

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

CASE 01-M-1806 - In the Matter of the Review of Existing Commission Rules and Regulations Pursuant to the State Administrative Procedure Act, §207.

NOTICE OF PROPOSED CONTINUATION  
OF RULES

(Issued December 18, 2012)

NOTICE is hereby given that the Commission is reviewing rules listed on the attached Rule Review, as required by State Administrative Procedure Act, §207. The rules were adopted in 1998, 2003, and 2008 and are proposed to be continued without change. The rules include: 16 NYCRR §11, which modifies the rules and procedures governing the provision of energy service to residential utility customers; 16 NYCRR §262, requires testing of gas line employees that exhibit indicia of imbibing alcohol; 16 NYCRR §§21.2, 21.3, 603, 642, 644, amended rules that were routinely waived on a case by case basis, and were unnecessary for the regulation of certain companies; 16 NYCRR §§10 and 255, required regulatory revisions to bring rules into compliance with the federal regulations; and 16 NYCRR §§10 and 255, revisions to bring the regulations into conformity to Federal Regulations contained in Title 49, Code of Federal Regulations, Part 192.

Comments are welcome on the Rule Review. Any person wishing to comment should file electronically with the Acting Secretary at [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov). Those unable to file electronically may mail or deliver their comments to the Hon. Jeffrey C. Cohen, Acting Secretary, Public Service Commission, Three Empire State Plaza, Albany, NY 12223-1350. Comments should be submitted no later than March 1, 2013.

(SIGNED)

JEFFREY C. COHEN  
Acting Secretary

## **Rule Review**

### **PUBLIC SERVICE COMMISSION**

Pursuant to 207 of the State Administrative Procedure Act: Review of Existing Rules, notice is hereby provided that the Public Service Commission wishes to continue the following rules adopted in 1998, 2003, and 2008 without modification or as revised. Comments are welcome on proposed continuation of the rules. Any person wishing to comment should file electronically with the Acting Secretary at [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov). Those unable to file electronically may mail or deliver their comments to the Hon. Jeffrey C. Cohen, Acting Secretary, Public Service Commission, Three Empire State Plaza, Albany, NY 12223-1350. Comments should be submitted no later than March 1, 2013. Information about the rules may be obtained from: John C. Graham, Assistant Counsel, by e-mail at [john.graham@dps.ny.gov](mailto:john.graham@dps.ny.gov), or by phone at (518) 474-7687.

1. 16 NYCRR §11 (Case No. 96-M-0706).

a. Description of rules:

In an effort to reduce regulatory burdens on utilities while maintaining customer protections, this rulemaking was initiated to modify the rules and procedures governing the provision of energy service to residential utility customers. The enactment streamlined and clarified the language in the rules and allowed utilities to require proof of identity of all applicants for service.

b. Statutory Authority: PSL §§4 (1), 30 through 51, 66 (1) and 80 (1).

c. No hearings or public meetings are scheduled.

d. The rules are in effect and will continue.

e. Need and legal basis for the rules:

The rules are an outgrowth of the Public Service Commission's general supervision of gas, electric and steam corporations that protect consumers and allowed utilities to attempt to stop a common form of theft of services.

2. 16 NYCRR §262 (Case No. 97-G-0230).

a. Description of rules:

This rule expands the drug testing requirements of 16 NYCRR §262 to include alcohol testing as it applies to gas utility safety measures and requires testing of employees that exhibit indicia of imbibing alcohol.

- b. Statutory Authority: Title 49, Code of Federal Regulations, Part 199.
- c. No hearings or public meetings are scheduled.
- d. The rules are in effect and will continue.
- e. Need and legal basis for the rules:

The New York State Department of Public Service is certified under section 60105(a) of the Accountable Pipeline Safety and Partnership Act of 1996 to act as a representative for the Administrator of the Research and Special Programs Administration (RSPA) in enforcing pipeline safety regulations within New York State. A requirement of that certification is that State regulations be at least as stringent as Federal regulations.

3. 16 NYCRR §§21.2, 21.3, 603, 642, 644 (Case No. 97-C-0956).

- a. Description of Rules:

The preceding rules were deemed unnecessary for the regulation of certain telephone companies and therefore permanently waived by amendment to the code: 16 NYCRR sections 21.2 (details of a petition), 21.3 (evidence to be presented at a hearing) and Part 642 (retention of records) for facilities based carriers that do not provide local service and for non-incumbent facilities based local exchange companies; and 16 NYCRR Part 603 (service standards), section 644.3 (capital program filing) for facilities based carriers that do not provide local service. These rules were routinely waived on a case by case basis, and are unnecessary for the regulation of these companies.

- b. Statutory Authority: PSL §§4 (1), and 94 (2).
- c. No hearings or public meetings are scheduled.
- d. The rules are in effect and will continue.
- e. Need and legal basis for the rules:

The amendment will allow companies to be certified more quickly, without requiring rule waivers, enabling them to enter and compete more effectively in the telecommunications market.

4. 16 NYCRR §§10 and 255 (Case No. 97-G-1161).

- a. Description of rules:

Several amendments to the Federal pipeline safety regulations contained in 49 CFR

192, required revisions to Chapter I, Rules of Procedure, Subchapter A, General, Part 10, Referenced Material, section 10.3; and revised Chapter III, Gas Utilities, Subchapter C, Safety, Part 255, Transmission and Distribution of Gas. The revisions brought the Department's regulations into compliance with the federal rules.

- b. Statutory authority: PSL §§66 (2).
- c. No hearings or public meetings are scheduled.
- d. The rules are in effect and will continue.
- e. Need and legal basis for the rules:

PSL §66 (2) grants the Department of Public Service the power to investigate and ascertain the quality of gas supplied, the methods employed in distributing and supplying gas and the power to order such reasonable improvements as will best promote the public interest, preserve public health, and protect those using such gas supplies. The revisions are a logical extension of the Department's authority. The listing of standards and codes incorporated by reference in Part 10 was revised in order to reference current editions and provided contact information for the codes' publishers were updated. Part 255 was streamlined by revising or eliminating unnecessary and costly requirements.

5. 16 NYCRR §§10 AND 255 (Case No. 02-G-0134).

- a. Description of rules:

16 NYCRR Chapter I, Rules of Procedure, Subchapter A, General, Part 10, Referenced Material; and Chapter III, Gas Utilities, Subchapter C, Safety, Part 255, Transmission and Distribution of Gas, amended Part 10 and Part 255 of the code to conform to Federal Regulations contained in Title 49, Code of Federal Regulations, Part 192.

- b. Statutory authority: PSL §66.
- c. No hearings or public meetings are scheduled.
- d. The rules are in effect and will continue.
- e. Need and legal basis for the rules:

The listing of standards and codes incorporated by reference in Part 10 were revised in order to reference current editions of the standards and codes while contact information for the codes' publishers was updated. Part 255, Transmission and Distribution of Gas was updated to conform to the Federal Regulations promulgated.