

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held in the City of  
Albany on June 26, 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 MAKING PERMANENT RISK ASSESSMENT ORDER  
AND CLARIFYING REQUIREMENTS

(Issued and Effective June 27, 2014)

BY THE COMMISSION:

INTRODUCTION

On February 20, 2014, the Commission issued by emergency rule an Order Requiring Risk Assessments and Remediation of New York Gas Facilities (issued February 20, 2014) (Risk Assessment Order). On May 14, 2014, the Commission extended the Emergency Adoption, pursuant to State Administrative Procedure Act (SAPA) §202(6), for 60 days and granted a six month extension to the gas utilities to complete their risk assessments.<sup>1</sup> The Risk Assessment Order, in addition to requiring local distribution companies (LDCs) to conduct risk assessments of their gas distribution

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<sup>1</sup> See 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 May 14, 2014) (Joseph Street incident).

systems, required them to review and maintain records detailing those areas in their systems that may have been damaged by third party excavation and to retain copies of audio recordings of natural gas odor calls. In this order, and in response to comments received on the Risk Assessment Order, we make the Risk Assessment Order permanent, clarify our record review and maintenance requirements, limit the time period during which audio recordings must be kept to three years, and address the requests for rate recovery.<sup>2</sup>

### COMMENTS

SAPA comments were received from The Northeast Gas Association (“on behalf of the LDCs”), 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 (National Grid), Central Hudson Gas & Electric Corporation (CHG&E), St. Lawrence Gas Co. Inc. (St. Lawrence Gas), New York State Electric & Gas Corporation, and Rochester Gas & Electric Corporation (NYSEG & RG&E) (collectively, Commenters). Commenters asked for clarification pertaining to the requirement that LDCs (1) “review all company records of exposed pipelines to ensure that they are accurate and complete;” and (2) “maintain all records indicating that damage may have occurred to facilities in an organized system that is readily available for Staff review.” Commenters also sought clarification on how long they must retain audio recordings of natural gas odor calls and asked for a determination on rate treatment for the costs associated with these and the risk assessment requirements.

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<sup>2</sup> On May 21, 2014, the LDCs filed their reports on the Public Awareness and Education collaborative also required by the Risk Assessment Order. The Commission will address the LDCs’ reports at an upcoming session.

## DISCUSSION

Due to the need to identify latent problems that may exist with gas facilities in New York State that could lead to a gas incident, we make permanent the Risk Assessment Order. Gas utilities are routinely notified to mark out where third party excavations will occur near existing, buried, facilities. As we found in the investigation into the Joseph Street incident, if excavations are not performed carefully and in compliance with regulations, conditions can be left that might cause a pipeline failure years later. The risk assessments that the LDCs have begun is one of the many steps being taken to make our gas infrastructure safer. The records review and maintenance requirements in the Risk Assessment Order are also necessary components to ensure safety because such records can provide a roadmap to possible problems. Further, Department of Public Service Staff (Staff) must be able to efficiently investigate gas utilities after an incident occurs. Therefore, we clarify in this order the purpose of and extent to which LDCs must review and maintain their gas service records.

### Review of Records

St. Lawrence Gas and National Grid sought clarification on the Risk Assessment Order's requirement (Ordering Clause 11) that the LDCs' "review all company records of exposed pipelines to ensure that they are accurate and complete." St. Lawrence Gas seeks guidance on what the Commission means by records that are "accurate and complete;" National Grid seeks clarification of what "exposed pipeline" means. This requirement is intended to direct the LDCs to go through their currently held records that document observed conditions of pipe that has been exposed. These records would include, but not be limited to leak repairs, corrosion control, and notices of third-party damage. The record review should be conducted with an eye towards identifying gaps in knowledge or logical inconsistencies (for example, weld failure on a plastic pipeline or plastic fusion failure on a steel pipeline). In doing so, the LDCs may discover unusual or unexpected issues that indicate potential problems with buried facilities, record-keeping, or both. We recognize that "accurate and complete" is subjective and

that it is difficult to define exactly the criteria in advance of any review. Our intent is that records be searched and organized so that they provide value to the risk assessments required by the Risk Assessment Order, and to the LDCs' ongoing operation and maintenance of their systems, particularly as they relate to their gas distribution integrity management programs. Rather than being able to declare all records are in fact "accurate and complete," our intent is to improve the quality and usefulness of these records so that they can be analyzed to see if links or patterns exist between them. For instance, a review of company records may indicate a correlation of leak repairs and third party damage by certain excavators.<sup>3</sup> The Risk Assessment Order charged the LDCs with creating record-keeping systems that allow for the identification of such correlations of historical activity in their gas systems.

No doubt this review requires a professional's comprehensive and subjective assessment and experience in gas safety, company procedures, and construction practices. On the other hand, the companies will likely also find that many one-call notices, leak repairs records, and one-time damage notices signal no need for further review.

### Record Maintenance

The Risk Assessment Order also requires that LDCs "maintain all records indicating that damage may have occurred to facilities in an organized system that is readily available for Staff review" (Ordering Clause 12). Commenters claim that assessing whether "damage may have occurred to facilities" is vague and not possible to determine; therefore, they cannot establish which records should be maintained. CHG&E recommends the requirement be limited to where evidence of damage is "known or reported" after having been confirmed by employees. CHG&E also asks whether this

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<sup>3</sup> We encourage the LDCs to share with each other information and insights of which they become aware that may assist another utility, such as repeated damage by an individual third-party contractor or factors that might have contributed to inaccurate records.

requirement means that LDCs should maintain records of one-call contractors who repeatedly ignore one-call requirements. Others ask whether *all* one-call notices should be maintained.

There are three primary purposes of Ordering Clause 12. The first is that LDCs maintain records so that Department Gas Safety Staff are able to readily locate records relevant to the investigation of a gas incident or to an audit or inspection of an LDC's safety code compliance. The second purpose is for the LDC's own benefit, as discussed above – to inform the risk assessments and to improve the quality and usefulness of records for ongoing operation and maintenance.<sup>4</sup> Another goal is to improve each LDC's ability to analyze the information to look for trends or patterns. As for what constitutes a record “indicating that damage may have occurred” our intent is that the record contain a positive indication that damage might have occurred, such as notations of dents, gouges, scratches, degraded coating, backhoe teeth marks, sagging, bowing or bending of the pipe, or poor backfill conditions.

#### Odor Calls Retention Records

The Commission's rules, 16 NYCRR Part 293, require that all gas companies retain records and hold them for inspection by Staff until the Commission approves the transfer of utility property. Therefore, LDCs must maintain hard copy records of odor calls consistent with this requirement. The audio recordings required by the Risk Assessment Order, however, need only be held for three years. Because such calls are vital to Staff investigations, they must be available to Staff after a gas incident. Practically speaking, however, such Staff investigation will not look back further than three years prior to an incident because it is highly unlikely that odor calls made more than three years before an incident occurs will be related to the incident.

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<sup>4</sup> In this regard, CHG&E's suggestion that LDCs retain records of one-call contractors who repeatedly ignore one-call requirements is sound.

Cost Recovery

All of the Commenters asked that the Commission rule on cost recovery for the utilities to conduct their system-wide risk assessments. CHG&E suggests such assessment will cost the company \$900,000. National Grid asks for a ruling that such costs may be deferred. The Northeast Gas Association asks that these costs be addressed in upcoming utility rate cases.

Each utility's rate plan contains different provisions relating to incremental costs and cost recovery for new programs. Further, it is likely that the utilities already have, at least at some level, an ongoing risk assessment program the costs for which are built into current rates. Thus, it is not appropriate to decide cost recovery in this order. To the extent such costs are not covered by its current rate plan, each utility may file a petition requesting deferral accounting treatment for the incremental costs to comply with the Risk Assessment Order. Utilities are cautioned that, in considering such petitions, we will apply our traditional process for evaluating deferral accounting requests and would not favorably consider requests that do not satisfy the three elements of that process.<sup>5</sup>

The Commission orders:

1. The Order Requiring Risk Assessments and Remediation of New York Gas Facilities (issued February 20, 2014) is made permanent;
2. The Order Requiring Risk Assessments and Remediation of New York Gas Facilities (issued February 20, 2014) is clarified as discussed in this order;
3. Audio recordings of odor reports made to New York State Electric & Gas Corporation, Brooklyn Union Gas Company d/b/a National Grid NY, KeySpan Gas East Corporation d/b/a National Grid, Niagara Mohawk Power Corporation d/b/a National

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<sup>5</sup> To qualify for deferred accounting treatment, an item must be incremental to current rates; the amount must be material to the utility's earnings; and the utility cannot be over earning.

Grid, Central Hudson Gas and Electric Corporation, Consolidated Edison Company of New York, Inc., Corning Natural Gas Corporation, National Fuel Gas Distribution Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation, St. Lawrence Gas Company, Inc., Valley Energy, Inc., Bath Electric, Gas Water Systems, Fillmore Gas Company, Reserve Gas Company, Woodhull Municipal Gas Company, and the Village of Hamilton Municipal Utilities Commission shall be held for three years.

4. This proceeding is continued.

By the Commission,

KATHLEEN H. BURGESS  
Secretary