction, operation, and maintenance of a customer's service line upstream of the inlet of the meter (or wall if no meter) serving the customer, in accordance with its tariff.</del></p>	<p>This is outside of the scope of service of the utility, violates private property rights, is inconsistent with the PA Uniform Construction Code and unlawful per Title 66 § 1510. Ownership and maintenance of natural and artificial gas service lines.</p>

## Conclusion

This topic of discussion is beyond the business, purpose, and authority of gas public utilities and the Commission.

I greatly encourage the Commission to carefully consider my submission – it is better to stop wrongs before they begin.

If I have made some factually wrong statements, please correct me with a counter-arguments.

Again I thank the Commission for submitting these ideas for public comment.

Sincerely and respectfully submitted,

Richard C. Culbertson

A handwritten signature in blue ink, appearing to read 'Richard C. Culbertson', with a long horizontal stroke extending to the right.

Docket L-2020-3019417 and eFiling Confirmation Number 2258786