

<h2 style="margin: 0;">Regulatory Analysis Form</h2> <p style="margin: 0;">(Completed by Promulgating Agency)</p> <p style="margin: 0;">(All Comments submitted on this regulation will appear on IRRC's website)</p>	<p>INDEPENDENT REGULATORY REVIEW COMMISSION</p> <p style="font-size: 2em; margin: 0;">2017 SEP 11 P 2:16</p> <p style="font-size: 2em; margin: 0;">RECEIVED IRRC</p>
<p>(1) Agency Public Utility Commission (PUC)</p>	<p>IRRC Number: 3131</p>
<p>(2) Agency Number: L-2015-2498111 Identification Number: 57-311</p>	
<p>(3) PA Code Cite: 52 Pa. Code §§ 61.1, 61.11, 61.12, and 67.1 (revising) and 52 Pa. Code §§ 61.41-61.53 (adding)</p>	
<p>(4) Short Title: Rulemaking Re Steam Heat Distribution System Safety Regulations</p>	
<p>(5) Agency Contacts (List Telephone Number and Email Address): Primary Contact: Stanley E. Brown, 717-783-3968, stabrown@pa.gov Secondary Contact: Bob F. Young, 717-787-3173, rfyoung@pa.gov</p>	
<p>(6) Type of Rulemaking (check applicable box):</p> <p><input type="checkbox"/> Proposed Regulation</p> <p><input checked="" type="checkbox"/> Final Regulation</p> <p><input type="checkbox"/> Final Omitted Regulation</p>	<p><input type="checkbox"/> Emergency Certification Regulation;</p> <p><input type="checkbox"/> Certification by the Governor</p> <p><input type="checkbox"/> Certification by the Attorney General</p>
<p>(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)</p> <p>The PUC regulates the distribution systems of jurisdictional steam utilities that provide steam heat distribution service to or for the public for compensation. Accordingly, the PUC proposes to amend and expand its steam regulations to facilitate safety inspections of steam distribution facilities by PUC Pipeline Safety inspectors in order to promote and ensure public safety.</p>	
<p>(8) State the statutory authority for the regulation. Include <u>specific</u> statutory citation.</p> <p>The Public Utility Code, 66 Pa. C.S. § 501, 1501 The Commonwealth Documents Law, 45 P.S. §§ 1201-1202 The Commonwealth Attorneys Act, 71 P.S. § 732.204(b) The Regulatory Review Act, 71 P.S. § 745.5 The Administrative Code of 1929, 71 P.S. § 232</p>	

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

No. The specific regulation is not mandated by any state/federal law or court action. There are no deadlines for action.

However, the regulation incorporates by reference relevant state laws and industry codes in Section 61.42 regarding safety and compliance with standard code. Here, the PUC explained that steam utilities must adhere to the Underground Utility Line Protection Act ("PA One Call"). See 73 P.S. § 176. 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 the PUC's gas regulations, 52 Pa. Code § 59.33(d), Section 61.42(d), explains 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), 61.42(e), requires a steam utility to keep adequate records to assure compliance with this subsection. This recordkeeping requirement is for three years.

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), Section 61.42(b) requires steam utilities to comply with standard code.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

The regulation is in furtherance of public safety and the public interest. The purpose of the regulation is to ensure PUC Pipeline Safety inspectors have the means and mechanisms to effectively inspect the steam distribution facilities under the jurisdiction of the PA Public Utility Commission. The customer and the public at large benefit when steam distribution facilities are run safely and effectively. As explained in the *Final Rulemaking Order*, the public at large can become endangered due to a steam leak or steam heat explosion, similar to the accident involving Con Edison in New York City. See *Final Rulemaking Order* at p. 2-3. While there are currently only two jurisdictional steam distribution utilities in the Commonwealth, thousands of people (as customers and members of the public) stand to benefit directly and indirectly from these regulations. See *id.*

(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

There are no relevant federal standards for comparison. However, the PUC examined the standards in New York, which are fairly stringent. The PUC did not incorporate all of New York's stringent standards. However, making standards more stringent is in the public interest because Pennsylvania, like New York, has old piping underground and older facilities, which are more prone to safety issues.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

As stated above, the PUC examined the standards in New York, which are fairly stringent. The PUC did not incorporate all of New York's stringent standards. However, making standards more stringent is in the public interest because Pennsylvania, like New York, has old piping underground and older facilities, which are more prone to safety issues.

Notably, many states do not have steam heat facilities or regulate steam heat facilities at the statewide level like Pennsylvania. This is not a growing area of industrial development and thus should not affect Pennsylvania's ability to compete with other states. Furthermore, steam heat distribution systems are typically rate-regulated as monopoly providers in a single service territory by a utility commission or other ratemaking body or cooperative. Accordingly, steam distribution companies do not directly compete with each other on an intrastate or interstate level.

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No. As explained in the *Final Rulemaking Order*, the PUC regulates the distribution facilities of jurisdictional steam public utilities. 66 Pa. C.S. §§ 102, 501. The PUC 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 (L&I) retains legal authority and regulatory oversight by conducting the inspections of the boilers that produce the steam. 35 P.S. § 1331.1; see 34 Pa. Code §§ 3a.1-3a.171. However, this regulation should not affect Pennsylvania Department of Labor and Industry's authority and oversight of the boilers that produce the steam.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. (“Small business” is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

As explained in the *Final Rulemaking Order*, PUC staff informally drafted 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 several years, formally meeting in person with NRG and Veolia representatives on December 17, 2013; May 27, 2014; December 16, 2014; and March 24, 2015.

PUC staff held these meetings with representatives of the steam companies in order to facilitate the regulatory review process and in the spirit of the Regulatory Review Act. *See* 71 P.S. 745.2.

15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

Currently, 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). NRG and Veolia will be subject to the inspection and maintenance requirements in the *Final Rulemaking Order*. This ranges from regulations related to notification of major construction, operating and maintenance plans, customer education, recordkeeping, employee training, periodic inspections, steam leaks and emergency report, welding, and service outage reports.

The PUC reviewed the standards set forth by 13 CFR § 121.201 and the U.S. Small Business Table of Small Business Size Standards Matched to North American Industry Classification System (NAICS) Codes to determine the applicability of this rulemaking to small businesses. The closest relevant small business standards are as follows:

Sector 22 – Utilities

Subsector 221 – Utilities

221111	Hydroelectric Power Generation	500 (# employees)
221112	Fossil Fuel Electric Power Generation	750 (# employees)
221113	Nuclear Electric Power Generation	750 (# employees)
221114	Solar Electric Power Generation	250 (# employees)
221115	Wind Electric Power Generation	250 (# employees)
221116	Geothermal Electric Power	250 (# employees)

	Generation	
221117	Biomass Electric Power	250 (# employees)
	Generation	
221118	Other Electric Power Generation	250 (# employees)
221121	Electric Bulk Power Transmission and Control	500 (# employees)
221122	Electric Power Distribution	1,000 (# employees)
221210	Natural Gas Distribution	500 (# employees)
221310	Water Supply and Irrigation Systems	\$27.5 (in millions)
221320	Sewage Treatment Facilities	\$20.5 (in millions)
221330	Steam and Air-Conditioning Supply	\$15.0 (in millions)

As you can see, steam heat distribution is not a category. Steam and air conditioning supply is close, but supply is different than distribution, as a steam distribution company distributes the steam through its system and does not produce the steam. Production of steam is regulated by L&I whereas steam distribution is regulated by the PUC. Natural gas distribution may be a more applicable standard to steam heat distribution. The PUC has access to specific reported revenues of Veolia, NRG-Pittsburgh, and NRG-Harrisburg.

For the 2016 calendar year, Veolia reported to the PUC an annual revenue of \$66,812,474. Therefore, under the steam supply standard of less than \$15 million in revenues, Veolia would not qualify as a small business. See <http://www.veolianorthamerica.com/en/our-services/energy-services/district-heating>.

For the 2016 calendar year, NRG-Pittsburgh reported to the PUC an annual revenue of \$12,404,867 and NRG-Harrisburg reported an annual revenue of \$7,206,006. Therefore, under the steam supply standard of less than \$15 million in revenues, the two NRG Energy Centers would qualify as small businesses from an individuated standpoint. However, this standard does not account for the efficiencies and sharing of resources realized through the corporate relationship between NRG-Harrisburg and NRG-Pittsburgh. If you view NRG-Pittsburgh and NRG-Harrisburg as one company, then over \$19 million revenues are realized, which is greater than the \$15 million or less standard. However, since the NRG companies are two separately incorporated companies, we will consider them accordingly. The NRG-Harrisburg Center has under 50 employees and would thus constitute a small business under the natural gas distribution standard. The NRG-Pittsburgh Center also has under 50 employees and would thus constitute a small business under the natural gas distribution standard.

We note that these NRG Centers are more accurately described as sophisticated larger “small businesses” with larger corporate families than traditional, stand-alone “small businesses.” It is also important to note that the NRG Energy Centers have a large parent company and numerous affiliates providing various goods and services in the energy world. Therefore, these entities may not be viewed as small businesses in the traditional sense. See <http://www.nrg.com/business/large-business/distributed-generation/district-heating-cooling/pittsburgh/> and <http://www.nrg.com/business/large-business/distributed-generation/district-heating-cooling/harrisburg/>.

However, for the purposes of this question, we will conclude that there are 2 small businesses – NRG-

Harrisburg and NRG-Pittsburgh – affected by this rulemaking. All of the customers of the three steam utilities in the Commonwealth will be affected by this rulemaking, which aims to ensure safe and adequate steam distribution service. The public at large is affected because this rulemaking aims to protect the public from potential accidents or incidents involving steam facilities.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

As explained above, Veolia is not a small business, and NRG Energy Centers in Pittsburgh and Harrisburg may be small businesses, depending on one's vantage point. Any other entity that offers steam distribution services to or for the public for compensation in the Commonwealth will need a certificate of public convenience from the PUC to legally operate, which will make that entity subject to these regulations.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

As explained above in Question 10, the regulation is in furtherance of public safety and the public interest. The purpose of the regulation is to ensure PUC Pipeline Safety inspectors have the means and mechanisms to effectively inspect the steam distribution facilities under the jurisdiction of the PA Public Utility Commission. The customer and the public at large benefit when steam distribution facilities are run safely and effectively. As explained in the *Final Rulemaking Order*, the public at large can become endangered due to a steam leak or steam heat explosion, similar to the accident involving Con Edison in New York City. See *Final Rulemaking Order* at p. 2-3. While there are currently only three jurisdictional steam distribution utilities in the Commonwealth, thousands of people (as customers and members of the public) stand to benefit directly and indirectly from these regulations. See *id.* If there is a serious and significant accident involving steam distribution facilities, this could yield serious financial consequences through liability issues and litigation. Effective inspections that ensure safety at these facilities minimizes the likelihood of those serious financial consequences.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

The costs will be realized by the steam distribution utilities, who will need to ensure their facilities comply with the specific standards in this rulemaking. The regulations require, among other things, notification of major construction, operating and maintenance plans, customer education, recordkeeping, employee training, periodic inspections, steam leaks and emergency reporting, welding, and service outage reports.

If a steam utility has to replace equipment, upgrade its facilities, and/or hire more staff in order to comply with the regulations, the steam utility may need to seek a rate increase from the PUC, which could cause rates to increase for the steam utility's customers. However, in making those changes, the

steam utility could realize greater operational efficiencies and new equipment likely will not require the same level of repair and modification as old equipment. Additionally, these regulations do provide some flexibility for grandfathered facilities, as the Commission has the discretion to determine whether a particular upgrade is necessary. *See* Section 61.42.

These regulations establish clear procedures and requirements regarding the inspections of the facilities of steam distribution utilities. Under the Public Utility Code, steam utilities must “maintain adequate, efficient, safe, and reasonable service and facilities” and “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. Therefore, these regulations do not necessarily create an additional adverse financial impact, as these regulations could help prevent an accident (and the costs of inspections would likely be much less than the cost of litigation and liability after a major accident). *See* Answers to Question 21 below.

(19) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The regulations do not create specific costs or savings to the regulated community that are easily forecasted and quantifiable. Through these regulations, the PUC’s Pipeline Safety Division will be empowered with the authority to conduct inspections of steam distribution facilities under the PUC’s jurisdiction. These inspections could initially take more time and resources of the steam distribution companies. However, proper inspections and advisement by PUC staff to the steam companies could end up saving time, money, and resources in the long-term by preventing an accident or a facility breakdown, thereby avoiding extensive investigations and potential litigation. In short, safe and effective regulations could impose some costs in the near term, but avoid greater costs arising from an accident or incident.

In response to IRRC’s request to revise the Regulatory Analysis Form to elaborate on the need and reasonableness of the dual reporting requirements, we find it appropriate to continue our long-standing practice of dual reporting which has been agreed to by both the NRG Companies and VEPI. Neither the NRG Companies or VEPI have expressed difficulty in complying with this long-standing practice. As to the revisions, we prefer that the revisions be reported solely to the now Pipeline Safety Division, which has an immediate need for updated information.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The regulations create no new costs to local governments, but could avoid costs attendant to any accident that affects a local government.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

The regulations do not create specific costs or savings to the state government. Through these regulations, the PUC's Pipeline Safety Division will be empowered with the authority to conduct inspections of steam distribution facilities under the PUC's jurisdiction. These inspections could initially take more PUC staff time and thus state resources. However, proper inspections and advisement by PUC staff to the steam companies could end up saving time, money, and resources in the long-term by preventing an accident or a facility breakdown, thereby avoiding extensive investigations and potential litigation. In short, safe and effective regulations could impose some costs in the near term, but avoid greater costs arising from an accident or incident.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

In implementing these regulations, the PUC's Pipeline Safety Division will create and utilize an inspection report to guide the conduct and reporting safety requirements for steam distribution utilities under the PUC's jurisdiction.

The steam distribution utilities are the only entities required to submit more records and reports under these proposed regulations. As explained in the *Final Rulemaking Order*, steam utilities will have to provide accident reports to the Commission. This requirement is similar to the pre-existing accident report requirements for gas and electric utilities under the PUC's jurisdiction. Therefore, this reporting requirement is not any more stringent than existing regulations that already govern the conduct of other utilities.

As explained in the *Final Rulemaking Order*, steam utilities will have to provide service outage reports and notifications to the Commission. This requirement is similar to the pre-existing service outage reporting requirements for gas, electric, water, and telecommunications utilities under the PUC's jurisdiction. Therefore, this reporting requirement is not any more stringent than existing regulations that already govern the conduct of other utilities.

As to recordkeeping requirements, steam companies have a provision similar to the regulatory provision for gas utility companies under the PUC's jurisdiction. *See* 52 Pa. Code § 59.33(d); *see* Section 61.42(e); *see also* Section 61.49.

Similar to the Commission's gas regulations at 52 Pa. Code § 59.38, the PUC requires the steam utility

to notify the Commission and the Commission's Pipeline Safety Division of proposed major construction, reconstruction, or maintenance at least 30 days in advance of commencing work.

In Section 61.44, the PUC requires steam utilities to establish and file with the Secretary of the Commission and the Pipeline Safety Division a detailed, written operating and maintenance plan. In Section 61.45, we advise the steam distribution companies that they must adhere to the Commission's existing regulations regarding security planning and emergency contact lists.

In Section 61.46, we require steam utilities to file annually with the Commission a customer education and information program.

In Section 61.51, we require the submission of steam leaks and steam emergency reports, as discovered by the steam companies.

While drafting these rules, the PUC was careful to only require reports annually or as those reports were actually needed. The purpose of the reporting requirements is public safety. We note that these rules are not quite as strict as the New York regulations. See 16 NYCRR §§ 420.1-420.15.

(22a) Are forms required for implementation of the regulation?

No.

(22b) If forms are required for implementation of the regulation, **attach copies of the forms here**. If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. **Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.**

N/A

(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	Not quantifiable (NQ)	NQ	NQ	NQ	NQ	NQ
Local Government	N/A	N/A	N/A	N/A	N/A	N/A
State Government	NQ	NQ	NQ	NQ	NQ	NQ
Total Savings	NQ	NQ	NQ	NQ	NQ	NQ
COSTS:						
Regulated Community	NQ	NQ	NQ	NQ	NQ	NQ

Local Government	N/A	N/A	N/A	N/A	N/A	N/A
State Government	NQ	NQ	NQ	NQ	NQ	NQ
Total Costs	NQ	NQ	NQ	NQ	NQ	NQ
REVENUE LOSSES:						
Regulated Community	N/A	N/A	N/A	N/A	N/A	N/A
Local Government	N/A	N/A	N/A	N/A	N/A	N/A
State Government	N/A	N/A	N/A	N/A	N/A	N/A
Total Revenue Losses	N/A	N/A	N/A	N/A	N/A	N/A

(23a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
N/A	N/A	N/A	N/A	N/A

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

(a) As explained in question 15, Veolia is not a small business and the NRG Energy Centers in Pittsburgh and Harrisburg may constitute small businesses if viewed individually and independently from the steam supply revenue standard (and ignoring their corporate affiliates). Thus, there are currently between 0 and 2 small businesses subject to the regulation.

- (b) Neither the NRG companies or VEPI provided any comments or concerns with projected compliance cost with the proposed regulation. However, based upon conversations with the NRG companies and VEPI, it was suggested that the projected compliance cost would be negligible.
- (c) As explained above and in Question 15, the probable impact on traditional small businesses is marginal and the impact on entities like the NRG companies that are not traditional small businesses, but may qualify as such under one particular definition, should not be significant or overly financially burdensome.
- (d) Less intrusive approaches would likely entail complete elimination of some reporting requirements or decreasing reporting from annually to bi or tri-annually. However, for reasons of public safety, the Commission believes certain reports should be made at least annually, and as needed based on accidents or incidents that occur. The PUC believes that maintenance and inspection of existing facilities is much less stringent than requiring certain infrastructure updates and modifications, which could be very costly.

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

As this regulation governs the conduct of steam companies and not individual conduct, there are no special provisions for particularly affected groups or persons. However, as discussed earlier, the size and financial ability of the steam companies was accounted for in ensuring that any regulations would not be needlessly cost prohibitive.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

The PUC considered stricter requirements for periodic inspections in Section 61.48. Specifically, the PUC considered requiring the inspection of steam traps and trap piping assemblies more than just 3 times per year (as New York requires more frequent inspections at six times per year). However, PUC staff determined that the less burdensome alternative of once a year is sufficient and acceptable for reasons of public safety and practicality.

In terms of accident reports, the PUC first considered the very extensive requirements found in the New York regulations at 16 NYCRR § 420.12. However, the PUC instead streamlined and simplified the accident reporting requirements, more in alignment with the PUC's existing accident reporting requirements governing gas and electric utilities under the PUC's jurisdiction. *See* Section 61.11.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;

- d) The establishment of performance standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

Certain regulatory methods accounting for small businesses in mind were not highly considered since there are only 3 steam heat companies, one of which is definitively a large business and the other two are borderline – best described as sophisticated larger “small businesses” with large corporate families. However, as explained in Questions 15, 24, and 26, the PUC was mindful about ensuring that any regulations would not have an adverse impact on the operations of the companies, and that least restrictive measures were taken to both 1) ensure public safety and 2) minimize extraneous unnecessary requirements on the steam utilities.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

Data is not the basis for this regulation.

(29) Include a schedule for review of the regulation including:

- | | |
|---|------------------------------------|
| A. The length of the public comment period: | <u>N/A</u> |
| B. The date or dates on which any public meetings or hearings will be held: | <u>as needed</u> |
| C. The expected date of delivery of the final-form regulation: | <u>3rd quarter 2017</u> |
| D. The expected effective date of the final-form regulation: | <u>upon publication as final</u> |
| E. The expected date by which compliance with the final-form regulation will be required: | <u>upon publication as final</u> |
| F. The expected date by which required permits, licenses or other approvals must be obtained: | <u>N/A</u> |

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

The PUC staff will continue to work with the public and the steam companies with respect to safety inspections and requirements for steam distribution companies. We will continue evaluating the utility, necessity, and effectiveness of safety inspection requirements.

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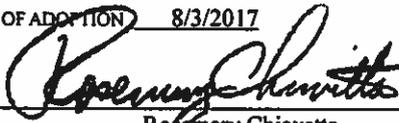
**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU**

(Pursuant to Commonwealth Documents Law)

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<p>Copy below is hereby approved as to form and legality. Attorney General.</p> <p>BY _____ (DEPUTY ATTORNEY GENERAL)</p> <p>_____ DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached</p>	<p>Copy below is hereby certified to be true and correct copy of a document issued, prescribed or promulgated by:</p> <p><u>Pennsylvania Public Utility Commission</u> (AGENCY)</p> <p>DOCUMENT/FISCAL NOTE NO. <u>L-2015-2498111/57-311</u></p> <p>DATE OF ADOPTION <u>8/3/2017</u></p> <p>BY <u></u> Rosemary Chiavetta</p> <p>TITLE <u>Secy.</u> (SECRETARY)</p>	<p>Copy below is hereby approved as to form and legality. Executive or independent Agencies.</p> <p>BY <u></u> Bohdan R. Pankiw Chief Counsel</p> <p><u>8/3/2017</u> DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
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L-2015-2498111/57-311
Final Rulemaking
Steam Heat Distribution System
Safety Regulations
52 Pa Code, Chapters 61 and 67

The Pennsylvania Public Utility Commission on August 3, 2017, adopted a final rulemaking order amend its existing steam heating service regulations and provide new steam safety requirements. The contact person Assistant Counsel Stanley E. Brown, Law Bureau, 717-783-3968.

EXECUTIVE SUMMARY

L-2015-2498111/57-311

Final Rulemaking Re Steam Heat Distribution System Safety Regulations

52 Pa. Code Chapters 61 and 67

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) has amended and added safety regulations governing steam heat distribution facilities of steam utilities under the Commission’s jurisdiction.

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

The PUC contacts for these regulations are Stanley E. Brown Esq., Assistant Counsel (717-783-3968) and Alyson Zerbe, Regulatory Coordinator (717-772-4597).

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**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

Public Meeting held August 3, 2017

Commissioners Present:

Gladys M. Brown, Chairman
Andrew G. Place, Vice Chairman
Robert F. Powelson
David W. Sweet
John F. Coleman, Jr.

Final Rulemaking Re Steam Heat Distribution System
Safety Regulations, 52 Pa. Code Chapters 61 and 67

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FINAL RULEMAKING ORDER

BY THE COMMISSION:

By Order entered November 5, 2015, the Pennsylvania Public Utility Commission (Commission) issued a Proposed Rulemaking Order 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 proposed revisions and updates to Sections 61.1, 61.11, and 61.12. The Commission proposed adding a new subchapter titled “Safety Requirements,” adding Sections 61.41-61.53. The Commission also proposed minor revisions to Chapter 67 to apply the service outage regulations to jurisdictional steam distribution companies.

Comments to the Proposed Rulemaking Order were filed by NRG Energy Center Harrisburg LLC and NRG Energy Center Pittsburgh LLC (collectively the “NRG Companies”), Veolia Energy Philadelphia, Inc. (“VEPI”) and the Independent Regulatory

Review Commission (“IRRC”). The Commission has reviewed those comments and now issues this Final Rulemaking Order.

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 steam heating utilities: the aforementioned NRG Companies and VEPI. 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

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.

of recommendations 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, now the Pipeline Safety Division, to spearhead inspections of steam heat facilities in Pennsylvania. Three PUC Pipeline Safety inspectors began steam training in 2009, first attending a week-long training with Con Ed in New York City. In 2010, three PUC Pipeline 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 Pipeline 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 sought in the Proposed Rulemaking Order 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 Companies and VEPI. Commission staff held numerous collaborations and discussions with NRG and VEPI.

Discussion

As stated in the November 15, 2015 Proposed Rulemaking Order, the Commission embarked 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

² *See id.* at vii-xii.

Pipeline 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 proposed 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.

As stated previously, the only active jurisdictional steam public utilities are the NRG Companies and VEPI, 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 Pipeline 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 convenience 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.

In the Proposed Rulemaking Order, the Commission proposed 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

As stated in the Proposed Rulemaking Order, 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 proposed 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 proposed 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.

Comments from VEPI and IRRC and Resolution

VEPI proposed two additional definitions for “steam distribution system” and “steam utility” to distinguish between distribution system safety and general plant or facility safety. IRRC recommended adding a definition for “termination point” to be used in the definitions of “service line” and “service line of the customer.” IRRC also recommended that the Commission should clarify the terms “steam public utility,”

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).

“steam utility,” “utility,” “steam facility,” “facility,” “steam distribution system,” and “steam distribution utility” as the terms appear to be used interchangeably.

We agree with suggestions of VEPI and IRRC and have made the appropriate changes in the attached new Annex A. Specifically, we use the term “steam utility” throughout the regulations.

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 proposed similar changes to Section 61.11, as currently exist in Sections 57.11, 59.11, and 65.2 of our regulations. Since IRRC approved these changes in 2011, the Commission sought in the Proposed Rulemaking Order comments on whether it should apply similar proposed revisions in our steam heat regulations.

We inserted the word “steam” in the existing Section 61.11(a) for clarity purposes. *See* Annex A, Section 61.11(a). We proposed revising Section 61.11(b) (2) regarding reportable accidents to reflect the existing language in the relevant electric, gas, and water regulations. We proposed 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 proposed adding Section 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 proposed 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 proposed 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 proposed deleting this section. Instead, we proposed 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 proposed 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 proposed 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).

Comments from VEPI and Resolution

VEPI suggests changing the use of "may" in Section 61.11(c) to "shall" so that the steam utility clearly understands what type of injuries do not need to be reported. We agree with VEPI's suggestion and have made the appropriate changes in the attached new Annex A. We have also changed the word "may" to "shall" in other appropriate sections of the new Annex A.

Section 61.12 Interruptions of service

Here, we proposed 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 requested comments as to the appropriate duration for recordkeeping of a steam utility regarding interruptions of service.

Comments from VEPI and Resolution

VEPI suggests that maintaining records for 3 years is more reasonable than 6 years, and VEPI notes that 3 years is consistent with the record-keeping requirements under Section 61.42 and Section 61.49. We agree in part with VEPI's suggestion and have made the appropriate change. Specifically, we have changed the record retention requirement to 5 years.

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 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.

Comments from IRRC and Resolution

IRRC notes that based on the definitions in Section 61.1, the termination point may be the property line or a point provided by contract. Accordingly, IRRC suggests that the Commission should either add a definition of “termination point” or amend this subsection to include the possibility that the point is described in contract. To address IRRC's concern, we have added a definition for “Customer's Piping” in Section 61.1 which both clarifies and eliminates an additional definition or amendment.

Section 61.42 Safety and compliance with standard code

Similar to the Commission's gas regulations at 52 Pa. Code § 59.33, we proposed 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 proposed Section 61.42(b) requiring steam utilities to comply with standard code. *See* Annex A, Section 61.42(b). Here, we also proposed 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 required 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 also required 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 proposed 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 proposed Section 61.42(e), requiring a steam utility to keep adequate records to assure compliance with this subsection. We proposed this recordkeeping requirement for three years. *See* Annex A, Section 61.42(e).

Comments from IRRC and Resolution

As to subsection (a), IRRC suggests deleting the word “every.” As to subsection (b), IRRC seeks clarification as to the standards for existing facilities and the possible difficulty for utility compliance. In subsection (c) and (e) respectively, IRRC suggests that the reference to “PA One Call” is premature as the legislation for PUC enforcement is still pending in the state legislature and that the term “adequate records for compliance” is vague.

We agree with IRRC in part. First, we have deleted the word “every” from subsection (a). As to the standards for existing facilities, we will rely upon the applicable standards of the ASME. As to the vagueness of the term “adequate records for compliance,” we are confident that the small number of steam utilities combined with their expressed willingness of cooperation will enable the Commission to obtain the necessary records for determining compliance.

We have also added a subsection (f) to define the applicability of this regulation. As to the reference to “PA One Call,” we note that at this point, there is proposed legislation that may be enacted before the effective date of this regulation. Notwithstanding, we do not believe it is a prerequisite for the Commission to have enforcement responsibility for “PA One Call.” Finally, we point out that we have been working very closely with the NRG Companies and VEPI before and after the drafting of these regulations and it is the firm opinion of the NRG Companies and VEPI that specifying the records for compliance at this point would not be in the Commission’s best interest.

Section 61.43 Notification of major construction

Similar to the Commission’s gas regulations at 52 Pa. Code § 59.38, we proposed 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 defined 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 sought comment on whether this is an appropriate definition for major construction. Similar to the gas regulation, we proposed 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 61.43; *see also* 52 Pa. Code § 59.38.

Comment from IRRC and Resolution

IRRC suggests that Paragraph 9 "Notification to the Commission of the completion date" should be restated. We agree with IRRC and have eliminated Paragraph 9 and created a subsection (B) which provides the necessary clarification. With consultation and agreement from the NRG Companies and VEPI, we have created a \$250,000 threshold for notification of major construction.

Section 61.44 Operating and maintenance plan

In Section 61.44, we proposed 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 listed 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 required 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).*

Comments from VEPI and IRRC and Resolution

VEPI and IRRC both requests that the Commission specify an exact date by which the plan is required to be in place and VEPI and IRRC both request clarification as to whether “the plan” in the last sentence of Subsection (a) refers to the original plan, or if it is referring to subsequently revised plans. We have provided an exact date and the necessary clarification.

Section 61.45 Security planning and emergency contact list

At the outset, we noted 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 noted 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 proposed 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 also required 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.*

Comments from IRRC and Resolution

IRRC questions the need to require annual reporting of the list of the utility's responsible officials to both the Commission's Secretary and the Gas Safety Division. IRRC also questions the filing of any revisions to the list on just the Gas Safety Division. While we appreciate IRRC's concern, we will respectfully continue our long-standing practice of dual reporting which has been agreed to by both the NRG Companies and VEPI. As to the revisions, we prefer that the revisions be reported solely to the now Pipeline Safety Division, which has an immediate need for updated information.

Section 61.46 Customer education and information program

We proposed 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 required 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).

Comment from IRRC and Resolution

IRRC suggests that this requirement is vague and should be replaced with a specific standard. As stated previously, the Commission has worked closely with the NRG Companies and VEPI. Both have indicated agreement with the requirement and all

agree that flexibility is crucial. If experience indicates that specific standards in the form of binding regulations are required, we can revisit this issue in the future.

Section 61.47 Employee training

Here, we proposed 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).*

Comments from IRRC and Resolution

IRRC has raised concerns regarding employee training. According to IRRC, Subsection (a) is vague regarding the training progression level. IRRC also is concerned about the subjects in which employees and supervisors must receive annual training. Finally, IRRC questions whether it is reasonable and appropriate for all employees in the operations, maintenance and testing to receive training at all progression levels.

In general, it is Commission's position that each employee is required to be qualified on the specific tasks as defined in the steam utilities comprehensive Operator Qualification Program. The level of training that the employees receive must qualify them to perform cover tasks that they are assigned. However, in response to IRRC's concern, we have clarified the category of new employees that should receive basic classroom training.

Section 61.48 Periodic inspections

In this section, we proposed 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 sought public comment on whether this requirement is sufficient.

Similar to the New York regulations, we also proposed 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 proposed 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 proposed annual inspections of service valves and manholes owned by the steam utility. *See* Annex A, Section 61.48(d)-(e). Finally, we proposed requiring the inspection and testing of remote system pressure indicating devices every two years. *See* Annex A, Section 61.48(f).

Comments from NRG Companies and IRRC and Resolution

Both the NRG Companies and IRRC expressed concerns with the requirement of three inspections per year. The NRG Companies and IRRC both suggest one inspection of the steam traps and piping assemblies. We agree with the NRG Companies and IRRC and have changed the inspection requirement to once a year.

Section 61.49 Records

Here, we required 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 sought 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).

Comments from IRRC and Resolution

IRRC has raised two questions: Is the steam utility required to keep an extra copy of its records and is the steam utility required to have offices in Pennsylvania? We agree with IRRC's suggestion and have deleted both the reference to "copies" and "in the Commonwealth of Pennsylvania." In response to IRRC's subsequent comment concerning record retention, we will change the time frame for record retention to 5 years throughout the regulation.

Section 61.50 Welding – qualification and nondestructive testing

In this section, we required 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 required 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).

Comments from the NRG Companies, VEPI and IRRC

Noting the comments from the NRG Companies and VEPI, IRRC suggests that the Commission should review those comments and clarify the regulation to clearly state what types of testing are acceptable. IRRC also recommended that the Commission should explain why the testing required by the regulation is the best alternative.

After further consultation with the NRG Companies and VEPI, we have clarified this subsection by deleting the pressure testing requirement for new construction pipelines. We have also clarified the requirement for field welds and we have added a limitation on pressure tests.

Section 61.51 Steam leaks and steam emergency reports

Since emergency leaks “require an immediate response to protect life and property” we proposed 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 explained 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 explained 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 proposed 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 stressed 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 proposed 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 proposed 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).*

Comments from the NRG Companies, VEPI and IRRC

In reviewing Section 61.44 (4), which relates to an operating and maintenance plan, and subsection (b), which requires non-emergency leaks to be re-examined within 6 months from the date of discovery and repairable within a reasonable time, IRRC raises a concern as to whether these are two different standards for one type of leak? IRRC also requests an explanation as to what constitutes a "summary analysis." The NRG Companies suggests that the date of the 16th of the month for the summary analysis of steam leak reports be changed to the end of the month to better coincide with normal company reporting procedures. VEPI raises a question concerning the extent of vaporization.

In response to IRRC's concern, we note that Section 61.44 specifically relates to required written operating and maintenance plans. As to the content of the "summary analysis" of the steam utilities performance in responding to reports of steam leaks and emergencies, we are expecting the steam utility to provide basic information that enables the Commission to access their overall performance. Simply stated, we are requesting a summary of the steam utilities' performance in responding to reports of steam leaks and emergencies. However, for clarification, we have deleted the word "analysis" and in

response to a subsequent comment from IRRC concerning the time frame for record retention, we have added a 5-year requirement.

As to the NRG Companies and VEPI concerns, we have changed the date for the summary analysis from the 16th of the month to the end of the month and we have added a subsection that addresses vaporization.

Section 61.52 Facility failure investigation

Similar to New York's regulation, 16 NYCRR 420.14, we proposed 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).

Comment from the NRG Companies and Resolution

In response to a concern from the NRG Companies, we have added a subsection which addresses the qualifications of the independent consultant.

Section 61.53 Asbestos control

Many old buildings and facilities in the Commonwealth still contain asbestos. Therefore, we proposed 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 required 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 required 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 proposed requiring a steam utility “to eliminate all asbestos materials to the extent practicable and feasible.” *See* Annex A, Section 61.53(c). We sought further public comment as to whether this proposed language best serves the public interest.

Finally, we emphasized 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).

Comment from IRRC and Resolution

In response to IRRC’s jurisdictional concern, we have deleted this subsection.

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 sought comment on whether Chapter 67 should apply to the service outage regulations of jurisdictional steam utilities. We have added a sentence which states that steam utilities with fewer than 50 customers shall provide such notice when at least 10% of total customers experience such an interruption. In addition, the Commission adds the word steam in four places in Section 67.1 to make the section's application to steam heat utilities clear. *See* Annex A, Section 67.1.

Conclusion

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. §§ 1201-1202, 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 745.5 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 final regulations set forth in Annex A, attached hereto; **THEREFORE,**

IT IS ORDERED:

1. That the Law Bureau shall submit this final 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.
2. That the Law Bureau shall submit this final rulemaking order and Annex A for review and comments to the Independent Regulatory Review Commission and the Legislative Standing Committees.

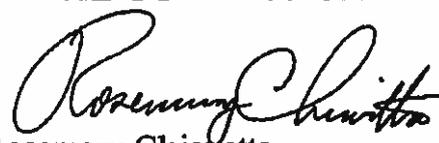
3. That the Law Bureau shall deposit this final rulemaking order and Annex A with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.

4. That the final regulations become effective upon publication in the *Pennsylvania Bulletin*.

5. That a copy of this final 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.

6. That the contact person for legal matters on this rulemaking is Stanley E. Brown, Assistant Counsel, Law Bureau at (717) 783-3968. 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.

BY THE COMMISSION



Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: August 3, 2017

ORDER ENTERED: August 3, 2017

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:

* * * * *

CRITICAL VALVES - VALVES THAT ARE DEEMED CRITICAL IN CASE OF EMERGENCIES OR SHUT DOWN.

Customer—A party supplied with steam service by a public utility.

CUSTOMER'S PIPING – THE PIPE OF THE CUSTOMER WHICH EXTENDS FROM THE SERVICE LINE TERMINATION POINT TO THE POINT OF UTILIZATION.

Degree day—A unit used in estimating quantities of fuel and power consumption based on a daily ratio of consumption the mean temperature below 65°F.

FACILITIES – MAINS AND SERVICE LINES OWNED OR OPERATED BY A STEAM UTILITY FOR THE PURPOSE OF TRANSPORTING STEAM FROM WHERE IT IS PRODUCED TO THE CUSTOMER'S PIPING.

FAILURE INVESTIGATION - THE PROCESS OF COLLECTING AND ANALYZING DATA TO DETERMINE THE CAUSE OF FAILURE.

HOT WATER - WATER HEATED BY AN ENERGY SOURCE ABOVE ITS INITIAL TEMPERATURE.

Main—~~The pipe of a public utility system, excluding service lines, located in a public highway, street, alley or private right of way, and used in transporting steam.~~

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2011 SEP 11 P 2:11

MAIN - PIPING THAT TRANSPORTS STEAM FROM WHERE IT IS PRODUCED AND DELIVERS IT TO THE BEGINNING OF THE SERVICE LINE.

Pounds of steam—The quantity of steam supplied, measured in pounds and equal to the same amount of water, which would result from condensing the steam used by the customer.

~~**Public utility**—Persons or corporations owning or operating equipment or facilities in this Commonwealth for producing, transmitting, distributing or furnishing, steam to or for the public for compensation.~~

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.~~

STEAM- WATER VAPOR KEPT UNDER PRESSURE SO AS TO SUPPLY ENERGY FOR HEATING.

STEAM DISTRIBUTION SYSTEM- A SYSTEM THAT TAKES STEAM FROM WHERE IT IS PRODUCED AND DELIVERS IT TO END USERS.

STEAM TRAP- A DEVICE USED TO DISCHARGE CONDENSATE AND NON-CONDENSABLE GASES WITH A NEGLIGIBLE CONSUMPTION OR LOSS OF LIVE STEAM.

STEAM UTILITY- A UTILITY THAT PROVIDES THE PUBLIC SERVICES ASSOCIATED WITH STEAM DISTRIBUTION.

WATER HAMMER- THE PHENOMENON THAT OCCURS WHEN STEAM CHARGES IN THE PIPELINE WHILE CONDENSATE IS PRESENT.

SERVICE AND FACILITIES

§ 61.11. Accidents.

(a) *General.* A ~~public~~ steam utility shall submit a report of each reportable accident involving the facilities or operations of the ~~public~~-STEAM 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 UTILITY, 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 shutdown of the steam facility UTILITY.

(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. TO INTERFERE WITH A STEAM UTILITY'S COMPUTERS, SOFTWARE AND COMMUNICATION NETWORKS THAT SUPPORT,

OPERATE OR OTHERWISE INTERACT WITH THE STEAM UTILITY'S OPERATION.

(7) AN UNUSUAL OCCURRENCE THAT IS SIGNIFICANT IN THE JUDGMENT OF THE STEAM UTILITY.

(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 STEAM 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 PIPELINE Safety Division after the STEAM 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 STEAM 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 STEAM utility may SHALL 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 SHALL 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 public steam 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 5 years.

* * * * *

SAFETY REQUIREMENTS

§ 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.

(f) A FACILITY THAT IS REPAIRED, MODIFIED OR CONSTRUCTED ON OR AFTER JANUARY 18, 2018 WILL BE CONSIDERED A NEW FACILITY.

§ 61.43. Notification of major construction.

(a) A steam utility shall notify the Commission and the Gas PIPELINE 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 \$250,000. 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.

(b) A STEAM UTILITY SHALL NOTIFY THE COMMISSION AND THE PIPELINE SAFETY DIVISION OF THE COMPLETION DATE OF THE MAJOR CONSTRUCTION WHEN IT OCCURS.

§ 61.44. Operating and maintenance plan.

(a) BY JANUARY 1, 2018, A steam utility shall establish and file with the Secretary of the Commission and the Gas PIPELINE 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 REVISION.

(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 PIPELINE 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 PIPELINE 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-PIPELINE 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 INVOLVED IN THE OPERATION, MAINTENANCE OR TESTING OF STEAM PIPELINES AND RELATED FACILITIES 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~~ ONCE A 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 5 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.

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

~~(d)~~(c) Field welds made on existing steam pipeline facilities MAINS AND SERVICE LINES SHALL BE 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.

(d) PRESSURE TESTS WILL NOT BE REQUIRED IF 100% OF THE WELDS ARE TESTED WITH NON-DESTRUCTIVE METHODS.

§ 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. Nonemergency 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 PIPELINE Safety Division, on or before the 16th LAST day of each calendar month, a WRITTEN summary analysis of its performance in responding to reports of steam leaks and emergencies. THE WRITTEN SUMMARY SHALL BE RETAINED FOR 5 YEARS.

(g) VAPORIZATION OF RAIN OR GROUNDWATER FROM CONTACT WITH A MAIN OR SERVICE LINE WILL NOT BE CONSIDERED A LEAK FOR THE PURPOSES OF THIS SECTION.

§ 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. THE STEAM UTILITY'S PROCEDURES MAY INCLUDE THE USE OF INDEPENDENT CONSULTANTS.

(b) The procedures must provide for complete cooperation BETWEEN THE STEAM UTILITY, INCLUDING ITS INDEPENDENT CONSULTANTS, 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.

(D) WHEN A STEAM UTILITY CHOOSES TO EMPLOY ONE OR MORE INDEPENDENT CONSULTANTS, REASONABLE MINIMUM REQUIREMENTS RELATING TO KNOWLEDGE, EXPERIENCE AND CERTIFICATION MUST BE INCLUDED IN THE STEAM UTILITY'S PROCEDURES.

~~§ 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. STEAM UTILITIES WITH FEWER THAN 50 CUSTOMERS SHALL PROVIDE SUCH NOTICE WHEN 10% OF TOTAL CUSTOMERS EXPERIENCE SUCH AN INTERRUPTION. 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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COMMONWEALTH OF PENNSYLVANIA
PUBLIC UTILITY COMMISSION
400 NORTH STREET
HARRISBURG, PA 17120

September 11, 2017

GLADYS M. BROWN
CHAIRMAN

The Honorable George D. Bedwick
Chairman
Independent Regulatory Review Commission
14th Floor, Harrisstown II
333 Market Street
Harrisburg, PA 17101

Re: **L-2015-2498111/57-311**
Final Rulemaking Regarding Steam Heat Distribution System Safety Regulations
52 Pa. Code, Chapters 61 and 67

2017 SEP 11 P 2:16
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Dear Chairman Bedwick:

Enclosed please find one (1) copy of the regulatory documents concerning the above-captioned rulemaking. Under Section 745.5(a) of the Regulatory Review Act, the Act of June 30, 1989 (P.L. 73, No. 19) (71 P.S. §§745.1-745.15) the Commission, on January 27, 2016, submitted a copy of the Notice of Proposed Rulemaking to the Senate Committee on Consumer Protection and Professional Licensure, the House Consumer Affairs Committee and the Independent Regulatory Review Commission (IRRC). This notice was published at 46 *Pa.B.* 658 on February 6, 2016. The Commission also provided the Committees and IRRC with copies of all comments received in compliance with Section 745.5(b.1).

In preparing this final form rulemaking, the Commission has considered all comments received from the Committees, IRRC and the public.

Sincerely,

Gladys M. Brown
Chairman

Enclosures

pc: The Honorable Robert M. Tomlinson
The Honorable Lisa Boscola
The Honorable Robert Godshall
The Honorable Thomas R. Caltagirone
June Perry, Legislative Affairs Director
Bohdan Pankiw, Chief Counsel
Stanley E. Brown, Assistant Counsel
Alyson Zerbe, Regulatory Coordinator

