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COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA HISTORICAL AND MUSEUM COMMISSION
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EXECUTIVE DIRECTOR

July 2, 2012

Pennsylvania Public Utility Commission
Attn: Secretary Rosemary Chiavetta
P.O. Box 3265
Harrisburg, PA 17105-3265

RE: Comments on Docket No. L-2009-2107155, Amendment to 52 Pa. Code Sec. 59.18 Meter Location

Dear Secretary Chiavetta:

The Pennsylvania Historical and Museum Commission's (PHMC) Bureau for Historic Preservation has reviewed the abovementioned Proposed Rulemaking Order. We believe the regulation is necessary and has the potential for positive outcomes for gas utilities as well as municipalities and property owners with historic preservation interests. However we would like to recommend some revisions to the proposed regulation to ensure that the language is consistent with federal and state historic preservation laws and practices.

The PHMC's Bureau for Historic Preservation serves as the State Historic Preservation Office (SHPO). It is the responsibility of the SHPO to administer the Commonwealth's historic preservation programs under the authority of the National Historic Preservation Act and the Pennsylvania History Code and to provide services to the citizens of Pennsylvania to carry out these programs. The PHMC respectfully requests the Pennsylvania Utility Commission consider our comments regarding the proposed amendment to the rulemaking order for gas meter placement and location.

I. The nature of historic preservation interests in meter location

The PHMC has been contacted by municipal representatives from various parts of the Commonwealth with concerns about the adverse visual effects of new gas meters placed within historic districts and in front of historic properties. These municipalities consider the historic character of their communities to be an invaluable and irreplaceable asset and an essential component of their communities' viability and economic competitiveness. Many of these municipalities have long-standing local preservation programs, often supported by ordinances to ensure that the historic characteristics of their communities are maintained. The PHMC administers numerous programs to assist these communities and regularly responds to inquiries from individuals, businesses, and other parties related to historic preservation concerns.

The PHMC would like to clarify a statement in the Discussion related to these interests that we believe is inaccurate. The paragraph begins with "Finally, several utilities provide service in historic districts where municipal laws require the meter set to be located inside structures." This isn't necessarily true in Pennsylvania. After consulting representative examples of local historic preservation ordinances and related guidelines, the PHMC is unable to identify any locally adopted historic property regulations that specifically stipulate the location of gas meters. A more likely scenario is that when utilities are attempting to install or relocate meters on the exteriors of properties within locally designated historic districts, such work may be subject to review by local boards or commissions if the meter location is visible from a public way. We believe that to suggest that some municipalities are unilaterally requiring gas meters to be located on the interiors of structures simply because the structures are historic, mischaracterizes the nature and intent of the interest in meter location.

II. Definitions of historic properties

The PHMC would like to assist the PUC with clarifying the definitions in the proposed rulemaking order pertaining to historic properties; currently the language is not consistent with federal or state historic preservation laws. For example: §59.18 (c)(1)(i) explains that inside meter locations shall be considered for properties located in “Federally approved Historic Districts.” We interpret the intent of this definition to refer to historic districts that are listed in the National Register of Historic Places, however the term “Federally approved” does not appear in either the National Historic Preservation Act or the Pennsylvania History Code and is not likely to be easily understood by practitioners or citizens. It is also leaves open to interpretation how broadly this rule is intended to be applied.

A. Inclusion of individual properties

The current definition limits consideration to properties located in historic districts, but it is PHMC’s opinion that this excludes many individual historic properties that might be impacted by meter location. This is especially true for properties that are open to the public or are managed as museum or educational facilities. The conspicuous placement of a meter on a property that interprets 18th-century life would be noticeably disruptive to the site’s interpretive mission. That is not to say that all exterior locations would be off the table, but selection of an appropriate, inconspicuous location requires thoughtful consideration. PHMC recommends broadening the applicability of this rule to include individually designated historic properties.

B. The National Register of Historic Places

The National Register of Historic Places, established by the National Historic Preservation Act and implemented according to the regulations promulgated by the National Park Service (36 CFR Part 61), is the most common “inventory” program used by Federal and State government agencies for regulatory and incentive programs. These implementing regulations distinguish between properties that are formally “listed” in the National Register and those that are “eligible for listing” in the register. The “eligible” category applies to properties that have been formally evaluated by qualified professionals at State or Federal agencies and have been determined to meet the listing criteria, but have not yet gone through the formal listing process. For regulatory compliance purposes these two categories are treated the same and are subject to the same level of review and consideration. As written, the definition could be construed to mean only National Register listed properties or both listed and eligible properties, but the intent is unclear. PHMC and the National Park Service evaluate and process listing documents for new properties on a daily basis, so the inventory of properties is constantly evolving.

C. Historic designation under local law

The current definition also fails to recognize historic properties that are designated under local law. In many instances, locally designated historic districts (which are then subject to review and regulation) may also be listed in or eligible for the National Register, either in whole or in part. However, there is no requirement that these district boundaries be coterminous, or that National Register districts be locally designated or vice-versa. Thus, by limiting the definition only to National Register listed or eligible properties, the rule may not apply to locations where the most intense local scrutiny might occur.

The Pennsylvania Historic District Act authorizes municipalities to “...consider the effect which the proposed change will have upon the general historic and architectural nature of the district.” Similarly, under the Pennsylvania Municipalities Planning Code, a municipality may adopt a zoning overlay to regulate changes that could affect historic properties. Under either law, the municipality typically relies on local design guidelines or the Secretary of the Interior’s *Standards for Rehabilitation* to interpret and enforce the ordinance. In Pennsylvania, municipal guidelines are silent on issues related to the location of gas meters. However it is the opinion of the PHMC that gas meters would be reviewable under the authority of both laws, allowing municipalities to evaluate the appropriateness of the location if the meter can be seen from a public street or way.

We recommend that the definition be rephrased to use standardized terms that relate directly to existing Federal, State, and local statutes, regulations, and guidelines. Such consistency will make implementation of this rule more straightforward for both the utilities and municipalities, and make it easier for outside entities, such as PHMC, to provide technical assistance and information. We recommend that §59.18(c)(1)(i) be revised to read as follows:

An acceptable outside location is not available because the property is listed in or eligible for listing in the National Register of Historic Places, located within a historic district that is listed in or eligible for listing in the National Register of Historic Places, or has been designated as historic under the Pennsylvania Historic District Act, Municipalities Planning Code, or municipal home rule charter.

III. Recommendation to develop design guidelines as part of a tariff

Recognizing that while the building stock and spatial arrangement of each Pennsylvania municipality and community is unique, there are some common forms and commonly recurring issues related to gas meter location across the Commonwealth. To accommodate the various interests identified by the PUC, the utilities, the municipalities, and the PHMC, we recommend that the rulemaking order include a requirement for utilities to develop design guidelines that address common issues related to meter placement and incorporate these guidelines into their tariff.

The proposed design guidelines should be general in nature and be developed collaboratively with the involvement of municipalities with active preservation programs, the utilities, and the PUC; PHMC will happily agree to facilitate this discussion and assist in the development of the guidelines. The guidelines should be incorporated into the utilities' tariffs and applied in municipalities with historic preservation ordinances or zoning overlay districts. Additionally, these design guidelines could also be used for properties that are listed in the National Register to avoid the need to consult with each homeowner independently. The owners of National Register properties could be required to submit a letter from the PHMC confirming the property's National Register status.

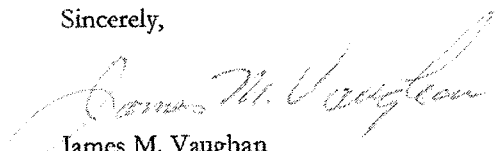
IV. Request for additional public meetings prior to implementation

Due to the number of municipalities in Pennsylvania that would be affected by this Proposed Rulemaking Order, we are requesting that PUC conduct additional public meetings in communities with ordinances regulating historic properties. The PHMC can help identify appropriate meeting locations that would be convenient to many of these municipalities. This would help to comprehensively address the interests of all municipalities with historic preservation programs that are being implemented under the Pennsylvania Historic District Act and Municipalities Planning Code.

Again, The Pennsylvania Historical and Museum Commission is supportive of the Proposed Rulemaking Order for Gas Meter Location Regulations and is appreciative of the consideration afforded historic properties in the regulation. We believe the order could be improved to accomplish both public safety as well as the protection of Pennsylvania's historic properties. Thank you for your time and consideration of our recommendations.

Please do not hesitate to contact me if I can provide any additional information or be of assistance when you revise your Proposed Rulemaking Order. Thank you.

Sincerely,



James M. Vaughan
Executive Director