

To:
The Pennsylvania Public Utility Commission

November 1, 2021

From:
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Subject: Request for Comments on Implementation of Potential Amendments to 52 Pa. Code § 59.34
Relating to Leakage Surveys of Customer-Owned Service Lines

Docket L-2020-3019417

Note This is a replacement to a previously submitted document of the same topic posted on September 23, 2021. The additional time to respond allowed me to edit and add to the previous document.

Introduction

I thank the Commission for bringing the need to review and change PUC Regulations 52 Pa. Code § 59.34 -- Leakage surveys of customer-owned² 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.

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

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

² “[C]ustomer-owned service lines” is the wrong term used in this PUC regulation. In 1984 ACT 22 added the definition of “customer’s service line”. *“The pipe and appurtenances owned by the customer [property owner] extending from the service connection of the gas utility to the inlet of the meter serving the customer.”* 52 Pa. Code § 59.34, was amended May 30, 1986.
<https://www.pacodeandbulletin.gov/Display/pacode?file=/secure/pacode/data/052/chapter59/s59.34.html&d=reduce>

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 Code § 59.34 -- Leakage surveys of customer-owned service lines should not be modified but should be rescinded.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.
 - 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.³ 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. For example, the Commission can regulate customer's behavior on a public transportation bus, but the Commission cannot regulate or record behavior of those individuals once they get off the bus – the same concept applies to gas utilities. Jurisdiction stops at delivery.
- 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 should they be included on a utility's covered "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](#))*

³ PA Title 66 § 1510. Ownership and maintenance of natural and artificial gas service lines.

- 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 us start with some details of the historical perspective regarding the responsibilities and rights of public utilities and private property owners.

<u>Federal Law</u>	<p>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></p> <p>(1) the requirements for maintaining those lines;</p> <p>(2) any resources known to the operator that could assist customers in carrying out the maintenance;</p> <p>(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.</p> <p>(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1318;</p>
<u>Comment</u>	<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: <u>“If financial information is to be useful, it <i>must</i> be relevant and <i>faithfully represent what it purports to represent</i>. The usefulness of financial information is enhanced if it is comparable, verifiable, timely, and understandable.”</u> 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, 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>
<u>Federal Regulations</u>	<p>49 (Transportation) CFR § 192.1 - What is the scope of this part?</p> <p>(a) This part prescribes minimum safety requirements for pipeline facilities and the transportation of gas,...</p> <p>49 CFR § 192.3 Pipeline means all parts of those physical facilities through <u>which gas moves in transportation</u>,</p> <p>49 § 192.16 Customer notification.</p> <p>(a) 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 §</p>

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 each customer once in writing of the following information: (1) **The operator does not maintain the customer's buried piping.**

Comment

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 on private property.

Leakage surveys particularly at the curb valve – where private property and utility property meet must be jointly addressed by the property owner and the utility – the primary responsibility should be of the utility because the utility performs the actual joining of the customer’s service line and the service line.

So when does transportation stop? At delivery. Where is delivery? At the property line.

So where do most utilities measure the consumption of gas? At the side of or inside of a building.

So who has the risk of loss of gas between the property line and the building? The Utility.

Why doesn’t the utility have the meter and the point of delivery at the same place? The utility chose not to.

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.



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.
Does the Public Utility Commission have the authority to take property and

	<p>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><u>Pennsylvania Law</u></p>	<p><i>The Pennsylvania Public Utility Code --TITLE 66 PUBLIC UTILITIES § 102.</i></p> <p><i>Definitions.</i></p> <p><i>"Customer's service line."</i> <i>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>"Service line."</i> <i>The pipe and appurtenances <u>of the gas utility, water utility, or wastewater utility</u> which connect any main with either <u>the point of connection of a customer's service line</u> 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>"Public utility."</i></p> <p><i>(1) Any person or corporations now or hereafter owning or operating in this Commonwealth equipment or facilities for: (i) Producing, generating, transmitting, distributing or furnishing natural or artificial gas, ... for the production of light, heat, or power to or for the public for compensation. ... (v) Transporting or conveying natural or artificial gas, ... by pipeline or conduit, for the public for compensation.</i></p> <p><i>"Service."</i> <i>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 patrons, employees, other public utilities, and the public, ...</i></p> <p><u>§ 1510. Ownership and maintenance of natural and artificial gas service lines.</u></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 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 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. Maintenance of service lines shall be the responsibility of the owner of the service line.</i></p> <p><i>(Mar. 7, 1984, P.L.104, No.22, eff. 60 days)</i></p> <p><u>§ 501. General powers. (b) Administrative authority and regulations.</u><i>--The commission shall have general administrative power and authority to supervise and regulate all public utilities doing business [providing service] within this Commonwealth. The commission may make such regulations, not inconsistent with law, as may be necessary or proper in the exercise of its powers or for the</i></p>

	<i>performance of its duties.</i>
<u>Comment</u>	<p>What does this mean for the Commission's Regulations?</p> <ul style="list-style-type: none"> • The service of a public utility is finite. • Service to transport by pipeline and delivery gas must be for compensation. • 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. • 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. • Inspection is an element of maintenance. The property owner has the responsibility to determine when maintenance is required over his property. • There is nothing in PA Law that gives the public utility responsibility or authority over customer's service lines. • The customer's service lines are the responsibility of the owner. • 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 contractor is not a code official. • 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.
<u>Pennsylvania Constitution</u>	<p><i>The CONSTITUTION of the COMMONWEALTH OF PENNSYLVANIA, Section 31: Delegation of Certain Powers Prohibited --</i> <i>The General Assembly shall not delegate to any special commission, 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 or perform any municipal function whatever.</i></p>
<u>Comment</u>	<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>
<u>Pennsylvania Law</u>	<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 http://www.pacode.com/secure/data/034/034toc.html http://www.pacodeandbulletin.gov/Display/pacode?file=/secure/pacode/data/034/chapter401/chap401toc.html&d=</p> <p>§ 401.1. Definitions.</p> <p>Code administrator—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>International Building Code—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 (International Code Council).</p> <p>Municipalities, for example the Dormont Borough Council adopted the IBC, International Building Code, Act 45 (2009 Edition). http://boro.dormont.pa.us/building-zoning-department/</p> <p><i>101.4.1 Gas. The provisions of the International Fuel Gas Code <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></i> https://www3.iccsafe.org/cs/committeeArea/pdf_file/BU_12_90_15.pdf</p>
<p><u>Comment</u></p>	<p>The International Gas Fuel Code is issued by the ICC. https://codes.iccsafe.org/content/IFGC2018P3/effective-use-of-the-international-fuel-gas-code</p> <p>This covers private property including the customer’s service line and various topics such as test methods. <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), irrespective of design pressure.</i> https://up.codes/s/inspection-testing-and-purging</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 --https://www.puc.pa.gov/pdocs/1440177.pdf 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> <p>It does not appear the PUC recognized the violation in test methods.</p>
<p><u>Pennsylvania Law</u></p>	<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>
<p><u>Comment</u></p>	<p>The certificate of public convenience is finite and would not include work beyond what</p>

	is provided in the certificate.
<u>Pennsylvania Law</u>	<i>Title 66 § 1103. Procedure to obtain certificates of public convenience. (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 certificate is necessary or proper for the <u>service, accommodation, convenience, or safety of the public</u>. The commission, in granting such certificate, may impose such conditions as it may deem to be just and reasonable. In every case, the commission shall make a <u>finding or determination</u> in writing, stating whether or not its approval is granted.</i>
<u>Comment</u>	<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"> • 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> • The Commission does not have the authority to permit the Utility to exercise eminent domain authority to include customer’s service lines. • 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 <u>indefeasible rights</u>, among which are those of enjoying and defending life and liberty, of <u>acquiring, possessing, and protecting property</u> ...</i> • The Public Utility Code does not provide authority to the Commission nor the utility to trespass on private property. • The Commission sometimes wrongly provides authority to the utility to breach private property rights – For example Columbia Gas Tariff: <ul style="list-style-type: none"> ○ <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 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.</i> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>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</p> </div>

	<p>even natural gas.</p> <p>Do we live in a police state?</p> <p>We the people of the United States and the Commonwealth of Pennsylvania have rights – identified in the fourth amendment and 14th amendment of our U.S. Constitution.</p> <p>Amendment IV <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></p> <p>I demand that the Commission rescinded this and like privileges in utility tariffs.</p> <p>○ <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></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"> • 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. This is a gross breach of duty, is abuse, and reflects poorly on the Commission and Columbia! • For the Commission rule 1 -- <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>
<u>Comment</u>	<p>The Utility has limited access to step foot on private property.</p> <p>PUC representation to the public. <i>Your utility company can SHUT OFF your service if you FAIL to:</i> • <u>Allow the company access to its equipment.</u></p>

	<p><u>PA Energy Consumer Bill of Rights --</u> https://www.puc.pa.gov/general/consumer_ed/pdf/Consumer_Bill_Of_Rights.pdf</p>
<u>Comment</u>	<p>PHMSA's Concerns Mr. Zach Barrett, Director of State Programs in PHMSA's (Pipeline and Hazardous Materials Safety Administration) Office of Pipeline Safety, zach.barrett@dot.gov Page 5 of the TENTATIVE IMPLEMENTATION ORDER https://www.puc.pa.gov/pcdocs/1714722.docx</p> <p><u>Pipeline</u> and Hazardous Materials Safety Administration – A pipeline is defined “<i>Pipeline means all parts of those <u>physical facilities</u> through which gas moves in transportation, including pipe, valves, and other appurtenance attached to pipe, compressor units, metering stations, regulator stations, delivery stations, holders, and fabricated assemblies.</i>” This is utility owned property not private property, after the utility’s delivery.</p> <p>Customer’s service lines are outside of Mr. Barrett's official 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 <u>not</u> under the authority of the Department of Transportation. The DOT has authority over the Notice to Customers, as mentioned above – it does not have authority over customer’s service lines as indicated in 49 CFR § 192.16 Customer notification.</p>
<u>Comment</u>	<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 customer’s service line explosion or fire caused by a normal deterioration leak at a residence. This is for good reason the operating pressure is generally about .5 PSI, this is 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 and cause an explosion and fire.</p> <p>New requirements should be proportional to actual and experienced risk.</p>
<u>Comment</u>	<p>Expansion of the rate base. 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>
<u>Comment</u>	<p>What is being discussed provides additional uncontrolled monopoly power over customers. The PUC lacks resources and jurisdiction to supervise public utilities beyond their scope of control.</p>

Comment	Unaffordable rates – Some gas utilities have unaffordable rates now – adding new power and spending opportunities for the utilities will further make rates unaffordable.
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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 distribuion (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 is 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 or itself to trespass on private property. The public utility does have an easement to maintain utility property that is located on private property.

Recommendations

As Proposed	As Recommended	Reasons for Recommendations
<p>I. Proposed Changes to Section 59.34</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>		
<p>A. Amend Section 59.34(b)— Access to Customer Premises</p> <p>Consistent with the discussion above, the Commission proposes deletions in Section 59.34(b) to reflect</p>	<p>A. Amend Section 59.34(b)— Access to Customer Premises</p> <p>—Consistent with the discussion above, the Commission proposes deletions in Section 59.34(b) to reflect that the public utility must</p>	<p>This requires the utility to keep records of private property. These are records beyond the delivery of service.</p> <p>To put in another transportation</p>

<p>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>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>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 as the work is not necessary.</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><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>This is illegal – PA Title 66 § 1510. Ownership and maintenance of natural and artificial gas service lines.</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 <u>rules and regulations of the filed tariff</u>. 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 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. Maintenance of service lines shall be the responsibility of the owner of the service line.</i></p>

		“Downstream of the meter” are the house lines—real property of the owner except when the meter is at the lot line.
<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>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>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>
Specific PUC Questions	Specific Answers	Comments
<p>A. <i>Cost Recovery Should the Commission allowing the utilities to establish repayment plans, with interest, for customers to pay the cost of repairs to their service lines?</i></p>	<p>No This is out of the scope of service of a public utility and the Commission.</p>	
<p><i>What is the maximum repayment period that should be allowed?</i></p>	<p>Zero – The Commission and the Utility should stay out of this business.</p>	
<p><i>What interest rate should be applied?</i></p>	<p>The Commission and the Utility should stay out of this business.</p>	
<p>B. <i>Can a Natural Gas Distribution Company include the costs in the Distribution System Improvement Charge</i></p> <p><i>Should the customer who owns the service line be required to make a minimum payment, with the remainder being recovered</i></p>	<p>Customers do not own service lines. Property owners own customer’s service lines. Property</p>	

<p><i>through DISC?</i></p>	<p>owners may not have a contractual relationship with the utility. the Renter does not receive ownership of the customer’s service line.</p> <p>If a renter or lessee purchases or makes an improvement or an addition to leased property – for the lessee this may become a leasehold improvement. At the end of the lease a leasehold improvement reverts to the property owner.</p> <p>Again stay out of this business.</p>	
<p>C. Terminations for non-payment or refusal to provide access <i>The Commission seeks comments as to when a utility may terminate service for customers who do not pay for the costs incurred by the utility for the repair and maintenance of customer owned service lines upstream of the meter.</i></p> <p><i>The Commission also seeks comments on when a utility may terminate service if a <u>customer does not provide the utility access to make repairs</u> and what notices are to be given prior to service termination.</i></p>	<p>The property owner and the customer may be different parties.</p> <p>It is the responsibility of the owner of the real property that gas service is provided is the person who has responsibility that the customer’s service line is ready for use.</p> <p>Renter that was provide an electric stove connection – does not have authority to install a customer’s service line for gas service unless there is consent of the owner of the property.</p> <p>The Property owner is not responsible for contracts – any contract, of which a renter was responsible.</p> <p>I do not believe the utility should enter private property unless invited. Keep utility property off private property. Install curb boxes at the curb – problem solved. The curb box includes a shutoff valve.</p> <p>If the tariff allows access to the utility’s customer meter for</p>	

	<p>maintenance – maintenance can include inspection and repair then the customer must provide access, but for that purpose only. There must be mutual accommodation at reasonable times for each. It is probably best to not define.</p> <p>The solution is to keep ugly utility owned meters off private property. I do not want utility owned meters in front of my homes, on the side of my homes or inside of my homes!</p> <p>Concerning notices – most notices should be directed to the homeowner. A renter may decide not to pay rent and the utility – the gas is shut of in winter and water pipes freeze. Who is liable for damages – the utility company.</p>	
<p><i>D. Capitalization of Cost</i> <i>The Commission seeks comments as to whether costs related to utility repair and maintenance of customer-owned service lines upstream of the meter should be capitalized in an NGDC's rate base, as opposed to charging the customer owning the line.</i></p> <p><i>-To do so, must the utility take ownership of the service line?</i></p> <p><i>- If so, how is the purchase price to be determined?</i></p>	<p>-Again stay out of this business. -Always refer to a customer's service line as a customer's service line. - These costs do not belong in the rate base – nor on the utility's Property, Plant and Equipment accounting books as capital assets. Capital assets require ownership.</p> <p>There is not practical or legal way to do this. Utilities cannot take ownership – that would be theft.</p> <p>If the utility had such arrangement, it would cause significant antitrust, conflict of interest exposure.</p> <p>Customers are always entitled to reasonable prices. The property owner would normally be able to arrange for a lower price than the utility.</p>	<p>Do not regulate something outside of authorized jurisdiction. The Commission regulates public utilities not the public.</p>

<p><i>Must the utility apply for a certificate of public convenience for the service line before including it in rate base?</i></p> <p><i>How is the undepreciated book value to be determined?</i></p> <p><i>Should the utility include such costs under operations and maintenance in a future rate case?</i></p>	<p>Yes, but there are so many barriers before that. Per the 5th and 14th Amendments of the US. Constitution and the Pennsylvania Constitution – taking the property would not be permitted nor would it be practicable.</p> <p>This is somewhat of a complicated question. A capital unit of account that is being depreciated, per company policy, GAAP and FERC accounting, the undepreciated book value is the book value or carrying value.</p> <p>In some cases assets are subject to impairment testing per GAAP.⁴ Land does not depreciate – Gas rights can be depleted.</p> <p>Again stay out of this business. Property ownership is property ownership unless there is a transaction that changes ownership. What would that be?</p>	
<p><i>E. Potential Tariff Language Regarding Billing, Collection, and Rates</i></p> <p><i>-The Commission seeks comments on whether uniform NGDC tariff language should be established for any of the above cost recovery methods?</i></p> <p><i>-Should the uniform tariff language be codified in the regulations or established through a policy statement or order?</i></p>	<p>Again, stay out of this business.</p>	

Conclusion

⁴ https://rsmus.com/pdf/ifrs_impairment_of_long_lived_assets.pdf

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

If the Commission issues the Implementation Order as written the gas utilities may spend significant cost to implement the order. In rate cases those cost those cost should be challenged because they are out of scope, deemed unallowable donations and unnecessary. The Commission could rule these expenditures are reasonable – on appeal however, it is likely the court, based upon Pennsylvania law would be deemed these costs to be unallowable and unrecoverable.

In the DISCUSSION portion of the TENTATIVE IMPLEMENTATION ORDER starting on Page 7 is self-conflicting and frankly illogical. A “service line” is personal property of a public utility that is used in transportation, distribution and delivery of natural gas. A customer’s service line is real property of the real property owner located on private property generally located at or around the property line of a residence, commercial property, nonprofit organization, government property... These are assets of the real property owner. Ownership and responsibilities of ownership do not change by a PUC regulation. There is no such item of property as a “customer owned portion of a service line” in accordance with Pennsylvania law. The PUC nor a public utility should use that term as it is deceptive. In Pennsylvania property owners that use natural gas do not own service lines and public utilities do not own customer’s service lines.

The “**rate base**” in Pennsylvania is defined as *“The value of the whole or any part of the property of a public utility which is used and useful in the public service.”* A customer’s service line is not property of the utility and is not used in public service.

I greatly encourage the Commission to carefully consider my submission – it is better to prevent wrongs, be true to existing laws including the Commission’s jurisdiction and public utility’s respecting the ownership rights and responsibilities.

Again I thank the Commission for requesting public comment.

I will be glad to entertain questions or discussions from Robert Horensky, Gas Safety, Bureau of Investigation and Enforcement, Adam D. Young, Assistant Counsel, Law Bureau, , and Steven K. Bainbridge, Assistant Counsel, Law Bureau,

Sincerely and respectfully submitted,



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Docket L-2020-3019417 and filing Confirmation Number