

PROPOSED RULEMAKING

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 57]

[L-2015-2500632]

Electric Safety Regulations

The Pennsylvania Public Utility Commission (Commission), on November 19, 2015, adopted a proposed rulemaking order to amend and add electric safety regulations.

Executive Summary

Section 1501 of the Public Utility Code requires every public utility in Pennsylvania to “maintain adequate, efficient, safe, and reasonable service and facilities” and to “make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public.” 66 Pa.C.S. § 1501. Pursuant to that authority and Section 501 of the Public Utility Code, 66 Pa.C.S. § 501, the Pennsylvania Public Utility Commission (Commission or PUC) proposes adding safety regulations with respect to the distribution facilities of electric utilities under the Commission’s jurisdiction.

The Commission proposes these regulations to facilitate safety inspections of electric utilities by the PUC’s Electric Safety Division. The proposed regulations reference the national electric safety standards in the National Electrical Safety Code and require jurisdictional electric utilities to adhere to the Underground Utility Line Protection Act (PA One Call). The proposal adds regulations to clarify the applicable electric safety standards, record-keeping and reporting rules for electric utilities, and the obligations of utilities in regard to inspections and investigations. The proposed regulations also clarify the duties and responsibilities between the customer and the electric utility regarding maintenance of certain facilities and equipment.

Public Meeting held
November 19, 2015

Commissioners Present: Gladys M. Brown, Chairperson; John F. Coleman, Jr., Vice Chairperson; Pamela A. Witmer; Robert F. Powelson; Andrew G. Place

Rulemaking Re Electric Safety Regulations, 52 Pa. Code Chapter 57; Doc. No. L-2015-2500632

Proposed Rulemaking Order

By the Commission:

The Pennsylvania Public Utility Commission (Commission) proposes to amend its regulations in Chapter 57, Subchapters A and B of the Pennsylvania Code. See 52 Pa. Code § 57.1 (General Provisions), § 57.11 (Service and Facilities). Pursuant to its authority and duty under the Public Utility Code, 66 Pa.C.S. §§ 501, 1501, the Commission proposes minor revisions and updates to Section 57.1 and proposes adding electric safety standards in Section 57.28. See Annex A, Section 57.1, 57.28. The Commission seeks comments from all interested parties on these proposed regulations, following as Annex A to this Order.

Background

The Commission first promulgated Section 57.1 (Definitions) in Subchapter A (General Provisions) of its Electric Service regulations in Chapter 57 of the Pennsylvania Code on February 25, 1946. 52 Pa. Code § 57.1. Section 57.1 was amended on May 20, 1978, 8 Pa.B. 1403, and on January 8, 1983, 13 Pa.B. 131.

On February 19, 2014, the Commission’s then-Chairman Robert F. Powelson testified to the Pennsylvania House of Representatives Appropriations Committee that there is an average of 26 serious injuries or fatalities in Pennsylvania each year related to electric utility operations. Therefore, the Commission created the Electric Safety Division within the Commission’s Bureau of Investigation & Enforcement to ensure that more PUC staff would be dedicated to enforcing the National Electrical Safety Code and performing field audits and investigations.¹ Presently, the Electric Safety Division is a dedicated unit, consisting of three full-time staff: a supervisor, a field inspector for western Pennsylvania, and a field inspector for eastern Pennsylvania. One attorney/prosecutor also provides part-time enforcement support.

The Commission’s Gas Safety Division within the Bureau of Investigation & Enforcement (I&E) currently enforces gas safety standards and conducts gas safety inspections through the invocation of Section 59.33 (Safety) of the Commission’s regulations in Chapter 59 pertaining to Gas Service. See 52 Pa. Code § 59.33. Section 59.33 clearly and straightforwardly lists the minimum gas safety standards by specifically citing to sections of the United States Code and the Code of Federal Regulations. See 52 Pa. Code § 59.33(b). In a similar vein, the Commission believes that the clear outlay of electric safety standards in one section in Chapter 57 of the Commission’s regulations will clarify minimum industry standards and will assist the Electric Safety Division in enforcing those standards. Specifically, the Commission desires to reference the national electric safety standards in the National Electrical Safety Code (NESC) in order to remove doubt and minimize legal challenges as to the applicability of the NESC to jurisdictional Pennsylvania electric distribution companies (EDCs). In proposing these electric safety standards, the Commission also seeks to clarify the duties and responsibilities between the customer and the electric utility. See Annex A, Section 57.28(a).

Discussion

Legal context

Under the Public Utility Code, an electric utility in Pennsylvania has a legal duty to maintain safe, adequate and reasonable service and facilities and to make repairs, changes, and improvements that are necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public. 66 Pa.C.S. § 1501. Pursuant to its statutory powers, the Commission is authorized to adopt and enforce rules to ensure that EDCs provide safe, adequate, and reliable service. 66 Pa.C.S. §§ 102, 501. The Commission must ensure that EDCs adhere to established industry standards and practices, such as the national standards of the NESC, regarding the installation and maintenance of transmission and distribution facilities. 66 Pa.C.S. § 2804(1),

¹ Prepared Testimony of Robert F. Powelson Before the Pennsylvania House of Representatives Appropriations Committee, at 9, available at http://www.puc.pa.gov/general/pdf/testimony/Powelson-House_Budget_021914.pdf.

§ 2807(a); 52 Pa. Code § 57.198(b). Commission staff may initiate an investigation, or may do so upon complaint by an affected party, to determine whether an EDC is providing utility service in accordance with those standards. 52 Pa. Code § 57.194(b), § 57.197(a); see also 52 Pa. Code § 57.12. An electric utility that violates the Public Utility Code or Commission orders or regulations subjects that electric utility to a civil penalty of \$1,000 per violation for every day of that violation's continuing offense. 66 Pa.C.S. § 3301(a)—(b).

The Commission embarks on this rulemaking proceeding in order to add electric safety regulations to clarify the applicable electric safety standards, EDC record keeping and reporting rules, and EDC obligations in regard to inspections and investigations. These regulations will empower the PUC's Electric Safety Division to enforce electric safety standards at jurisdictional electric distribution facilities to ensure public safety and protect the public interest. See 66 Pa.C.S. § 1501. Pursuant to this authority, the Commission's power to promulgate regulations, 66 Pa.C.S. § 501(b), and the Commonwealth Documents Law, 45 P.S. § 1201, the Commission proposes electric safety regulations governing the distribution systems of jurisdictional electric distribution companies in the Commonwealth of Pennsylvania. See Annex A, Section 57.28.

Below, we propose minor revisions and justifications to existing Section 57.1 followed by the additional electric safety standards in Section 57.28.

Minor Revisions to Existing Section 57.1

Section 57.1 Definitions

For clarification purposes, we propose adding a definition for EDC—electric distribution company or electric utility. For purposes of consistency and deference, we reference the definition of EDC in the Public Utility Code, which defines an EDC as the “public utility providing facilities for the jurisdictional transmission and distribution of electricity to retail customers, except building or facility owners/operators that manage the internal distribution system serving such building or facility and that supply electric power and other related electric power services to occupants of the building or facility.” See 66 Pa.C.S. § 2803. Similarly, EDC is also defined with reference to this definition in the Public Utility Code later in Chapter 57 of our regulations. See 52 Pa. Code § 57.192. We also add the synonymous term electric utility for clarity, as that term is used in common parlance and in the courts and we will use that term in describing the proposed safety standards.

In this section, we also update and modernize the term and definition for service terminal. Service terminal is currently defined as “[t]he point at which the service lines of the public utility terminate and the customer's facilities for receiving the service begin.” 52 Pa. Code § 57.1. Service terminal is still a very important term and concept, as it indicates the separation of duties between the customer and the utility. However, the term service terminal is not used as frequently as service point, the term used in the NESC, and point of delivery, a term used in Pennsylvania and PUC case law² to indicate the jurisdictional separation between the customer and the utility. Therefore, we propose replacing the term service terminal with service point/point of delivery. See Annex A, Section 57.1.

We also propose a new definition for Service Point/Point of Delivery as “the location designated by the electric

utility where the utility's service supply lines terminate and the customer's facilities for receiving service begin.” This definition still retains the same basic concept as the existing definition for service terminal, but also recognizes, in alignment with the NESC, that an electric utility designates the location of the service point in its tariff.³ The exact physical location of the service point may differ between utilities and between customers, as the service point is often located on the rooftop of a customer's premises or even underground.⁴

New Electric Safety Standards: Sections 57.28

As discussed, the Commission believes that the clear outlay of electric safety standards in one section in Chapter 57 of the Commission's regulations will assist the Electric Safety Division in enforcing those standards. Compare 52 Pa. Code § 59.33 (providing gas safety standards). Specifically, the Commission desires to reference the NESC to remove doubt and minimize legal challenges as to the applicability of the NESC to jurisdictional Pennsylvania electric distribution companies. In proposing these electric safety standards, the Commission also seeks to clarify the duties and responsibilities between the customer and the electric utility.

Section 57.28(a) Duties and Responsibilities

Under Pennsylvania law, maintenance and inspection duties between the electric utility and the customer are generally divided at the service point or the point of delivery of electricity to the customer. *Alderwoods v. Duquesne Light Co.*, 106 A.3d 27, 38 (Pa. 2015); *Hineline v. Metro. Edison Co.*, 1990 Pa. PUC LEXIS 156, at *6 (Pa. P.U.C. 1990). Regarding the maintenance and inspection of an electric utility's transmission and distribution facilities, the Public Utility Code adopts the NESC. 66 Pa.C.S. § 2804(1). The NESC explains that the service point is the point of demarcation between the serving electric utility and premises wiring of the customer.⁵ The service point is also the jurisdictional line of demarcation between two national codes: (1) the NESC and (2) the National Electrical Code (NEC).⁶ Beyond the service point, the customer owns and assumes the responsibility for the maintenance and security of the internal wiring. See *Hineline*, 1990 Pa. PUC LEXIS 156, at *6 (citing *Craft v. Pa. Elec. Co.*, 50 Pa. P.U.C. 1 (1976); see *Norbeck v. Pa. PUC*, 2011 Pa. Cmmw. Unpub. LEXIS 601, at *21-22 (Pa. Cmwlt. Ct. 2010) (explaining that the utility tariff did not require the utility to take ownership of customer-owned service lines). Accordingly, the electric utility does not have a freestanding duty to inspect customer-owned electric equipment. *Alderwoods*, 106 A.3d at 38; see *Norris v. Phila. Elec. Co.*, 5 A.2d 114, 116 (Pa. 1939).

Under this framework and legal guidance, we propose Section 57.28(a) to clarify and explain the duties and responsibilities between the customer and the electric utility. As is current practice, the duties “shall be effectively described in the electric utility's tariff that is filed with and approved by the Commission.” See Annex A, Section 57.28(a). Here, we explain that an electric utility shall use every reasonable effort to properly warn and protect the public from danger and to reduce hazards to the public due to its provision of electric distribution

³ National Electrical Safety Code, at page 15. The Institute of Electrical and Electronics Engineers, Inc. (2012 Edition, Aug. 2011).

⁴ *Id.*
⁵ NESC, at page 15. The revised 2012 Edition of the NESC clarifies the relative applicability of the NESC versus the NEC. See NESC, at Foreword, p. iii—vi.

⁶ The NEC, which governs electricians and building contractors and not public utilities, provides standards for the safe installation of electrical wiring inside the premises (i.e., the premises wiring system owned by the customer).

² This case law is discussed in the proposed Section 57.13(a).

service and its associated equipment and facilities. See Annex A, Section 57.28(a)(1). We also explain that the customer is responsible for the ownership and maintenance of the customer's facilities beyond the service point and delivery of electric supply. See Annex A, Section 57.28(a)(2).

Section 57.28(b) Safety Code

In this section, the Commission establishes and explains the minimum safety standards to which all jurisdictional EDCs must comply. The electric utilities must adhere to Chapter 57 of the Commission's regulations governing electric service. 52 Pa. Code § 57 et seq.; see Annex A, Section 57.28(b)(1). As discussed, the electric utilities must adhere to the standards established by the National Electrical Safety Code. 66 Pa.C.S. § 2804(1), § 2807(a); see Annex A, Section 57.28(b)(2). We will also require an electric utility to comply with its own internal company procedures. See Annex A, Section 57.28(b)(3).

Additionally, we will require electric utilities to adhere to the Underground Utility Line Protection Act (PA One Call or Act 287). See 73 P. S. § 176; see Annex A, Section 57.28(b)(4). PA One Call requires underground facility owners, including public utilities, to become members of the One Call System, a Commonwealth-wide communication system that provides a single nationwide toll-free telephone number or 811 number for excavators, designers, or other persons covered by Act 287 to call facility owners and notify them of their intent to perform excavation, demolition, or similar work. 73 P. S. §§ 176—177. See Annex A, Section 57.28(b)(4).

Finally, we inform EDCs as to their duty to adhere to any and all other applicable and governing state and federal laws and regulations. See Annex A, Section 57.28(b)(5).

Section 57.28(c) Enforcement

On occasion, the Commission's Bureau of Investigation & Enforcement has had difficulty in obtaining certain information from electric utilities. Prior to the creation of the Electric Safety Division, I&E depended on utilities to provide information to assist I&E in carrying out investigations.⁷ Even with the Electric Safety Division established, I&E still needs to be able to readily and easily acquire information from electric utilities. Since there are only two electric safety inspectors in the Commonwealth (one in the east and one in the west), an inspector may not be able to arrive at the scene of an incident while the evidence is still fresh and untouched. The Electric Safety Division has encountered some confusion and hesitance from utilities regarding the provision of information, including raw data, to Commission staff at the investigation site.

In order to alleviate any confusion on the part of the electric utilities as to what information must be provided to the Commission and to ensure that the Electric Safety Division can effectively carry out its investigation, we propose Section 57.28(c) to require an EDC to make its books, facilities, and records available to staff of I&E and the Electric Safety Division during inspections and investigations. See 52 Pa. Code § 59.33(d) (similar enforcement section for gas safety). This shall include the raw data collected at the time of the initial incident investigation. The raw data is to be provided to the electric safety inspector as it is collected if a safety inspector is on site during the initial investigation. See Annex A, Section 57.28(c). Here, we emphasize that an EDC "shall provide

the Commission or its staff the raw data, reports, supplemental data, and information necessary for the administration and enforcement of this section." See Annex A, Section 57.28(c). This section is not meant to include opinions or mental impressions.

Section 57.28(d) Records

As explained above, the Electric Safety Division has encountered confusion and resistance from utilities regarding the provision of information, including raw data, to Commission staff at the investigation site. By the same reasoning underlying the proposed Section 57.28(c), we propose Section 57.28(d) requiring an electric utility to keep "adequate records" as required under the Commission's regulations and the National Electric Safety Code. See 52 Pa. Code § 59.33(e) (similar records section for gas safety). As these records will assist I&E in carrying out its investigations, we emphasize that these records must be "accessible to the Commission and its staff." See Annex A, Section 57.28(d).

Here, we also note that Section 57.11 of the Commission's regulations requires an electric utility to submit a report of each reportable accident involving the facilities or operations to the Secretary of the Commission. 52 Pa. Code § 57.11(a).

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on January 27, 2016, the Commission submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Consumer Affairs Committee and the Senate Consumer Protection and Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b) which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Commission, the General Assembly and the Governor of comments, recommendations or objections raised.

Conclusion

Through this Proposed Rulemaking Order, the Commission seeks public comment from all interested parties on the proposed amended and expanded regulations governing electric service in Chapter 57 of the Pennsylvania Code. See 52 Pa. Code §§ 57.1, 57.28. Pursuant to its authority and duty under the Public Utility Code, 66 Pa.C.S. §§ 501, 1501, the Commission proposes minor revisions and updates to existing Sections 57.1 and proposes adding new electric safety standards in Section 57.28. Therefore, we formally commence the rulemaking process and seek public comments on these proposed regulations, following as Annex A to this Order.

Accordingly, pursuant to sections 501 and 1501 of the Public Utility Code (66 Pa.C.S. §§ 501 and 1501); sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2 and 7.5; section 204(b) of the Commonwealth Attorneys Act (71 P. S. § 732.204(b)); section 5 of the Regulatory Review Act (71 P. S. § 745.5); and section 612 of The Administrative

⁷ If a civil suit was also pending, then Plaintiffs' counsels often served as sources of information.

Code of 1929 (71 P. S. § 232) and the regulations promulgated thereunder at 4 Pa. Code §§ 7.231—7.234, we are considering adopting the proposed regulations set forth in Annex A; *Therefore,*

It Is Ordered That:

1. A proposed rulemaking be opened to consider the regulations set forth in Annex A.

2. The Secretary shall submit this proposed rulemaking order and Annex A to the Office of Attorney General for review as to form and legality and to the Governor's Budget Office for review of fiscal impact.

3. The Secretary shall submit this proposed rulemaking order and Annex A for review and comments to the Independent Regulatory Review Commission and the Legislative Standing Committees.

4. The Secretary shall certify this proposed rulemaking order and Annex A and deposit them with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.

5. Original written comments referencing Docket Number L-2015-2500632 be submitted within 30 days of publication in the *Pennsylvania Bulletin* to the Pennsylvania Public Utility Commission, Attn: Secretary, P. O. Box 3265, Harrisburg, PA 17105-3265.

6. A copy of this proposed rulemaking order and Annex A shall be served on the Bureau of Technical Utility Services, the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, the Energy Association of Pennsylvania, and all affected jurisdictional electric distribution companies.

7. The contact person for legal matters on this proposed rulemaking is Ken Stark, Assistant Counsel, Law Bureau, (717) 787-5558. Alternate formats of this document are available to persons with disabilities and may be obtained by contacting Alyson Zerbe, Regulatory Review Coordinator, Law Bureau, (717) 772-4597.

ROSEMARY CHIAVETTA,
Secretary

Fiscal Note: 57-313. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

CHAPTER 57. ELECTRIC SERVICE

Subchapter A. GENERAL PROVISIONS

§ 57.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Customer's installation—Wiring and equipment on the premises of a customer, and poles, wires or cables and other facilities necessary to bring the terminus of the wiring of a customer to a location where it may be connected to the service line.

EDC—Electric distribution company or electric utility—An electric distribution company as defined in 66 Pa.C.S. § 2803 (relating to definitions).

Electric supply line—The wires or cables, with the necessary supporting or containing structures and appurtenances, used in connection with an overhead or underground system of a public utility, providing electric power, located on a public highway or utility right-of-way and used to transmit or distribute electric energy.

* * * * *

Service line—The wires or cables and appurtenances which connect the electric supply line of the public utility with the customer's installation and which comply with either of the following:

(i) If overhead-open-wire or cable-construction, the span, normally 100 feet, extending to a suitable support provided by the customer.

(ii) If the electric supply line is of underground construction, the underground facilities extending to but not exceeding 18 inches inside the property line of the customer.

[Service terminal—The point at which the service lines of the public utility terminate and the customer's facilities for receiving the service begin.]

Service point or point of delivery—The location designated by the EDC where the utility's service supply lines terminate and the customer's facilities for receiving service begin.

Siting application—An application filed with the Commission by a public utility under § 57.71 (relating to application).

* * * * *

Subchapter B. SERVICE AND FACILITIES

(Editor's Note: The following section is new and printed in regular type to enhance readability.)

§ 57.28. Electric safety standards.

(a) *Duties and responsibilities.* The separation of duties and responsibilities between an EDC and a customer with respect to the facilities utilized for electric service shall be effectively described in the EDC's tariff that is filed with and approved by the Commission.

(1) *Duty of an EDC.* An EDC shall use every reasonable effort to properly warn and protect the public from danger, and shall exercise reasonable care to reduce the hazards to which employees, customers, the general public and others may be subjected to by reason of its provision of electric distribution service and its associated equipment and facilities.

(2) *Customer responsibility.*

(i) A customer is responsible for the ownership and maintenance of the customer's facilities beyond the service point.

(ii) A customer is responsible for maintaining and inspecting electrical wiring and electrical equipment beyond the point of delivery of electric supply.

(b) *Safety code.* A jurisdictional EDC shall comply with all of the following minimum safety standards:

(1) This chapter.

(2) The standards established by the National Electrical Safety Code.

(3) The procedures established by the EDC and set forth in the EDC's internal company procedures.

(4) The standards established by sections 1—11 of the act of December 10, 1974 (73 P. S. §§ 176—186), known as the Underground Utility Line Protection Act, and Pennsylvania One Call.

(5) Other applicable and governing State and Federal laws and regulations.

(c) *Enforcement.* An EDC is subject to inspections, investigations and enforcement actions as may be necessary to assure compliance with this section. The facilities, books and records of an EDC shall be accessible to the Commission and its staff for the inspections and investigations. An EDC shall provide the Commission or its staff the raw data, reports, supplemental data and information necessary for the administration and enforcement of this section.

(d) *Records.* An EDC shall keep adequate records as required for compliance with the safety code in subsection (b). An EDC shall submit reports for each reportable accident under § 57.11 (relating to accidents). The records shall be accessible to the Commission and its staff.

[Pa.B. Doc. No. 16-192. Filed for public inspection February 5, 2016, 9:00 a.m.]

[52 PA. CODE CHS. 61 AND 67]
[L-2015-2498111]

Steam Heat Distribution System Safety Regulations

The Pennsylvania Public Utility Commission (Commission), on November 5, 2015, adopted a proposed rulemaking order to amend its existing steam heating service regulations and provide new steam safety requirements.

Executive Summary

Section 1501 of the Public Utility Code requires every public utility in Pennsylvania to “maintain adequate, efficient, safe, and reasonable service and facilities” and to “make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public.” 66 Pa.C.S. § 1501. Pursuant to that authority and Section 501 of the Public Utility Code, 66 Pa.C.S. § 501, the Pennsylvania Public Utility Commission (Commission or PUC) proposes amending and adding safety regulations governing steam heat distribution facilities of steam utilities under the Commission’s jurisdiction.

The Commission proposes these regulations to facilitate safety inspections of steam utilities by the PUC’s Gas Safety Division. The proposed regulations modernize and update the accident reporting regulations similar to recently revised regulations for electric, gas, and water utilities. The regulations propose adding requirements for notification of major construction, operating and maintenance plans, customer education, recordkeeping, employee training, periodic inspections, steam leaks and emergency reports, welding, asbestos maintenance, and service outage reports. The proposed regulations also emphasize that steam utilities must adhere to Pennsylvania One Call (the Underground Utility Line Protection Act) and comply with standard safety codes.

Public Meeting held
November 5, 2015

Commissioners Present: Gladys M. Brown, Chairperson; John F. Coleman, Jr., Vice Chairperson; Pamela A. Witmer; Robert F. Powelson; Andrew G. Place

Rulemaking Re Steam Heat Distribution System Safety Regulations, 52 Pa. Code Chapters 61 and 67; Doc. No. L-2015-2498111

Proposed Rulemaking Order

By the Commission:

The Pennsylvania Public Utility Commission (Commission) proposes to amend and expand its steam heating service regulations in Chapter 61 of the Pennsylvania Code. See 52 Pa. Code §§ 61.1—61.31. Pursuant to its authority and duty under the Public Utility Code, 66 Pa.C.S. §§ 501, 1501, the Commission proposes revisions and updates to Sections 61.1, 61.11, and 61.12. The Commission proposes adding a new subchapter titled “Safety Requirements,” adding Sections 61.41—61.53. The Commission also proposes minor revisions to Chapter 67 to apply the service outage regulations to jurisdictional steam distribution companies. The Commission seeks comments from all interested parties on these proposed regulations, following as Annex A to this Order, and on any other pertinent changes to our steam distribution service regulations.

Background

The Commission first promulgated the current regulations governing steam heating service on March 11, 1946. See 52 Pa. Code §§ 61.1—61.27, 61.31. The Commission promulgated Section 61.28 regarding the filing of annual financial reports on May 7, 1988. See 18 Pa.B. 2106; see 52 Pa. Code § 61.28. Otherwise, Chapter 61 governing steam heating service has not been revised or amended. The Commission maintains jurisdiction over only a few active steam heat public utilities: the NRG Energy Center Harrisburg LLC and the NRG Energy Center Pittsburgh LLC (collectively NRG) and Veolia Energy Philadelphia, Inc. (Veolia). Due to the low number of jurisdictional steam utilities and the perception of fewer risks and dangers presented in the regulation of steam than in the regulation of gas, the Commission historically retained very few staff and inspectors to oversee the few steam utilities operating in the Commonwealth.

While steam distribution systems present fewer dangers than natural gas distribution systems, accidents and incidents can still occur. For example, on July 18, 2007, a 20-inch diameter steam pipeline owned and operated by the Consolidated Edison Company of New York, Inc. (Con Ed) ruptured in Midtown Manhattan in New York City, where escaping steam broke through the pavement, creating a large crater at a busy intersection.¹ The rupture also impacted surrounding telecommunications facilities and natural gas and electric transmission and distribution facilities. The New York Public Service Commission (NYPSC), which regulates jurisdictional steam corporations in New York, determined that Con Ed’s procedures did not adequately address the regulatory requirements of 16 NYCRR 420.4(b)(5). See N.Y. PUB. SERV. LAW § 80 (general powers of the NYPSC as to steam heating). Therefore, the NYPSC identified a number of recommen-

¹ Report on Steam Pipeline Rupture 41st Street & Lexington Avenue: Consolidated Edison Company of New York, Inc. July 18, 2007 (CASE 07-S-0984), State of New York Department of Public Service, Safety Section, Office of Electric, Gas & Water (February 2008), available at http://www.dps.ny.gov/07S0984_ConEdisonSteamIncidentReport_02-11-08.pdf.

dations for improvement by Con Ed to its procedures, inspections, system surveillance, training, facility repairs, and feasibility analyses.²

State representatives of the Pennsylvania General Assembly, understanding that the Commonwealth has similar steam pipelines and facilities, asked the PUC's Gas Safety Division to spearhead inspections of steam heat facilities in Pennsylvania. Three PUC Gas Safety inspectors began steam training in 2009, first attending a week-long training with Con Ed in New York City. In 2010, three PUC Gas Safety staff began attending IDEA (International District Energy Association) training on a semi-yearly to yearly basis. This international training broadly covers all topics and facets of steam distribution.

The Commission's Gas Safety Division created a steam inspection form, based in significant part on New York's steam distribution system safety regulations. See 16 NYCRR 420.1—420.15. Accordingly, the Commission seeks to memorialize the requirements provided in the steam inspection form through the promulgation of steam heat safety regulations.

In the spirit of the Regulatory Review Act, 71 P.S. 745.2, and in order to facilitate the regulatory review process, Commission staff informally proposed draft regulations outside the regulatory review process and discussed those draft regulations with company representatives of the NRG Energy Centers of Harrisburg and Pittsburgh and Veolia of Philadelphia. Commission staff held numerous collaborations and discussions with NRG and Veolia over the past two years, formally meeting in person with NRG and Veolia representatives on December 17, 2013, May 27, 2014, December 16, 2014, and March 24, 2015.

Discussion

The Commission embarks on this rulemaking proceeding in order to modernize and update its existing steam heat regulations and to add steam heat safety regulations to empower the PUC's Gas Safety Division to conduct inspections of jurisdictional steam distribution facilities for the purpose of ensuring public safety and protecting the public interest. Section 1501 of the Public Utility Code requires every public utility in Pennsylvania to "maintain adequate, efficient, safe, and reasonable service and facilities" and to "make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public." 66 Pa.C.S. § 1501. Pursuant to this authority and the Commission's power to promulgate regulations, 66 Pa.C.S. § 501(b), and the Commonwealth Documents Law, 45 P.S. § 1201, the Commission proposes steam heat safety regulations in order to prescribe the minimum safety requirements for the design, fabrication, installation, inspection, testing, operation, and maintenance of steam distribution systems in the Commonwealth of Pennsylvania. See Annex A, Section 61.41.

The only active jurisdictional steam public utilities are NRG (Pittsburgh and Harrisburg) and Veolia (Philadelphia), as those entities invoke public utility status by "distributing or furnishing . . . steam . . . to or for the public for compensation." See 66 Pa.C.S. § 102. Notably, in the future the Commission and the Gas Safety Division may uncover other steam facilities in the Commonwealth that distribute steam to or for the public for compensation and therefore require a certificate of public conve-

nience from the Commission in order to legally operate. See 66 Pa.C.S. §§ 1101—1103.

Accordingly, the Commission regulates the distribution facilities of jurisdictional steam public utilities. 66 Pa.C.S. §§ 102, 501. The Commission does not have safety jurisdiction over steam distribution companies that do not qualify as public utilities under the Public Utility Code. As to the production of steam, the Pennsylvania Department of Labor & Industry retains legal authority and regulatory oversight by conducting the inspections of the boilers³ that produce the steam. 35 P.S. § 1331.1; see 34 Pa. Code §§ 3a.1—3a.171.

Below, the Commission proposes specific revisions and additions to Chapter 61 and Chapter 67 of its regulations.

Revisions to Existing Sections 61.1, 61.11, and 61.12.

Section 61.1 Definitions

The proposed amendment to the definition of service line reflects a more specific, modern definition, and explains that the "point of service termination is the customer's property line, unless otherwise provided by contract." See Annex A, Section 61.1. We propose deleting the distinctions between low pressure and high pressure, as those archaic distinctions are not very helpful in the steam distribution industry as pressures utilized by companies differ and vary on a wider spectrum. Pressures can range from 100 pounds per square inch gauge (psig) to 210 psig, depending on the system and the company. We also propose amending the definition for service line of the customer to stress and clarify the importance of the specific service line termination point and not just the general service line. See Annex A, Section 61.1.

Section 61.11 Accidents

On September 23, 2011, the Commission entered a Final Rulemaking Order pertaining to public utilities' service outage response and restoration practices. See Docket L-2009-2104274 (Final Rulemaking Order entered Sep. 23, 2011); see 14 Pa.B. 4511 (effective Jan. 7, 2012). In that Final Rulemaking Order, the Commission modernized and revised the accident regulations for electric, gas, and water utilities. See *id.* at 7-25, Annex A (revising Section 57.11 for electric, Section 59.11 for gas service, and Section 65.2 for water service). However, we did not update the relevant section, 52 Pa. Code § 61.11, for steam utilities. Therefore, through this comprehensive rulemaking to modernize and update our steam heat distribution regulations, we propose similar changes to Section 61.11, as currently exist in Sections 57.11, 59.11, and 65.2 of our regulations. See Annex A, Section 61.11. Since the Independent Regulatory Review Commission (IRRC) approved these changes in 2011, the Commission seeks comment on whether it should apply similar proposed revisions in our steam heat regulations.

We insert the word "steam" in the existing Section 61.11(a) for clarity purposes. See Annex A, Section 61.11(a). We propose revising Section 61.11(b)(2) regarding reportable accidents to reflect the existing language in the relevant electric, gas, and water regulations. We propose revising Section 61.11(b)(3) to reflect the property damage provisions in Sections 57.11 and 59.11 of the electric and gas regulations. See Annex A, Section 61.11(a) (mirroring the \$50,000 market value proper damage requirement). We propose adding Section

³ A boiler is a closed vessel where water is heated or where steam is generated or superheated or any combination thereof, under pressure or vacuum for external use through the direct application of heat from the combustion of fuels or from electricity. A boiler includes fired vessels for heating or vaporizing liquids other than water where those vessels remain separate from processing systems. 35 P.S. § 1331.2 (providing further definitions for specific types of boilers, heaters, and associated equipment).

² See *id.* at vii—xii.

61.11(b)(5) for steam facilities to mirror Section 59.11(b)(4) regarding the emergency shutdown of a liquefied natural gas facility. See Annex A, Section 61.11(b)(5). In 2011, we modernized our regulations to account for potential physical or cyber attacks that cause an interruption of service or over \$50,000 in damages, or both. Here, we propose a similar provision for our steam regulations. See Annex A, Section 61.11(b)(6).

As in our existing electric, gas, and water regulations, we will propose an exception for reporting due to injuries suffered as a result of a motor vehicle accident with utility facilities unless a vehicle involved in the accident is owned by the utility or driven by a utility employee while on duty. See Annex A, Section 61.11(c).

The existing Section 61.11(c) provides for telegraphic reports. The term “telegraph” is antiquated and out of common parlance. In light of this and the fact that proposed Section 61.11(e) provides for written reports, we propose deleting this section. Instead, we will propose requirements for telephone reports using similar language found in our electric, gas, and water regulations. See Annex A, Section 61.11(d).

As for written reports, we propose adding similar requirements that are currently found in our existing electric, gas, and water regulations. Written reports will need to be made on the Form UCTA-8 within 30 days of the occurrence of a reportable accident. At a minimum, the accident report form will need to include: (1) the name of the steam utility; (2) the date of the reportable accident; (3) the date of the report; (4) the location of the reportable accident; (5) the name, age, residence, and occupation of injured or deceased persons; (6) a general description of the reportable accident; and (7) the name and telephone number of the reporting officer. See Annex A, Section 61.11(e).

In the same vein as our electric, gas, and water regulations, in this Section we propose adding Section 61.11(f) providing for the availability of UCTA-8 forms on the Commission’s web site and Section 61.11(g) explaining that reporting requirements may not be limited to the requirements of Section 61.11. See Annex A, Section 61.11(f)—(g); see also 52 Pa. Code §§ 57.11(f)—(g), 59.11(f)—(g), 65.2(f)—(g).

Section 61.12 Interruptions of service

Here, we propose inserting the word “steam” in the existing Section 61.12(a) for clarity purposes. See Annex A, Section 61.12(a). Section 61.12 is very similar to the gas regulation in Section 59.12, except that Section 59.12 does not require records of interruptions of service be kept for six years. However, Section 59.45 in our gas regulations requires a natural gas distribution utility to keep records of service interruptions for five years. See 52 Pa. Code § 59.45 (item number 65). Therefore, we request comment as to the appropriate duration for recordkeeping of a steam utility regarding interruptions of service.

New Safety Requirements Regulations: Sections 61.41—61.53

The Commission modeled some of these proposed safety regulations on New York’s existing regulations, but made tweaks and adjustments to reflect the current best practices and modern standards in the existing steam distribution industry in the Commonwealth. See 16 NYCRR 420.1—420.15.

Section 61.41 Purpose and Policy

In Section 61.41(a), the Commission explains the purpose of these steam distribution safety regulations: “to

prescribe the minimum safety requirements for the design, fabrication, installation, inspection, testing, operation, and maintenance of steam distribution systems in the Commonwealth of Pennsylvania.” See Annex A, Section 61.41(a); see 61.41(b) (requiring steam public utilities to adhere to the requirements of this section). Section 61.41(c) clearly provides the Commission with the power to inspect the distribution systems of steam utilities. Section 61.41(d) explains that this section does not apply to the generation, production, or piping steam downstream of the customer’s property line.

Section 61.42 Safety and compliance with standard code

Similar to the Commission’s gas regulations at 52 Pa. Code § 59.33, we propose Section 61.42(a) explaining that a steam utility “shall at all times use every reasonable effort to properly warn and protect the public from danger, and shall exercise reasonable care to reduce the hazards to which employees, customers, and others may be subjected to by reason of its equipment or facilities.” See Annex A, Section 61.42(a). In order to ensure that steam companies keep up with best practices and the most updated and applicable standards of the American Society of Mechanical Engineers (ASME), we propose Section 61.42(b) requiring steam utilities to comply with standard code. See Annex A, Section 61.42(b). Here, we also propose providing the Commission with the discretion to determine whether a particular redesign, repair, modification, or replacement of a facility constitutes a new facility subject to these regulations and thus subject to the latest ASME standards. Annex A, Section 61.42(b). Generally, if a grandfathered facility is substantially redesigned, repaired, or replaced, we will require the updated facility to conform to the latest governing code standards. The steam utilities may informally consult with Commission staff as to any questions on what may or may not constitute a redesign, repair, replacement, or modification.

Here, we will also require steam utilities to adhere to the Underground Utility Line Protection Act (“PA One Call” or “Act 287”). See 73 P.S. § 176; see Annex A, Section 61.42(c). PA One Call requires underground facility owners, including public utilities, to become members of the One Call System, a Commonwealth-wide communication system that provides a single nationwide toll-free telephone number or 811 number for excavators, designers, or other persons covered by Act 287 to call facility owners and notify them of their intent to perform excavation, demolition, or similar work. 73 P.S. §§ 176—177.

Similar to our gas regulations, 52 Pa. Code § 59.33(d), we propose Section 61.42(d), explaining that a steam utility shall be subject to enforcement and inspections of its facilities, books, and records. As in the gas regulations at 52 Pa. Code § 59.33(e), we will propose Section 61.42(e), requiring a steam utility to keep adequate records to assure compliance with this subsection. We propose this recordkeeping requirement for three years. See Annex A, Section 61.42(e).

Section 61.43 Notification of construction

Similar to the Commission’s gas regulations at 52 Pa. Code § 59.38, we propose requiring the steam utility to notify the Commission and the Commission’s Gas Safety Division of proposed major construction, reconstruction, or maintenance at least 30 days in advance of commencing work. Similar to the gas regulation, we define major work as a single project involving more than \$300,000 in expenses or more than 10% of the cost of the utility’s plant in service, whichever is less. See Annex A,

Section 61.43. We seek comment on whether this is an appropriate definition for major construction. Similar to the gas regulation, we propose requiring the notification of construction to include (1) description and location of proposed work; (2) type of facility involved; (3) estimated starting date; (4) estimated completion date; (5) design pressure; (6) estimated cost; (7) name and address of reporting steam company; (8) contact information for person in charge of the project; and (9) notification to the Commission of the completion date. Annex A, Section 41.43; see also 52 Pa. Code § 59.38.

Section 61.44 Operating and maintenance plan

In Section 61.44, we propose requiring steam utilities to establish and file with the Secretary of the Commission and the Gas Safety Division a detailed, written operating and maintenance plan. See Annex A, Section 61.44(a). We list the minimal requirements for this plan, including (1) detailed instructions for employees, (2) welding procedures, (3) procedures for reporting and investigating steam leaks, (4) procedures to correct deficiencies, (5) procedures for facility surveillance, (6) a list of qualified utility employees, and (7) steam distribution system turn-on procedures. See Annex A, Section 61.44(b). We would require the steam utility to adhere to these operating procedures and maintenance plan filed with the Commission. See Annex A, Section 61.44(c). Revisions to the plan would need to be submitted at least 30 days in advance of the effective date of those revisions. See Annex A, Section 61.44(a).

Section 61.45 Security planning and emergency contact list

At the outset, we note that Chapter 101 of our regulations requires a steam utility to develop and maintain four written plans: (1) physical security plan, (2) cyber security plan, (3) emergency response plan, and (4) business continuity plan. 52 Pa. Code §§ 101.2—101.3. Therefore, we note in this section that steam utilities shall adhere to the requirements of Chapter 101. See Annex A, Section 61.45(a).

Under Chapter 101, an emergency response plan must, at a minimum, include: (1) identification and assessment of the problem, (2) mitigation of the problem in a coordinated, timely, and effective manner, and (3) notification to appropriate emergency services and officials. 52 Pa. Code § 101.3(a)(4)(i)—(iii). Additionally, within its Chapter 101 emergency response plan, we propose requiring a steam utility to also specifically provide procedures to establish (1) the availability of necessary personnel, equipment, tools, and materials at the scene of an emergency, (2) an action plan that protects people first and then property, (3) emergency facility shutdown protocols, (4) safety protocols, and (5) safety service main or outage restoration protocols. See Annex A, Section 61.45(b).

We will also require a steam utility to file with the Commission and the Gas Safety Division each January a list of the utility's responsible officials for contact during an emergency. See Annex A, Section 61.45(c). The steam utility would serve this list on affected municipalities and immediately report revisions of this list to those municipalities and to the Commission. See id.

Section 61.46 Customer education and information program

We also propose requiring a steam utility to maintain customer and education programs through the use of media that sufficiently and comprehensively reaches, to the extent possible, all customers in the particular service

territory. See Annex A, Section 61.46(a)—(b). We would require a steam utility to file with the Commission and Gas Safety Division each January a current description of its customer education and information program, including the means of implementation and any samples of descriptive literature and other educational aids. See Annex A, Section 61.46(c).

Section 61.47 Employee training

Here, we propose requiring every employee and supervisor of a steam utility to receive and complete annual training at sufficiently progressive levels to ensure the safe implementation of all the procedures required in this subchapter on Safety Requirements. See Annex A, Sections 61.47(a). Before on-the-job training in field operations, new employees shall receive basic classroom training. See Annex A, Section 61.47(b).

Section 61.48 Periodic inspections

In this section, we propose requiring a steam utility to inspect steam traps and piping assemblies for general condition at least three times each calendar year, as we understand that this would be practicable and in alignment with best practices. We seek public comment on whether this requirement is sufficient.

Similar to the New York regulations, we also propose mandatory checking of blow-off valves for operability immediately prior to closing each associated main valve during a scheduled shutdown of a section of the steam distribution pipeline system. We also propose inspections of accessible expansion joints at least twice annually. See Annex A, Section 61.48(b)—(c); see 16 NYCRR 420.8(b)—(c).

We also propose annual inspections of service valves and manholes owned by the steam utility. See Annex A, Section 61.48(d)—(e). Finally, we propose requiring the inspection and testing of remote system pressure indicating devices every two years. See Annex A, Section 61.48(f).

Section 61.49 Records

Here, we would require a steam utility to maintain records documenting inspections, maintenance, tests, and all other matters required by this chapter for at least three years. Those records would be kept on file and readily available to Commission staff. See Annex A, Section 61.49. This provision is similar to the Commission regulation governing gas safety. See 52 Pa. Code § 59.33(e).

In light of Section 61.12 of our existing regulations (requiring service interruption records for six years) and proposed Section 61.42(e) (requiring records demonstrating compliance with safety codes for three years), we seek comment on whether any of these recordkeeping requirements are duplicative or whether we need to break out and specify different recordkeeping requirements for different subject areas, as in our gas regulations. See 52 Pa. Code § 59.45 (Preservation of records).

Section 61.50 Welding—qualification and nondestructive testing

In this section, we would require the performance of welding in accordance with the latest standards of the American Society of Mechanical Engineers. See Annex A, Section 61.50(a). We would require nondestructive testing of inaccessible field welds and new pipeline testing at system pressure. See Annex A, Section 61.50(b). New construction pipelines shall be pressure tested to 1.5 times the maximum allowable operating pressure. See

Annex A, Section 61.50(c). Ten percent of all field welds on existing steam pipeline facilities shall be subject to random nondestructive testing. The results of this testing would determine the test rates in future years, decreasing or increasing the test rate based on results of the prior year. See Annex A, Section 61.50(d).

Section 61.51 Steam leaks and steam emergency reports

Since emergency leaks “require an immediate response to protect life and property” we propose requiring that those leaks “shall be worked continuously until repairs are completed or until the condition is no longer hazardous.” See Annex A, Section 61.51(a). We explain that emergency leaks are those that could cause property damage or personal injury or any leak which, in the judgment of the operating personnel at the scene, is regarded as potentially hazardous. See *id.* Notably, emergency leaks could be caused by forces outside of the steam distribution system, such as water main breaks, flooding, earthquakes, or other serious weather events.

In order to discern emergency leaks from nonemergency leaks, we explain that nonemergency leaks are those that are “not immediately hazardous at the time of discovery and can be reasonably expected to remain that way.” See Annex A, Section 61.51(b). Therefore, we propose that those nonemergency leaks need not be confronted immediately, but must be reexamined within six months from the date of discovery, and repaired within a reasonable time. See Annex A, Section 61.51(b). We understand that many steam leaks are very minor and nonhazardous, similar to a faucet of dripping water. Unlike minor gas leaks, which present imminent danger, minor steam leaks may not necessarily require immediate confrontation and repair. However, we stress to the steam utilities that these minor leaks shall be recorded, confronted, and repaired within a reasonable time, as even minor leaks, nonhazardous at discovery, could eventually become more hazardous over time. See Annex A, Section 61.51(c). Therefore, we propose requiring a steam utility to identify all leaks, compile a written report of each emergency and nonemergency steam leak, and keep an event log on record. See Annex A, Section 61.51(c)—(e). The event log shall contain (1) the location of leak or emergency; (2) the time the report is first received; (3) description as to type of leak or emergency; (4) the time personnel are first dispatched to location; (5) the time of arrival of personnel at location; and (6) the times of dispatch and arrival of any additional personnel called to the location. See Annex A, Section 61.51(e).

Finally, we propose that a steam utility shall have available for inspection by the Commission’s Gas Safety Division, on or before the 16th day of each calendar month, a summary analysis of its performance in responding to reports of steam leaks and emergencies. See Annex A, Section 61.51(f).

Section 61.52 Facility failure investigation

Similar to New York’s regulation, 16 NYCRR 420.14, we propose requiring each steam utility to establish procedures to analyze each failure that causes injury or damage in order to determine the cause and minimize the possibility of recurrence. See Annex A, Section 61.52(a). These procedures would need to provide for the selection of samples of the failed facility or equipment for laboratory examination, as necessary. See *id.* The steam utility shall fully cooperate with Commission staff and any necessary independent consultants regarding the testing or surveying of any facilities or equipment deemed potentially attributable to the facility failure or accident. See

Annex A, Section 61.52(b). During meetings between PUC staff and steam company representatives, the question of what constitutes a “facility failure” arose. We found consensus in determining that a “facility failure occurs when the facility fails to perform the function it was designed for.” See Annex A, Section 61.52(c).

Section 61.53 Asbestos control

Many old buildings and facilities in the Commonwealth still contain asbestos. Therefore we propose requiring a steam utility to have procedures to safely manage and abate asbestos materials from all accessible manholes, vaults, and other areas that contain steam facilities. See Annex A, Section 61.53(a). We would require the steam utility to have emergency procedures to control and eliminate asbestos-contaminated debris resulting from the failure of any steam pipeline or facility. See Annex A, Section 61.53(b).

The public health threat of asbestos is well-known and well-documented. Accordingly, we would also require a steam utility to have a program that maintains in safe condition all asbestos materials on all exposed piping and fittings in the steam distribution system and the gradual elimination of all asbestos materials to the extent practicable and feasible. See Annex A, Section 61.53(c). We propose requiring a steam utility “to eliminate all asbestos materials to the extent practicable and feasible.” See Annex A, Section 61.53(c). We seek further public comment as to whether this proposed language best serves the public interest.

Finally, we emphasize that the procedures regarding asbestos control must comply with all applicable rules and regulations regarding the removal, handling, and disposal of asbestos materials. See Annex A, Section 61.53(d).

Service Outage Requirements: Chapter 67

Section 67.1 General Provisions

On September 23, 2011, the Commission entered a Final Rulemaking Order pertaining to public utilities’ service outage response and restoration practices. See Docket L-2009-2104274 (Final Rulemaking Order entered Sep. 23, 2011); see 14 Pa.B. 4511 (effective Jan. 7, 2012). Among other things, the Final Rulemaking Order amended the Commission’s service outages regulations in Chapter 67 of the Pennsylvania Code. Chapter 67 expressly applies to electric, gas, water, and telephone utilities, but does not expressly apply to steam utilities. See 52 Pa. Code § 67.1(a). The Commission also seeks comment on whether Chapter 67 should apply to the service outage regulations of jurisdictional steam utilities. Accordingly, the Commission proposes minor revisions to Chapter 67 to add the word steam in four places in Section 67.1. See Annex A, Section 67.1.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on January 27, 2016, the Commission submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Consumer Affairs Committee and the Senate Consumer Protection and Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recom-

mendations or objections must specify the regulatory review criteria in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b) which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Commission, the General Assembly and the Governor of comments, recommendations or objections raised.

Conclusion

Through this Proposed Rulemaking Order, the Commission seeks public comment from all interested parties on the proposed amended and expanded regulations governing steam heating service in Chapter 61 of the Pennsylvania Code. See 52 Pa. Code §§ 61.1—61.31. Pursuant to its authority and duty under the Public Utility Code, 66 Pa.C.S. §§ 501, 1501, the Commission proposes minor revisions and updates to existing Sections 61.1, 61.11, and 61.12. The Commission also proposes adding a new subchapter titled “Safety Requirements,” adding Sections 61.41—61.53. See Annex A to this Order. Finally, the Commission proposes minor revisions to Chapter 67 to apply the service outage regulations to jurisdictional steam distribution companies. Therefore, we formally commence the rulemaking process and seek public comments on these proposed regulations as well as the need for any additional steam safety regulations.

Accordingly, pursuant to sections 501 and 1501 of the Public Utility Code (66 Pa.C.S. §§ 501 and 1501); sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2 and 7.5; section 204(b) of the Commonwealth Attorneys Act (71 P. S. § 732.204(b)); section 5 of the Regulatory Review Act (71 P. S. § 745.5); and section 612 of The Administrative Code of 1929 (71 P. S. § 232) and the regulations promulgated thereunder at 4 Pa. Code §§ 7.231—7.234, we are considering adopting the proposed regulations set forth in Annex A; *Therefore,*

It Is Ordered That:

1. A proposed rulemaking be opened to consider the regulations set forth in Annex A.
2. The Secretary shall submit this proposed rulemaking order and Annex A to the Office of Attorney General for review as to form and legality and to the Governor’s Budget Office for review of fiscal impact.
3. The Secretary shall submit this proposed rulemaking order and Annex A for review and comments to the Independent Regulatory Review Commission and the Legislative Standing Committees.
4. The Secretary shall certify this proposed rulemaking order and Annex A and deposit them with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.
5. Original written comments referencing Docket Number L-2015-2498111 be submitted within 30 days of publication in the *Pennsylvania Bulletin* to the Pennsylvania Public Utility Commission, Attn: Secretary, P. O. Box 3265, Harrisburg, PA 17105-3265.
6. A copy of this proposed rulemaking order and Annex A shall be served on the Bureau of Technical Utility Services, the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, and all affected jurisdictional steam heat public utilities.
7. The contact person for legal matters on this proposed rulemaking is Kenneth R. Stark, Assistant Counsel,

Law Bureau at (717) 787-5558. Alternate formats of this document are available to persons with disabilities and may be obtained by contacting Alyson Zerbe, Regulatory Coordinator, Law Bureau at (717) 772-4597.

ROSEMARY CHIAVETTA,
Secretary

Fiscal Note: 57-311. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 52. PUBLIC UTILITIES
PART I. PUBLIC UTILITY COMMISSION
Subpart C. FIXED SERVICE UTILITIES
CHAPTER 61. STEAM HEATING SERVICE
GENERAL PROVISIONS

§ 61.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Service line—[**Connecting distribution facilities or pipelines of the utility. Service lines may be of either of the following types:**] **The pipe connecting the utility main to the customer’s piping. The point of service termination is the customer’s property line unless otherwise provided by contract.**

[(i) *Low pressure*—**The distribution facilities or pipeline extension of the utility which connect a steam main in the public highway or right-of-way of the utility with the inlet connection of the service line of the customer.**

(ii) *High pressure*—**The distribution facilities or pipelines of the utility which connect the facilities of the utility with the service line of the customer.]**

Service line of the customer—The pipe of the customer which extends from the [**utility**] service line **termination point** to the point of utilization.

SERVICE AND FACILITIES

§ 61.11. Accidents.

(a) *General.* A **steam** public utility shall submit a report of each reportable accident involving the facilities or operations of the public utility in this Commonwealth. The reports shall be addressed to the Secretary of the Commission.

(b) *Reportable accidents.* Reportable accidents are those involving utility facilities or operations which result in one or more of the following circumstances:

- (1) The death of a person.
- (2) [**Injury to an employe on duty sufficient to incapacitate him from performing his ordinary duties for a period longer than 3 days.] Injury to a person sufficient that the injured person requires immediate treatment at a hospital emergency room or in-patient admittance to a hospital, or both.**

(3) [**Injury to a person other than an employe on duty sufficient to incapacitate the injured person from following his customary vocation, or mode of life, for a period of more than 1 day.] An event that involves a release of steam from the steam facility,**

which results in estimated property damage, including the cost of lost steam, of at least \$50,000 in market value.

(4) An occurrence of an unusual nature, whether or not death or injury of a person results, which apparently will result in a prolonged and serious interruption of normal service.

[(c) *Telegraphic reports.* A report by telephone or telegraph shall be made at once in the event of the occurrence of a reportable accident resulting in the death of a person, or in the event of an occurrence of an unusual nature.

(d) *Written reports.* A written report shall be made on Form UCTA-8 immediately following the occurrence of a reportable accident as defined in subsection (b). Accidents reportable to the Commission which reports are also required by the Bureau of Workmen's Compensation, Department of Labor and Industry, may be reported by transmitting a copy of the reports in lieu of a report on Form UCTA-8.]

(5) An event that results in an emergency shut-down of the steam facility.

(6) An occurrence of an unusual nature that is a physical or cyber-attack, including an attempt against cyber security measures as defined in Chapter 101 (relating to public utility preparedness through self certification) which causes an interruption of service or over \$50,000 in damages, or both.

(c) *Exception.* Injuries, as defined in subsection (b)(1) and (2), may not include those suffered as a result of a motor vehicle accident with utility facilities unless a vehicle involved in the accident is owned by the utility or driven by a utility employee while on duty.

(d) *Telephone reports.* A report by telephone shall be made immediately to the Commission's Gas Safety Division after the utility becomes aware of an occurrence of a reportable accident under subsection (b)(1), (3), (4) or (5). A report by telephone shall be made within 24 hours after the utility becomes aware of a reportable accident under subsection (b)(2).

(e) *Written reports.* A written report shall be made on Form UCTA-8 within 30 days of the occurrence of a reportable accident. For reportable accidents under subsection (b)(6), a utility may remove from Form UCTA-8 information that would compromise the security of the utility or hinder an active criminal investigation. Accidents reportable on forms required by the Bureau of Workers' Compensation, Department of Labor and Industry, or the United States Department of Transportation, Pipeline and Hazardous Materials Safety Administration, may be reported to the Commission by filing a copy of the forms instead of a report on Form UCTA-8, as long as the alternative forms, at a minimum, provide all of the following information:

- (1) The name of the steam utility.
- (2) The date of the reportable accident.
- (3) The date of the report.
- (4) The location where the reportable accident occurred.

(5) The name, age, residence and occupation of the injured or deceased parties.

(6) The general description of the reportable accident.

(7) The name and telephone number of the reporting officer.

(f) *Form availability.* Blank UCTA-8 forms are available for download on the Commission's web site.

(g) *Reports not exclusive.* The reporting under this chapter is not limited to the requirements in this section and does not limit requests for additional information.

§ 61.12. Interruptions of service.

(a) *Records.* A steam public utility shall keep a record which shall include data showing the time, duration and cause of an interruption of service affecting its entire system or a major division of its system. The records shall be preserved for a period of 6 years.

* * * * *

SAFETY REQUIREMENTS

(*Editor's Note:* Sections 61.41—61.53 are new and printed in regular type to enhance readability.)

§ 61.41. Purpose and policy.

(a) The purpose of this section is to prescribe the minimum safety requirements for the design, fabrication, installation, inspection, testing, operation and maintenance of steam distribution systems in this Commonwealth.

(b) Public utilities engaged in the distribution of steam by means of a pipeline shall comply with this section.

(c) The Commission will have the authority to inspect the distribution systems of steam public utilities.

(d) This section does not apply to:

(1) Piping and facilities used for or in connection with the generation or production of steam.

(2) Piping downstream of the customer's property line.

§ 61.42. Safety and compliance with standard code.

(a) *Responsibility.* A steam utility shall at all times use every reasonable effort to properly warn and protect the public from danger, and shall exercise reasonable care to reduce the hazards to which employees, customers and others may be subjected to by reason of its equipment or facilities.

(b) *Standard code.* Steam distribution pipeline facilities installed after _____ (*Editor's Note:* The blank refers to the effective date of adoption of this proposed rulemaking.) shall be designed, constructed, tested, operated and maintained in accordance with the most updated and applicable standards of the American Society of Mechanical Engineers, Two Park Avenue, New York, NY 10016-5990, <https://www.asme.org/>. The Commission has the discretion to determine whether a redesign, repair, modification or replacement of a facility constitutes a new facility subject to these regulations.

(c) *Statutory compliance.* A steam utility shall comply with sections 1—11 of the act of December 10, 1974 (73 P.S. §§ 176—186), known as the Underground Utility Line Protection Act, and Pennsylvania One Call.

(d) *Enforcement.* A steam utility will be subject to inspections as necessary to assure compliance with this

section. The facilities, books and records of a steam utility shall be accessible to the Commission and its staff for the inspections. A steam utility shall provide the Commission or its staff with the reports, supplemental data and information requested by Commission staff to administer and enforce this section.

(e) *Records.* A steam utility shall keep adequate records as required for compliance with this subsection for 3 years. The records shall be accessible to the Commission and its staff.

§ 61.43. Notification of major construction.

A steam utility shall notify the Commission and the Gas Safety Division of proposed major construction, reconstruction or maintenance of its facilities at least 30 days prior to the beginning of work. Major construction, reconstruction or maintenance is defined for this reporting as a single project involving an expenditure in excess of \$300,000 or 10% of the cost of the utility's plant in service, whichever is less. The notification of proposed construction must include all of the following:

- (1) Description and location (city, township, county) of proposed work.
- (2) Type of facility (for example, distribution mains, service lines, expansion joints, and the like).
- (3) Estimated starting date.
- (4) Estimated completion date.
- (5) Design pressure.
- (6) Estimated cost.
- (7) Name and address of reporting steam distribution utility.
- (8) Name, address and telephone number of person to be contacted regarding the project.
- (9) Notification to the Commission of the completion date.

§ 61.44. Operating and maintenance plan.

(a) A steam utility shall establish and file with the Secretary of the Commission and the Gas Safety Division a detailed, written operating and maintenance plan for complying with this chapter. Revisions to a plan shall be submitted at least 30 days prior to the effective date of the plan.

(b) The operating and maintenance plan must include, at a minimum, all of the following:

- (1) Detailed instructions for employees covering operating and maintenance procedures during normal operations and repairs.
- (2) Procedures for welding, brazing and welder qualifications.
- (3) Procedures for reporting, investigating, classifying, handling and monitoring steam leaks.
- (4) Procedures to correct, within specified time frames, deficiencies found during inspections, evaluations, tests, and the like required under this chapter.
- (5) Procedures for continuing surveillance of steam facilities to determine and take appropriate action concerning failures, leakage history, and other unusual operating and maintenance conditions.

(6) An established list of qualified persons who exclusively may approve the turn-on of any section of the steam distribution system.

(7) Procedures to ensure that the turn-on of any section of the steam distribution system is accomplished only by persons specifically trained, qualified and approved for that purpose.

(c) A steam utility shall adhere to its operating and maintenance plan filed with the Commission.

§ 61.45. Security planning and emergency contact list.

(a) A steam utility shall develop and maintain written plans for physical and cyber security, emergency response and business continuity in accordance with § 101.3 (relating to plan requirements).

(b) Within its Chapter 101 emergency response plan, a steam utility shall provide procedures for all of the following:

- (1) The availability of personnel, equipment, tools and materials as needed at the scene of an emergency.
- (2) Actions directed toward protecting people first, and then property.
- (3) Emergency shutdown in any section of the pipeline system necessary to minimize hazards to life or property.
- (4) Making safe any actual or potential hazard to life or property.
- (5) Safely restoring any main or service outage.

(c) During January of each year, a steam utility shall file with the Commission's Secretary and the Gas Safety Division a list of the utility's responsible officials who may be contacted in the event of an emergency. The steam utility shall serve this list on all municipalities within which its facilities are located. Revisions to this list within the year shall be immediately reported to the Gas Safety Division and affected municipalities.

§ 61.46. Customer education and information program.

(a) A steam utility shall initiate and maintain, on a continuing basis, a satisfactory program for customer education and information designed to assist its customers and appropriate governmental organizations to recognize steam emergency conditions and situations and to notify the steam utility of those emergency situations.

(b) The program and the media used must be as comprehensive as necessary to reach all customers.

(c) During January of each year, a steam utility shall file with the Commission's Secretary and the Gas Safety Division a current description of its customer education and information program, including a detailed statement of the means of its implementation and samples of all descriptive literature and other educational aids.

§ 61.47. Employee training.

(a) An employee involved in the operation, maintenance or testing of steam pipelines and related facilities shall satisfactorily complete training at all progression levels to ensure effective and safe implementation of the procedures required under this chapter. Every employee and supervisor shall receive annual training.

(b) A new employee shall receive basic classroom training prior to on-the-job training in field operations.

§ 61.48. Periodic inspections.

(a) Steam traps and trap piping assemblies shall be inspected for general condition and proper operation at least three times each calendar year.

(b) Blow-off valves shall be checked for operability immediately prior to closing each associated main valve during a scheduled shutdown of a section of the steam distribution pipeline system. Removal of condensate from a shutdown section of pipeline shall be accomplished prior to reopening main valves.

(c) Accessible expansion joints shall be inspected at least twice annually. The inspection shall include checks for leakage, proper alignment and traverse measurement.

(d) Service valves owned by the utility located within the customer's building shall be inspected at least once annually.

(e) Manholes owned by the utility containing steam facilities shall be inspected for general conditions and adequacy of insulation at least once annually.

(f) Remote system pressure indicating devices shall be inspected and tested for accuracy at least once every 2 years. At a minimum, pressure indicating gauges shall be installed at the interface between portions of the system which are designed for different operating pressures.

§ 61.49. Records.

A steam utility shall maintain records documenting inspections, maintenance, tests and all other matters required under this chapter for at least 3 years. Records and copies shall be kept on file at the steam utility's offices in this Commonwealth and be readily accessible to Commission staff.

§ 61.50. Welding; qualification and nondestructive testing.

(a) Welding shall be performed by qualified welders employing qualified welding procedures. Welders and welding procedures shall be qualified in accordance with the most updated and applicable standards of the American Society of Mechanical Engineers, Two Park Avenue, New York, NY 10016-5990, <https://www.asme.org/>.

(b) Field welds that are inaccessible or not in a manhole on new steam pipelines shall be nondestructively tested. A new pipeline shall be tested at system pressure.

(c) New construction pipelines shall be pressure tested to 1 1/2 times the maximum allowable operating pressure.

(d) Field welds made on existing steam pipeline facilities are subject to a program of random unannounced nondestructive testing to assess the quality of welding and test the work of each welder. The required minimum testing rate shall be 10% of all welds made during a calendar year. If 10% or more of the welds tested in a calendar year are found to be unacceptable, the test rate shall increase by 5% for the ensuing calendar year. If fewer than 10% of the welds are found to be unacceptable in a year when the required test rate was greater than 10%, the test rate may be decreased by 5% for the ensuing calendar year.

§ 61.51. Steam leaks and steam emergency reports.

(a) Emergency leaks require an immediate response to protect life and property and shall be worked continuously until repairs are completed or until the condition is no longer hazardous. An emergency leak includes any leak which could cause property damage or personal injury or any leak which, in the judgment of the operating personnel at the scene, is regarded as potentially hazardous.

(b) Nonemergency leaks include any leak which is not immediately hazardous at the time of discovery and can be reasonably expected to remain that way. Nonemer-

gency leaks shall be re-examined within 6 months from the date of discovery, and repaired within a reasonable time.

(c) A steam leak record, identified by number, shall be used to depict the entire history of a leak from the time of discovery through repair. The record must contain information as to the nature of the repair.

(d) A steam utility shall record data and compile a written report of each steam leak and steam emergency leak as defined in subsection (a).

(e) An event log shall be kept and maintained on file recording the receipt and handling of each event and must contain all of the following information:

(1) The location of leak or emergency.

(2) The time the report is first received.

(3) A description as to type of leak or emergency.

(4) The time personnel are first dispatched to the location.

(5) The time of arrival of personnel at the location.

(6) The times of dispatch and arrival of additional personnel called to the location.

(f) A steam utility shall have available for inspection by the Commission's Gas Safety Division, on or before the 16th day of each calendar month, a summary analysis of its performance in responding to reports of steam leaks and emergencies.

§ 61.52. Facility failure investigation.

(a) A steam utility shall establish procedures to analyze each failure that causes injury or damage for the purpose of determining its cause and to minimize the possibility of recurrence. The procedures must include a method to select samples of the failed facility or equipment for laboratory examination when necessary.

(b) The procedures must provide for complete cooperation with Commission staff, including using independent consultants, in testing or surveying equipment or systems deemed necessary by staff or the consultants for the investigation and analysis of a failure or accident to determine its cause and to minimize the possibility of recurrence.

(c) A facility failure occurs when the facility fails to perform the function it was designed for.

§ 61.53. Asbestos control.

(a) A steam utility shall have procedures to safely manage and abate asbestos materials from accessible manholes, vaults and other areas that contain steam facilities.

(b) A steam utility shall have emergency procedures to control and eliminate asbestos-contaminated debris resulting from the failure of a steam pipeline or facility.

(c) A steam utility shall have a program to maintain, in safe condition, asbestos materials on exposed piping and fittings in the steam distribution system and to eliminate asbestos materials to the extent practicable and feasible.

(d) The procedures must comply with applicable rules and regulations regarding the removal, handling and disposal of asbestos materials.

CHAPTER 67. SERVICE OUTAGES

§ 67.1. General provisions.

(a) Electric, gas, water, **steam** and telephone utilities holding certificates of public convenience under 66 Pa.C.S. §§ 1101 and 1102 (relating to organization of public utilities[;] and beginning of service; and enumeration of acts requiring certificate) shall adopt the following steps to notify the Commission with regard to unscheduled service interruptions.

(b) All electric, gas, water, **steam** and telephone utilities shall notify the Commission when 2,500 or 5.0%, whichever is less, of their total customers have an unscheduled service interruption in a single event for 6 or more projected consecutive hours. A service outage report shall be filed with the Commission within 10 working days after the total restoration of service. Where storm conditions cause multiple reportable interruptions as defined by this section, a single composite service outage

report shall be filed for the event. Each report must contain the following information:

* * * * *

(e) All electric, gas, water, **steam** and telephone utilities shall list in the local telephone directories of their service areas, and on their web sites, a telephone number to be used during normal operating hours and an emergency telephone number to be used 24 hours in emergency service situations.

(f) As defined in subsection (b), the service outage report must contain the required information except for the following utilities:

(1) Gas **and steam** utilities are not required to submit the information under subsection (b)(2), (5), (14), (15) and (16).

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