

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on May 8, 2014

COMMISSIONERS PRESENT:

Audrey Zibelman, Chair
Patricia L. Acampora
Garry A. Brown
Gregg C. Sayre
Diane X. Burman

CASE 11-G-0565 - In the Matter of a Natural Gas Incident at 198
Joseph Street, Horseheads, on January 26,
2011, in the Service Territory of New York
State Electric & Gas Corporation.

ORDER READOPTING EMERGENCY ACTION
AND MODIFYING ORDER

(Issued and Effective May 14, 2014)

BY THE COMMISSION:

BACKGROUND

In an Order Requiring Risk Assessments and Remediation of New York Gas Facilities (issued and effective February 20, 2014) (Risk Assessment Order), we required, among other things, that each New York gas distribution company (LDCs, distribution companies) assess the risks associated with their underground gas facilities that are located near areas where excavation occurred subsequent to the installation of the gas facilities. Due to Staff's findings during its investigation in this case, it became apparent that the possibility exists that, as in Horseheads, New York, other areas exist in which gas facilities may have been affected by third party excavations. The Order

was adopted on an emergency basis under State Administrative Procedure Act (SAPA) §202(6).

On March 12, 2014, a Notice of Proposed Rulemaking was published in the State Register pursuant to SAPA §202(1), soliciting comments on the Risk Assessment Order. The SAPA §202(1)(a) period for submitting comments in response to the notice expired on April 28, 2014. Comments were submitted by the Northeast Gas Association (NGA), St. Lawrence Gas Co., Inc. (St. Lawrence), Central Hudson Gas & Electric Corporation (Central Hudson), New York State Electric & Gas Corporation (NYSEG), Rochester Electric & Gas Corporation (RG&E), and Brooklyn Union Gas Company d/b/a National Grid NY, KeySpan Gas East Corporation d/b/a National Grid and Niagara Mohawk Power Corporation d/b/a National Grid (collectively, National Grid).

DISCUSSION AND CONCLUSION

We are required by SAPA §202(6) either to adopt our February 20, 2014 Risk Assessment Order on a permanent basis within 90-days of the original order, by June 20, 2014; let it lapse; or extend the period within which action must be taken. Given the comments received, the need to address these comments, and the need to possibly amend the Risk Assessment Order when it is made permanent, our prior emergency approval should be extended.

Based upon the comments received, in this order we (1) extend the emergency SAPA period for 60 days; (2) grant a six month extension to the distribution utilities, to February 2015, to complete the risk assessments of their gas distribution systems; and (3) add the requirement that the distribution companies report every 45 days, beginning this August 20, 2104, on the progress of their risk assessments. The remaining

comments received will be addressed in the permanent Risk Assessment Order.

All of the commenters requested additional time to complete the gas facility risk assessments, seeking an extension to September 30, 2015. Further, commenters sought clarification on the types of records they needed to retain regarding excavation damage and the length of time each company would be required to retain the recordings of odor calls. Finally, commenters asked that the Risk Assessment Order that is made permanent include rate recovery of the expenses associated with the risk assessments and other requirements.

We re-adopt our Risk Assessment Order on emergency basis pursuant to SAPA §202(6)(b) for an additional 60-day period. We find that continuing the emergency action will preserve the general safety and welfare of New York residents and avoid possible impacts adverse to the public health, safety, and welfare. Pursuant to the Risk Assessment Order, the gas companies will continue the risk assessments of their gas distribution systems pending an order making permanent that requirement. Further, during this re-adoption period we will review all of the comments received pursuant to SAPA §202(1) and may further modify the Risk Assessment Order if it is reasonable to do so.

We are allowing a six month extension of time for the distribution companies to complete the risk assessments and add a reporting requirement whereby the distribution companies, every 45 days, will update Department Staff on the progress being made. The LDCs are complying with the other provisions of the Risk Assessment Order in a timely fashion. For instance, NYSEG continues its leakage surveys, has submitted its action plan for replacing all the of its gas facilities in Horseheads and the LDCs have been collaborating on "best practices" for

educating the public on reporting natural gas odors, as directed, and are developing new ways to reach local governmental entities regarding the potential hazards of excavation near gas facilities. The LDCs must report on those efforts by May 21, 2014; the report will include concrete improvements the LDCs will make to increase customer awareness and to educate local governments about excavation practices. Providing the distribution companies additional time to complete the risk assessments is necessary because the risk assessments require the LDCs, in the first instance, to determine the best way to identify the location of the highest risk pipe. While the LDCs are working closely with the Department to develop a rational approach for identifying the highest risk services, this step nonetheless requires a complex balance of thoroughness while considering the impact on ratepayer costs; therefore, it is reasonable that it will take more time than was previously authorized. Further, the LDCs are tasked with obtaining records and data that may be 50 years old or more, including data that may or may not be maintained by numerous municipalities. The effort to obtain such information is proving to be very time-consuming and labor intensive for LDCs, as well as for municipalities that, in many cases, rely on part time staff. Once the information is gathered, a plan to determine where verification excavations may be required must then be developed and executed. Excavations for this purpose are best scheduled in non-winter periods, which also limit the completion timeline for the full assessments. Allowing a six-month extension of certain requirements of the Risk Assessment Order, while the other requirements continue to be met by the natural gas utilities, ensures a proper balance of acting quickly to improve customer awareness of the need to report gas odors and education regarding excavation near gas facilities while simultaneously

providing for comprehensive and thorough risk assessments needed to identify longer-term risks to the natural gas system.

The Commission orders:

1. The Order Requiring Risk Assessments and Remediation of New York Gas Facilities, issued February 20, 2014, in this proceeding is readopted pursuant to State Administrative Procedure Act §202(6) to preserve the general health and welfare.

2. The Order Requiring Risk Assessments and Remediation of New York Gas Facilities, issued February 20, 2014, is modified to extend the requirement for the completion of the risk assessments conducted by New York State Gas & Electric Corporation, Niagara Mohawk Power Corporation, d/b/a National Grid, Central Hudson Gas and Electric Corporation, Consolidated Edison Company of New York, Inc., Corning Natural Gas Corporation, Keyspan East Corp., d/b/a Brooklyn Union L.I., National Fuel Gas Distribution Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation, St. Lawrence Gas Company, Inc., Brooklyn Union Gas Company, Valley Energy, Inc., Bath Electric, Gas Water Systems, Fillmore Gas Company, Reserve Gas Company, and Woodhull Municipal Gas Company to February 20, 2015.

3. The Order Requiring Risk Assessments and Remediation of New York Gas Facilities, issued February 20, 2014, is modified to include the requirement that, beginning August 20, 2014, New York State Gas & Electric Corporation, Niagara Mohawk Power Corporation, d/b/a National Grid, Central Hudson Gas and Electric Corporation, Consolidated Edison Company of New York, Inc., Corning Natural Gas Corporation, Keyspan East Corp., d/b/a Brooklyn Union L.I., National Fuel Gas Distribution Corporation, Orange and Rockland Utilities, Inc., Rochester Gas

and Electric Corporation, St. Lawrence Gas Company, Inc., Brooklyn Union Gas Company, Valley Energy, Inc., Bath Electric, Gas Water Systems, Fillmore Gas Company, Reserve Gas Company, and Woodhull Municipal Gas Company shall report every 45 days on the progress of the risk assessments.

4. The Secretary in her sole discretion may extend the deadlines set forth in this order, provided the request for such extension is in writing, includes a justification for the extension, and is filed on a timely basis, which should be on at least one day's notice prior to any affected deadline.

5. This proceeding is continued.

By the Commission,

KATHLEEN H. BURGESS
Secretary